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GENERAL LICENSE NO. 86

UNDER EXECUTIVE ORDER NO. 8389, AS AMENDED, EXECUTIVE ORDER NO. 9193,
AND SECTION 5(b) OF THE TRADING WITH THE ENEMY ACT, AS AMENDED BY THE
FIRST WAR POWERS ACT, 1941, RELATING TO FOREIGN FUNDS CONTROL.*

(1) A general license is hereby granted authorizing the following transactions:

- (a) The payment of premiums and interest on policy loans with respect to any blocked life insurance policy;
- (b) The issuance, servicing or transfer of any blocked life insurance policy in which the only blocked interest is that of one or more of the following:
 - (i) A member of the armed forces of the United States or a person accompanying such forces (including personnel of the American Red Cross, United Service Organizations and similar organizations);
 - (ii) An officer or employee of the United States; or
 - (iii) A citizen of the United States resident in a blocked country not within enemy territory; and
- (c) The issuance, servicing or transfer of any blocked life insurance policy in which the only blocked interest (other than that of a person specified in 1(b) above) is that of a beneficiary.

Provided, however, that this paragraph does not authorize (i) any payment to the insurer from any blocked account in which an enemy national other than a person specified in (1)(b) above) has an interest, or from any other blocked account except a blocked account of the insured or beneficiary, or (ii) any payment by the insurer to a national of a blocked country unless payment is made by deposit in a blocked account in a domestic bank in the name of the national who is the ultimate beneficiary thereof.

*Part 131; -Sec. 5(b), 40 Stat. 415 and 966; Sec. 2, 48 Stat. 1; 54 Stat. 179; Public No. 354, 77th Congress, 55 Stat. 838, Ex. Order 8389, April 10, 1940, as amended by Ex. Order 8785, June 14, 1941, Ex. Order 8832, July 26, 1941, Ex. Order 8963, Dec. 9, 1941, and Ex. Order 8998, Dec. 26, 1941; Order 9193, July 6, 1942; Regulations, April 10, 1940, as amended June 14, 1941, and July 26, 1941.

(2) Notwithstanding the provisions of General Ruling No. 11, the transactions authorized by paragraph (1)(b) above may be effected even though they involve a communication from a person specified in paragraph (1)(b)(i) or (1)(b)(ii) above while such person is within enemy territory.

(3) This general license further authorizes the application, in accordance with the provisions of the policy or the established practice of the insurer, of the dividends, cash surrender value, or loan value, of any blocked life insurance policy for the purpose of:

- (a) Paying premiums;
- (b) Paying policy loans and interest thereon;
- (c) Establishing paid-up insurance; or
- (d) Accumulating such dividends or values to the credit of the policy on the books of the insurer.

(4) As used in this general license:

(a) The term "blocked life insurance policy" shall mean any life insurance policy or annuity contract, or contract supplementary thereto, in which there is a blocked interest.

(b) Any interest of a national of a blocked country shall be deemed to be a "blocked interest".

(c) The term "servicing" shall mean the following transactions with respect to any blocked life insurance policy:

(i) The payment of premiums, the payment of loan interest, and the repayment of policy loans;

(ii) The effecting by a life insurance company or other insurer of loans to an insured;

(iii) The effecting on behalf of an insured of surrenders, conversions, modifications, and reinstatements; and

(iv) The exercise or election by an insured of non-forfeiture options, optional modes of settlement, optional disposition of dividends, and other policy options and privileges not involving payment by the insurer.

(d) The term "transfer" shall mean the change of beneficiary, or the assignment or pledge of the interest of an insured in any blocked life insurance policy subsequent to the issuance thereof.

(5) This general license shall not be deemed to authorize any transaction with respect to any blocked life insurance policy issued by a life insurance company or other insurer which is a national of a blocked country or which is not doing business or effecting insurance in the United States.

RANDOLPH PAUL

Acting Secretary of the Treasury.

Project Attorney ✓

Gila River War Relocation Project

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November 23, 1942

MEMORANDUM TO: All Project Attorneys

You may be interested in this model charter. It was mimeographed in the Central Region for use by evacuee government organization commissions in setting up permanent government at relocation centers.



Edwin E. Ferguson
Regional Attorney

EEFerguson:MW

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THE MODEL CITY CHARTER¹

¹Only Articles I, II, IX, and X are included here, since other Articles deal with functions primarily the responsibility of the WRA, such as budget, finance, borrowing, etc.

ARTICLE I

INCORPORATION: FORM OF GOVERNMENT: POWERS

- Section 1. Incorporation
2. Form of government
3. Powers of city

Introductory Note. This model, as is explained in the introduction, is a home rule charter which may be adapted to the needs of the particular city by a local charter commission and be adopted by popular vote. It necessarily presupposes the existence of home rule provisions similar to the constitutional provisions set out in the appendix.

This model has, however, been so drafted that it may readily be converted into a statute, either as a special city charter, or as an optional form of government which shall become effective in any city only when submitted to and adopted by the qualified voters thereof.

It is the intention of this article to confer on the city all the powers it is possible so to confer under the constitution and general laws of the state. In some states, however, the draftsmen may deem it advisable to include an enumeration of expressed powers, being careful to provide that such enumeration shall not limit any general powers granted.

Again depending on the state, the draftsmen may desire to provide specifically for public services or improvements undertaken jointly with other local governments, or for a cooperative purchasing system.

Incorporation

1. The inhabitants of the City of _____, within the corporate limits as now established or as hereafter established in the manner provided by law, shall continue to be a municipal body politic and corporate in perpetuity, under the name of the "City of _____."

Form of government

2. The municipal government provided by this charter shall be known as the "council-manager government". Pursuant to its provisions and subject only to the limitations imposed by the state constitution and by this charter, all powers of the city shall be vested in an elective council, hereinafter referred to as "the council", which shall enact local legislation, adopt budgets, determine policies, and appoint the city manager, who shall execute the laws and administer the government of the city. All powers of the city shall be exercised in the manner prescribed by this charter, or if the manner be not prescribed, then in such manner as may be prescribed by ordinance.

Powers of City

3. The city shall have all the powers granted to municipal corporations and to cities by the constitution and general laws of this state together with all the implied powers necessary to carry into execution all the powers granted. The city may acquire property within or without its corporate limits for any city purpose, in fee simple or any lesser interest or estate, by purchase, gift, devise, lease or condemnation, and may sell, lease, mortgage, hold, manage and control such property as its interests may require; and, except as prohibited by the constitution of this state or restricted by this charter, the city shall and may exercise all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever. The enumeration of particular powers by this charter shall not be deemed to be exclusive, and in addition to the powers enumerated therein or implied thereby, or appropriate to the exercise of such powers, it is intended that the city shall have and may exercise all powers which, under the constitution of this state, it would be competent for this charter specifically to enumerate.

ARTICLE II

THE COUNCIL

- Section 4. Number, selection, term
5. Qualifications
6. Salary
7. Presiding officer; mayor

8. Powers
9. Appointment of city manager
10. Removal of city manager
11. Council not to interfere in appointments or removals
12. Vacancies in council
13. Creation of new departments or offices; change of duties
14. City clerk
15. Induction of council into office; meetings of council
16. Council to be judge of qualifications of its members
17. Rules of procedure; journal
18. Ordinances
19. Procedure for passage of ordinances; first reading
20. Second reading and public hearing
21. Further consideration; final passage
22. Publication of ordinances after final passage; permissive referendum
23. Independent annual audit

Introductory Note. The article on the council has been drafted in recognition of the generally agreed upon fact that the smaller a city council, the more efficient it is for governing purposes and upon the further fact that election at large in general has been more satisfactory than election by wards or districts. It is generally recognized that large legislative bodies are ineffective and inefficient because there can be no meeting of the minds around the table and prompt dispatch of business. A large legislative body must break up into committees to handle the business before it and the whole process becomes cumbersome and unwieldy. Election at large is preferred to election by wards or districts for a variety of reasons chief among which is that election by wards leads inevitably to log-rolling and a consideration of interests of a particular section of the city rather than the city as a whole. Furthermore, it is difficult to find capable leaders distributed throughout the city by wards and when found it is difficult to persuade them to run for an office that is so narrowly representative.

All the legislative power of the city has been given to the council, but it will be observed that, pursuant to the principle of the council-manager form, which involves the separation of legislative from administrative power, no administrative authority has been given to the council, except the employment and discharge of the city manager. This plus the requirement of an independent annual audit gives the council adequate check on the administration for the carrying out of its purposes as a policy-determining body.

Number, selection, term

4. The council shall have five members¹ elected from the city at large in the manner provided in article IX, for a term of . . . years or until their successors have been elected and take office as provided in section 15.

¹For convenience the Committee on Style and Draft of the Model City Charter has suggested five as the number of members for the council but it should be recognized that this may vary somewhat in accordance with the size of the city. In determining the number of members, consideration should be given to the size of the city and to the diversity of interests to be represented within it. There should be at least five members but not more than nine in any except the largest cities. If proportional representation is used, as here provided, election at large is much to be preferred to election by districts even in a city as large as Philadelphia or Chicago. This election method automatically gives local representation so far as it is really desired and a city-wide election is sure to get much better publicity and consequently a more informed vote than an election by districts.

Consideration may be given to the fixed quota plan, used in New York City and Yonkers and described in the footnote to section 161, which makes the number of members variable. If this plan is used, the reference to the number of members in this section should be omitted.

Qualifications

5. Councilmen shall be qualified electors of the city and shall hold no other public office except that of notary public or member of the National Guard or naval or military reserve. If a councilman shall cease to possess any of these qualifications or shall be convicted of crime involving moral turpitude, his office shall immediately become vacant.

Salary²

²In determining whether a salary shall be paid, and if so how much, it must be borne in mind that the duties of the council are supervisory; and that it is the object of this charter to place the administrative affairs of the city in

the hands of the city manager.

6. The annual salary of councilmen shall be \$.....until changed by ordinance, but shall not be increased during the current term of councilmen enacting such ordinance.

Presiding officer; mayor

7. The council shall elect an officer of the city who shall have the title of mayor, shall preside at meetings of the council, and shall be recognized as head of the city government for all ceremonial purposes and by the governor for purposes of military law, but shall have no regular administrative duties. The council shall also elect an assistant mayor who shall act as mayor during the absence or disability of the mayor and if a vacancy occur shall become mayor for the completion of the unexpired term. Both the mayor and the assistant mayor shall be elected from among the councilmen.

Powers

8. All powers of the city and the determination of all matters of policy shall be vested in the council. Without limitation of the foregoing, the council shall have power to:

- (1) Appoint and remove the city manager;
- (2) Establish other administrative departments and distribute the work of divisions;
- (3) Adopt the budget of the city;
- (4) Authorize the issuance of bonds by a bond ordinance;
- (5) Inquire into the conduct of any office, department or agency of the city and make investigations as to municipal affairs;
- (6) Appoint the members of the personnel board;
- (7) Appoint the members of the planning commission;
- (8) Appoint the members of the zoning board of appeals;
- (9) Adopt plats;
- (10) Adopt and modify the official map of the city;
- (11) Regulate and restrict the height and number of stories of buildings and other structures, the size of yards and courts, the density of populations and the location and use of buildings for trade, industry, business, residence or other purpose;
- (12) Provide for safe and sanitary housing accommodation for families of low income;
- (13) Create a housing authority;
- (14) Adopt, modify and carry out plans proposed by the planning commission for the clearance of slum districts and rehabilitation of blighted areas;
- (15) Adopt, modify and carry out plans proposed by the planning commission for the replanning, improvement and redevelopment of neighborhoods and for the replanning, reconstruction or redevelopment of any area or district which may have been destroyed in whole or in part by disaster;
- (16) Provide for an independent audit.

Appointment of city manager

9. The council shall appoint an officer of the city who shall have the title of city manager and shall have the powers and perform the duties in this charter provided. No councilman shall receive such appointment during the term for which he shall have been elected, nor within one year after the expiration of his term.

Removal of city manager

10. The council shall appoint the city manager for an indefinite term and may remove him by a majority vote of its members. At least thirty days before such removal shall become effective, the council shall by a majority vote of its members adopt a preliminary resolution stating the reasons for his removal. The manager may reply in writing and may request a public hearing, which shall be held not earlier than twenty days nor later than thirty days after the filing of such request. After such public hearing, if one be requested, and after full consideration, the council by majority vote of its members may adopt a final resolution of removal. By the preliminary resolution the council may suspend the manager from duty, but shall in any case cause to be paid him forthwith any unpaid balance of his salary and his salary for the next three calendar months following adoption of the preliminary resolution.

Council not to interfere in appointments or removals

11. Neither the council nor any of its members shall direct or request the appointment of any person to, or his removal from, office by the city manager or by any of his subordinates, or in any manner take part in the appointment or removal of officers and employes in the administrative service of the city.

Except for the purpose on inquiry, the council and its members shall deal with the administrative service solely through the city manager and neither the council and its member thereof shall give orders to any subordinates of the city manager, either publicly or privately. Any councilman violating the provisions of this section, or voting for a resolution or ordinance in violation of this section, shall be guilty of a misdemeanor and upon conviction thereof shall cease to be a councilman.

Vacancies in council

12. Vacancies in the council shall be filled by recount of votes cast in the last preceding election as provided in section 165 of this charter.³

³For a discussion of methods of filling vacancies, see footnote to section 165.

Creation of new departments or offices; change of duties

13. The council by ordinance may create, change, and abolish offices, departments or agencies, other than the offices, departments and agencies established by this charter. The council by ordinance may assign additional functions or duties to offices, departments or agencies established by this charter, but may not discontinue or assign to any other office, department or agency any function or duty assigned by this charter to a particular office, department or agency.

City clerk

14. The council shall elect an officer of the city, who shall have the title of city clerk, shall give notice of its meetings, shall keep the journal of its proceedings, shall authenticate by his signature and record in full in a book kept for the purpose all ordinances and resolutions and shall perform such other duties as shall be required by this charter or by ordinance.

Induction of council into office; meetings of council

15. The first meeting of each newly elected council, for induction into office, shall be held at ten o'clock in the morning on the second Monday next following its election⁴, after which the council shall meet regularly at such times as may be prescribed by its rules, but not less frequently than once each month. All meetings of the council shall be open to the public.

⁴The purpose of this provision is to put the council into office as soon as reasonably possible after the election, in order that the new council may have time to act on a budget proposed for the next fiscal year and thus avoid being compelled to function for a year under a budget adopted by the outgoing administration. To work this out effectively, the draftsmen of a charter must exercise care to coordinate this provision with the election, the budget and the other provisions of the charter.

Council to be judge of qualifications of its members

16. The council shall be the judge of the election and qualifications of its members and for such purpose shall have power to subpoena witnesses and require the production of records, but the decision of the council in any such case shall be subject to review by the courts.

Rules of procedure; journal

17. The council shall determine its own rules and order of business. It shall keep a journal of its proceedings and the journal shall be open to public inspection.

Ordinances

18. In addition to such acts of the council as are required by statute or by this charter to be by ordinance, every act of the council establishing a fine or other penalty or providing for the expenditure of funds or for the contracting of indebtedness, shall be by ordinance. The enacting clause of all ordinances shall be, "The council of the City of _____ hereby ordains:"

Procedure for passage of ordinances; first reading

19. Every ordinance shall be introduced in writing in the form in which it is to be finally passed, and after passage on first reading shall be published at least once together with a notice of the time and place when and where it will be given a public hearing and be considered for final passage. The first such publication shall be at least one week prior to the time advertised.

Second reading and public hearing

20. At the time and place so advertised, or at any time and place to which such hearing shall from time to time be adjourned, such ordinance shall be read in full and, after such reading, all persons interested shall be given an opportunity to be heard.

Further consideration; final passage

21. After such hearing, the council may finally pass such ordinance with or without amendment, except that if it shall make an amendment which constitutes a change of substance, it shall not finally pass the ordinance until it shall have caused the amended sections to be published at least once, together with a notice of the time and place when and where such amended ordinance will be further considered, which publication shall be at least three days prior to the time stated. At the time so advertised or at any time and place to which such meeting shall be adjourned, the amended ordinance shall be read in full and a public hearing thereon shall be held and after such hearing the governing body may finally pass such amended ordinance, or again amend it subject to the same conditions. The second passage of any ordinance pursuant to this charter shall be final and no further passage shall be required.

Publication of ordinances after final passage; permissive referendum

22. After final passage every ordinance shall again be published in full⁵ and, except as otherwise provided in this charter, shall be subject to permissive referendum as provided in article X of this charter.

⁵To save expense of publication of long ordinances establishing building codes, plumbing codes or police regulations, some city charters or the general statutes of some states (California, New Mexico, Utah and Oregon) provide exceptions, which may be stated somewhat as follows:

Exception as to newspaper publication of code ordinances: Notwithstanding the provisions of the foregoing section, ordinances establishing regulations for the construction of buildings, the installation of plumbing, the installation of electric wiring, or any similar construction code, which code it is provided by the ordinance shall be published in printed form for distribution, need not be published in a newspaper, either before or after final passage. At least three correct copies of the ordinance, in the form in which it has been passed on first reading, shall, however, be made available to public inspection at the office of the city clerk and in lieu of publication of the ordinance, there shall be published a notice, describing the ordinance in brief and general terms and stating that the ordinance is available for public inspection at the office of the city clerk, together with the time and place when and where it will be considered for final passage; and after final passage, a notice describing the ordinance in brief and general terms and stating that it is available for public inspection in the office of the city clerk and will take effect twenty days after such publication unless submitted to referendum, in which event it will not take effect unless approved as required by law.

Every ordinance, unless it shall specify another date, shall become effective at the expiration of twenty days after such publication following final passage, or, if the ordinance be submitted at a referendum election, then upon a favorable vote of a majority of those voting thereon except as otherwise expressly provided by this charter.

Independent annual audit

23. Prior to the end of each fiscal year the council shall designate qualified public accountants who, as of the end of the fiscal year, shall make an independent audit of accounts and other evidences of financial transactions of the city government and shall submit their report to the council and to the city manager. Such accountants shall have no personal interest, direct or indirect, in the fiscal affairs of the city government or of any of its officers. They shall not maintain any accounts or records of the city business, but, within specifications approved by the council, shall post-audit the books and documents kept by the department of finance and any separate or subordinate accounts kept by any other office, department or agency of the city government.⁶

⁶In some states independent audits are provided for by general law or are made by, or under the direction of, a state officer or department.

ARTICLE IX

NOMINATIONS AND ELECTIONS¹

¹Alternative Provisions--Election at Large.

If proportional representation cannot be adopted for any reason, the non-partisan election-at-large system is recommended as the next best alternative. Though it is not likely to give representative results, it is, in the committee's judgment, much to be preferred to the ward system and has usually given a good degree of satisfaction in cities where spoils politicians were not highly organized. A large majority of the cities which have adopted the manager form of government up to this time have provided for this principle of electing the council. If this alternative is adopted, subdivisions (c) and (d) of section 156 and the last sentence of section 163 should be omitted from the text and

the following sections substituted for sections 157 to 162 inclusive and section 165:

Section 157. Election of Councilmen. All members of the council shall be elected at large. Every voter shall be entitled to vote for as many candidates as there are members to be elected to the council. All candidates, up to the number to be elected, who receive a majority vote shall be declared elected. If more than the number to be elected receive a majority vote, those receiving most votes shall be declared elected. A majority vote for the purposes of this section shall be a majority of a number of votes determined by dividing the total vote of all candidates by the number of persons for whom each voter is entitled to cast a vote. If there are one or more positions for which no one is elected at the first election, a second election shall be held two weeks later. In the second election there shall be printed on the ballot twice as many names as there are positions to be filled, from the unelected candidates polling the largest numbers of votes in the first election. In this election, the remaining positions shall be filled by declaring elected the several candidates polling the largest numbers of votes. Any tie shall be decided by lot.

Section 158. Vacancies in the Council. If a seat in the council becomes vacant, it shall be filled for the remainder of the unexpired term by a majority vote of the remaining members of the council. If all the places in the council should become vacant at once, the election authorities shall call a special election of members to serve for the remainder of the unexpired term, except that if a regular election for members of the council to serve for the next regular term has already been held, or is to be held not more than sixty days after the occurring of the vacancies, such a special election need not be held and the members elected to the council at the regular election shall take office forthwith or as soon as the regular election is completed.

Section 153. Municipal elections

- 154. Regulation of elections
- 155. Nominations
- 156. Council ballots
- 157. Preparations for central count
- 158. Assembling the ballots
- 159. Checking the returns
- 160. Valid and invalid ballots
- 161. Quota sufficient to elect
- 162. Rules for counting ballots
- 163. Voting machines
- 164. Public supervision and information
- 165. Vacancies in the council

Introductory Note. A majority of the Model City Charter Committee are in favor of proportional representation, the method provided in this article, and look upon it as the most satisfactory method of electing councilmen on the grounds that it gives representation to many more voters than any other method and does so on terms of approximate equality so as to secure both majority rule and minority representation.

The rules for proportional representation here given may be modified in various details without interfering seriously or at all with the major principles of the plan. Some of the variations favored by some authorities are indicated in the footnotes.

Municipal elections

153. The regular election for the choice of members of the council shall be held on thein odd (even) numbered years.²

Municipal elections should be separated from state and national elections. They are commonly held in the fall of odd numbered years, or in the spring of the year. The frequency of regular elections will be determined by the length of term of members of the council. The committee does not consider annual elections advisable in view of the expense and bother involved.

The council may by resolution order a special election, at any time, for the election of a new council by the qualified electors of the city. The term "qualified elector" as used in this charter shall mean a citizen having the qualifications required by law to vote in the city who is at the time registered to vote or, if no later complete registration is in effect at the time, was registered to vote in the city at the last preceding general election. Any special election of the council shall be held as nearly as practicable according to the provisions for a regular election.

Regulation of elections

154. The council shall make all regulations which it considers needful or desirable, not inconsistent with this charter, for the conduct of municipal

elections, and for the recount of ballots in case of doubt or fraud. Municipal elections shall be conducted by the regular election authorities,³ who shall also have power to make such regulations not inconsistent with this charter or with any regulations made by the council.

³The term "election authorities" is used throughout this charter to designate the official or agency established by law which would normally have charge of a municipal election in the city. It would be advisable to substitute the official title wherever the words "election authorities" or "regular election authorities" occur. Cities are sometimes authorized to conduct their own elections. The charter may make this either mandatory, as in Sacramento, or optional in the discretion of the council, as in Wheeling.

Nominations

155. Any qualified elector of the city may be nominated for the council by petition of any ten such electors, who shall be designated as his sponsors.⁴

⁴The sponsor system of nominations, which has been used in California for several years, tends to clarify the election by informing the voter who is back of each candidate. This often proves to be of material assistance to the voter in making his choice.

No elector shall sign more than one such petition, and should an elector do so, his signature shall be void except as to the petition first filed. With each signature shall be stated the place of residence of the signer, giving the street and number or other description sufficient to identify it. Nominating petitions shall be signed and filed with the election authorities not earlier than ninety days nor later than thirty days before the election and shall be in substantially the following form:

We, the undersigned ten electors of the City of, hereby nominate and sponsor....., whose residence is....., for the office of councilman, to be voted for at the election to be held on theday of....., 19..; and we individually certify that our names have appeared on the rolls of registered voters within the last year, that we are qualified to vote for a candidate for the council and that we have not signed any other nominating petition for that office.

Name	Street and Number	Address from which last registered (if different)	Date of Signing
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(SPACES FOR 10 SIGNATURES AND REQUIRED DATA)

Acceptance of Nomination

I hereby accept the nomination for the council and agree to serve if elected.

Signature of candidate.....

Date and hour of filing.....

This petition if filed by.....
whose address is.....

Received by.....

(Signature of election official)

The election authorities shall take and preserve the name and address of the person by whom each nominating petition is filed. No nominating petition shall be accepted unless accompanied by a signed acceptance of the nomination and a deposit by the candidate of.....dollars.⁵

⁵The purpose of requiring a deposit is to prevent the ballot from being made inconveniently long through the candidacy of self-seekers and advertisers without a substantial following. Deposit plans have been used in England and Ireland with good results for years and are now in use in a number of places in this country also. While the deposit should be large enough to deter triflers it should not be so large as to prevent the candidacy of persons of moderate means with a substantial number of adherents. In most cases it should probably not exceed \$100. In considering the justice of a deposit system, it should be borne in mind that the circulation of a large petition, which the deposit makes unnecessary, usually costs at least ten cents per signature and that the deposit is returnable in case the candidate polls a vote of reasonable size. In case the sponsor system with a deposit is unacceptable or of doubtful constitutionality by itself, it might well be made an alternative to the ordinary petition method set forth in alternative section 155 so that a candidate could take his choice. In that case the deposit should be made returnable if the candidate receives as many votes as he would need signatures for nomination without a deposit.

The officer who receives the deposit shall issue a receipt therefor. Such deposit shall be returned to the candidate if he becomes ineligible or withdraws his candidacy before the election or if he polls at least five per centum of the quota at any stage of the regular count; but if he remains a candidate and fails to receive this number of votes, the deposit shall be for-

feited and paid into the general fund of the city. Any candidate may withdraw his nomination not later than the last day for filing nominating petitions by filing a notice of withdrawal with the election authorities. Within five days after the filing of a nominating petition the election authorities shall notify the candidate and the person who filed the petition whether or not it is found to be signed by the required number of qualified electors. If a petition is found insufficient, the election authorities shall return it immediately to the person who filed it with a statement certifying wherein the petition is found insufficient and shall return to the candidate the deposit of money made at the time the petition was filed. Within the regular time for filing petitions a new petition may be filed for the same candidate. The petition of each candidate nominated to be a member of the council shall be preserved by the election authorities until the expiration of the term of office for which he has been nominated.

(Alternative 155.) Nominations. Any qualified elector of the city may be nominated for the council by petition. A petition for this purpose shall be signed by not less than.....nor more than.....qualified electors.⁶

⁶Under proportional representation the minimum number of names required on each petition should usually be from one-tenth of one per cent (in the largest cities) to one and one-half per cent (in the smallest cities) of the total number of voters at a normal municipal election. Unless a maximum number of signatures is fixed, attempts to use up all available signatures may be made to prevent competition in some neighborhoods.

No elector shall sign more than one such petition, and should an elector do so, his signature shall be void except as to the petition first filed. The signatures on the nominating petition need not all be subscribed to one paper, but to each separate paper there shall be attached a signed statement of the circulator thereof, stating the number of signers of such paper and that each signature appended thereto was made in his presence and is the genuine signature of the person whose name it purports to be. With each signature, including the signature of the circulator, shall be stated the place of residence of the signer, giving the street and number or other description sufficient to identify it. The form of the nominating petition shall be substantially as follows:

We, the undersigned electors of the City of....., whereby nominatewhose residence is..... for the office of councilman, to be voted for at the election to be held on theday of....., 19..; and we individually certify that our names have appeared on the rolls of registered voters within the last year, that we are qualified to vote for a candidate for the council and that we have not signed any other nominating petition for that office.

Name	Street and Number	Address from which last registered (if different)	Date of Signing
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(SPACES FOR SIGNATURES AND REQUIRED DATA)

Statement of Circulator

The undersigned is the circulator of the foregoing paper containing..... signatures. Each signature appended thereto was made in my presence and is the genuine signature of the person whose name it purports to be.

Signature of Circulator.....
Address.....

Any signature made earlier than the first day of August⁷ next preceding the election shall be void.

⁷This assumes that the election will be held at the usual time in November. If it is held at some other time the earliest date for signing petitions should be fixed at from ninety to one hundred days before the election.

All nominating papers comprising a petition shall be filed as one instrument with the election authorities, not earlier than the first day of August nor later than the first day of October before the election. The election authorities shall make a record of the exact time at which each petition is filed and shall take and preserve the name and address of the person by whom it is filed. No nominating petition shall be accepted unless accompanied by a signed acceptance of the nomination in substantially the following form:

Acceptance of Nomination

I hereby accept the nomination for the council and agree to serve if elected.
Signature of candidate.....

If a petition is found to be signed by more persons than the number legally permitted, the last signatures in excess of that number shall be disregarded even if some of the earlier signatures are void. If a petition paper is found to be signed by more persons than the number of signatures certified by the

circulator, the last in excess of the number certified shall be disregarded. If signed by fewer persons than the number certified, the signatures shall be accepted unless void on other grounds. Within five days after the filing of a nominating petition the election authorities shall notify the candidate and the person who filed the petition whether or not it is found to be signed by the required number of qualified electors. If a petition is found insufficient, the election authorities shall return it immediately to the person who filed it with a statement certifying wherein the petition is found insufficient. Within the regular time for filing petitions such a petition may be amended and filed again as a new petition (in which case the time of the first filing shall be disregarded in determining the validity of signatures thereon) or a different petition may be filed for the same candidate. The petition of each person nominated to be a member of the council shall be preserved by the election authorities until the expiration of the term of office which he has been nominated.

Council ballots

156. (a) The full names of all candidates nominated for the council as hereinbefore provided, except such as may have withdrawn, died or become ineligible, shall be printed on the official ballots without party designations. If two candidates with the same surname, or with names so similar as to be likely to cause confusion, are nominated, the addresses of their places of residence shall be placed with their names on the ballot.

(b) The names of the candidates shall be arranged in the alphabetical order of their surnames, except that they shall be rotated by precincts⁸ as herein provided, so that each name shall appear first and in each other position in an equal number of the precincts, as nearly as possible.

⁸In some states, the word "precinct" should be replaced by "election district" wherever it occurs in this charter.

In many places the ballots are rotated within each precinct so that successive ballots always have different orders. If this plan is followed, it should be required only so long as voting machines are not used and rotation by districts should be permitted with voting machines. Rotation within a precinct seems at present impracticable with machines.

In such rotation all the precincts shall be arranged by the election authorities in a single continuous series, in the order in which they are customarily listed by the election authorities if there is any such order. The order in which the precincts are thus arranged shall be known as the standard order. In the first precinct in this order the names of the candidates shall appear in alphabetical order. In the second they shall appear in the same order except that the first name in the first precinct shall appear last. In each succeeding precinct the names shall appear in the same order as in the precinct immediately preceding, except that the first name in that preceding precinct shall appear last.

(c) Unless voting machines are used as hereinafter provided, councilmen shall be voted for on ballots separate and distinct from ballots used for any other office or question, and the ballot boxes used for the election of councilmen shall be separate and distinct from ballot boxes used for any other office or question.⁹

⁹If there are two or more P.R. elections, as, for example, for council and for school committee under the Massachusetts law, separate P.R. ballots should be provided for each office. If different colors are required for the ballots for different offices so that each set can be readily sorted out, a single ballot box can be used for the different kinds of P.R. ballots. Other appropriate changes in the provisions will, of course, have to be made also. The same counting staff and counting place can be used for the different P.R. elections.

(d) The ballots shall be marked according to the following instructions, which shall be printed at the top of each ballot under the heading, "DIRECTIONS TO VOTERS", the first sentence to be printed in bold-face type:

Mark your choices with numbers only.

(Do not use X marks.)

Put the number 1 in the square opposite the name of your first choice.

Put the number 2 opposite your second choice, the number 3 opposite your third choice, and so on. You may mark as many choices as you please.

Do not put the same number opposite more than one name.

If you tear or deface or wrongly mark this ballot, return it and obtain another.¹⁰

¹⁰In some states it will be necessary to provide blank spaces for write-ins. In that case the directions should contain another paragraph, just before the last, to read as follows: To vote for a person whose name is not printed on this ballot, write his name on a blank line under the names of the candidates and put a number in the square opposite to show which choice you wish to give him.

Preparations for central count

157. Before each election of the council the election authorities shall designate a central counting place where all the council ballots shall be brought together and counted publicly, appoint a competent person to act as director of the count,¹¹ employ and provide for the training of a sufficient staff of assistants (subject to any regulations of the council), fix a definite compensation for the director and for each member of the staff which shall not be dependent on the length of time consumed in the count, provide for the proper disposition and counting of ballots deposited on election day in the wrong ballot box, prepare detailed regulations for the count which shall be issued in advance to the members of the counting force, to the candidates and to their representatives at the central count, and make other suitable arrangements for the counting of the ballots subject to the provisions of this charter.

¹¹The usual provision has been for a count under the direction of a board of several members. In practice, however, it has been found much more satisfactory to have a single person in charge. The boards made responsible by law have generally appointed one of their number or some other competent person to direct the count under their supervision. In the state of New York bipartisan counting boards and staffs are required by the constitution.

All employes for the central count shall be selected by competitive examinations conducted by the regular civil service authorities, except that the director and not more than two consultants may be exempted from such examinations or be given non-competitive examinations if the council, or--subject to the directions of the council--the election authorities, shall so decide.

Assembling the ballots

158. As soon as the polls have closed, the election officials at each voting place shall, without opening it, seal¹² the ballot box used for the election of members of the council and send it at once, as the election authorities may direct, to the central counting place for the city. They shall send with it a record of the number of ballots cast therein.

¹²More specific instructions for sealing may be added if it is thought advisable.

Checking the returns

159. At the central counting place the ballot boxes shall be opened and the numbers of ballots found therein recorded and compared with the records sent from the corresponding voting places. The records thus compared shall be made available to the public with notations explaining any corrections made therein. If any discrepancy appears which cannot be reconciled, it shall be shown on the record. All ballots found in the ballot boxes in respect to which no evidence appears that they have been improperly cast shall be accepted.

The ballots in each ballot box shall also be examined for validity and those which are found to be invalid or blank shall be separated from the rest. The numbers of valid, invalid and blank ballots from each voting place and the total number of each for the whole city shall be recorded.

Valid and invalid ballots

160. A ballot shall be held invalid if it does not clearly show which candidate the voter prefers to all others.¹³

¹³In a central count the dangers of self-identification of voters for the sake of political rewards are negligible, and for that reason the usual provisions voiding ballots with identification marks have been omitted. If it is thought necessary to include them, the following words should be added at the end of this sentence: "or if it contains any work, mark, or other sign or thing apparently intended to identify the voter."

Every ballot not thus invalid shall be counted according to the intent of the voter so far as that can be clearly ascertained, whether marked according to the directions printed on it or not. No ballot shall be held invalid because it is marked in ink or in pencil different from the one supplied at the voting place, or because the names of candidates thereon for whom the voter did not mark a choice have been stricken out. Any cross mark shall be disregarded, except that a single cross mark on a ballot on which no number 1 appears shall be considered equivalent to the number 1. If the consecutive numerical order of the numbers on a ballot is broken by the omission of one or more numbers, the smallest number marked shall be taken to indicate the voter's first choice, the next smallest his second, and so on, without regard to the number or numbers omitted.

Quota sufficient to elect

161. The quota of votes sufficient for the election of a councilman shall be the smallest number of ballots which could be received separately by each of as many candidates as are to be elected but not by one candidate more. It shall be determined by dividing the total number of valid ballots

by one more than the number of councilmen to be elected and adding one to the result, disregarding fractions.¹⁴

¹⁴This is what is known as the Droop quota. The original Hare quota, used by Thomas Hare and other early advocates of proportional representation, is found by dividing the total number of valid ballots by the number of members to be elected. This larger quota has simplicity to commend it and is often advocated for that reason, but it wastes a considerable number of votes on candidates who do not need them and might therefore, in a close election, give a bare majority of the seats to the minority side.

Another kind of quota is the fixed quota used in New York City and Yonkers, a quota of definite size prescribed in the charter. It is not possible, of course, to have both a fixed quota and a fixed number of members of council, but the advantages of having a quota which needs no explanation and which sets a perfectly definite goal for all candidates may be considered sufficiently important to justify some fluctuation in the size of the council. If the members have to be elected from more than one district, the fixed quota can be made to take care of the problem of reapportionment by prescribing the same fixed quota that is to govern the election of councilmen as that which is to apportion the seats among the districts. Its most serious defect is that, like the original Hare quota, it may waste enough votes on candidates who do not need them to upset the proportionality of the result to some extent. The changes to be made if the fixed quota plan is adopted will be indicated in the footnotes. The last paragraph of section 159 should be omitted and section 161 should read simply: "The quota of votes sufficient for the election of a councilman shall be....."

Rules for counting ballots

162. The result of the election shall be determined according to the following rules:

(1) The ballots shall first be sorted according to the first choices marked on them.

(2) The ballots shall be arranged for such sorting in the following order of precincts: the first precinct in the standard order defined in subdivision (b) of section 156, then the eleventh precinct in that order, then the twenty-first, the thirty-first, and so on at intervals of ten precincts until the end of the standard order is reached; then the second precinct in the standard order, the twelfth, the twenty-second, and so on at intervals of ten precincts until the end of the standard order is reached again; then the third, thirteenth, twenty-third, and so on; the fourth, fourteenth, twenty-fourth, and so on; continuing until the tenth, twentieth, thirtieth, and so on are reached and the precincts are thus all included. The first precinct in this order to be taken for sorting shall be drawn by lot. This precinct shall be followed in the sorting in regular order by the precincts which follow it in the order in which the precincts have been arranged, then in regular order by the precincts which remain.¹⁵

¹⁵To illustrate, suppose the city has precincts numbered consecutively from 1 to 50 and the first precinct drawn is precinct 27. then the order in which the precincts are to be taken for sorting will be 27, 37, 47, 8, 18, 28, 38, 48, 9, 19, 29, 39, 49, 10, 20, 30, 40, 50, 1, 11, 21, 31, 41, 2, 12, 22, 32, 42, 3, 13, 23, 33, 43, 4, 14, 24, 34, 44, 5, 15, 25, 35, 45, 6, 16, 26, 36, 46, 7, 17. Of course, there is no magic in the number 10 and any other convenient interval can be taken instead, but the interval should be such that successive precincts in the order of sorting will be regularly in different parts of the city and that the precincts will range back and forth over the whole city a number of times before the sorting is completed. The purpose of this arrangement is to minimize the slight element of chance which ordinarily exists when a candidate receives more than a quota of first choices and accordingly some of his first-choice ballots must be left to elect him while others must be transferred as surplus ballots to their next choices so as not to waste them. By sufficiently complicating the rules, as in the election of members of the legislature of the Australian province of Tasmania, it is possible to eliminate this element of chance entirely; but when by a simpler rule such as the one here given it is made certain that the surplus ballots will be a reasonably representative sample of all the elected candidate's ballots, there is almost no chance at all in an election with many votes that the simpler procedure will give a different result. New York City and Yonkers have rules similar in principle to the one given here, based on taking successive assembly districts in one case and from successive wards in the other. Toledo takes the precincts in an order determined entirely by lot, which is not so accurate a sampling method as the one given here. Cincinnati sorts all the ballots according to first choices even above the quota (which therefore does not have to be determined in advance of the first count) and then transfers ballots taken at regular intervals; for example, if a fourth of an elected candidate's ballots are to be transferred as surplus, every fourth ballot is

taken for transfer. Hamilton takes surplus ballots in equal numbers so far as possible from the different precincts. Boulder uses the more exact and therefore more complicated procedure used in Canadian, British and Irish proportional elections, according to which all the ballots of an elected candidate are sorted according to second choices and the same proportion is taken from each second-choice pile. In a large city election all of these methods are nearly 100 per cent certain to give the same result.

If the plan of building up a surplus, and subsequently transferring it, is preferred to the equivalent plan, prescribed in these rules, of determining the number of valid ballots and the quota before the ballots are sorted and then never passing the quota, the provisions here given should be modified as follows:

a. Strike out the last paragraph in section 159.
b. Make section 160 a rule of section 162, following rule (2), and renumber accordingly.

c. Omit section 161 and replace it by a new rule (6) of section 162 as indicated below.

d. Replace the present rules (4) to (7) inclusive of section 162 by the following:

(5) When all the ballots have been sorted according to their first choices, the number of valid ballots cast for each candidate as first choice and the total number of valid ballots shall be determined.

(6) The quota of votes sufficient for the election of a councilman shall then be determined. It shall be the smallest number of ballots which could be received separately by each of as many candidates as are to be elected but not by one candidate more, and shall be determined by dividing the total number of valid ballots by one more than the number of councilmen to be elected and adding one to the result, disregarding fractions.

(7) All candidates whose first-choice ballots equal or exceed the quota in number shall be declared elected.

(8) If a candidate so elected has more ballots than the quota, the last ballots sorted to him which show a choice also for some candidate not yet elected shall be transferred. As many such ballots shall be transferred as can be taken from the elected candidate without reducing his total below the quota. Each such ballot shall be transferred to the unelected candidate indicated on it as next choice among such candidates.

(9) If more than one candidate has first-choice ballots in excess of the quota, the surplus ballots of the candidate with most ballots shall be transferred first, then those of the candidate with next most ballots, and so on.

(10) Whenever during any transfer of ballots, at any stage of the counting, the number of ballots credited to a candidate becomes equal to the quota, he shall be declared elected and no ballots in excess of the quota shall be transferred to him.

(11) When all surplus ballots have been transferred, or at the end of the count of first choices if there are no surplus ballots to transfer, every candidate who has fewer ballots to his credit than.....¹⁷ shall be declared defeated.

Two or more precincts may be sorted simultaneously so long as their ballots are credited in the order here prescribed.

(3) Each candidate shall be credited with one vote for every valid ballot that is sorted to him as first choice or otherwise credited to him as hereinafter provided and no ballot shall ever be credited to more than one candidate at the same time.

(4) Whenever at any stage of the counting the number of ballots credited to a candidate becomes equal to the quota he shall be declared elected and no ballots in excess of the quota shall be credited to him except as provided in rule (6).

(5) If a candidate is found to be elected while the ballots are being sorted according to first choices, each subsequent ballot which shows him as first choice shall be credited to the second choice marked on it or, if the second choice also has been elected, to the next choice marked on it for a candidate not yet elected. A record shall be kept and made public, however, of the total number of first choices for each candidate.

(6) If during the first sorting a ballot is found which is marked first choice for a candidate already elected but shows no choice for any unelected candidate, it shall be given to the candidate of its first choice and in its place the last previous ballot, if any sorted to that candidate which does show a choice for an unelected candidate shall be taken and re-sorted to its next available choice as if it were then being sorted for the first time. All such ballots shall be so exchanged at the end of the first sorting.

(7)¹⁶ When all the ballots have been thus sorted and credited to the first available choices marked on them, every candidate who has fewer ballots to his credit than¹⁷ shall be declared defeated.

16 If the fixed quota plan is used, this rule should be replaced by two other rules, to read as follows:

(7) When all the ballots have been thus sorted and credited to the first available choices marked on them, the total number of valid ballots shall be determined by adding the totals credited to all candidates. This total number of valid ballots shall then be divided by the quota, preserving any fraction. The odd number nearest to the quotient so obtained shall be the number of councilmen to be elected. If the quotient is an even whole number, the next higher odd number shall be the number of councilmen to be elected.

(8) Every candidate who has fewer ballots to his credit thanshall then be declared defeated.

The succeeding rules would then be numbered accordingly. The blank in rule (8) would be filled in as indicated in the next footnote.

The nearest odd number is taken in rule (7) as the number to be elected so as to avoid deadlocks in the council. If there is more than one district it would be better in each district to take the nearest whole number or, as in New York City, to give each district one member for each full quota or more.

It would also be possible, either at large or in districts, not to fix the number at all till the end of the count and simply elect those candidates who finally reached the quota. Under this plan the successive defeating of low candidates and transferring of their ballots would continue until every candidate was elected with a full quota or defeated. Theoretically this would be the best of the fixed quota plans, but where there are two or more districts, it might lead to dissatisfaction in any district which lost a seat because of exhausted ballots.

17 If alternative section 155 above is adopted, the words "the number of signatures required for nomination" should be inserted here. If the sponsor-deposit scheme prescribed in section 155 is adopted the words "five per cent of the quota" should be inserted, as that is the number of votes required to avoid forfeiting the deposit. If both schemes are in use, the words "the number of signatures required for nomination without a deposit" should be inserted.

(8) All the ballots of the candidates thus defeated shall be transferred, each to the candidate indicated on it as next choice among the continuing candidates. A "continuing candidate" is a candidate not yet elected or defeated. Any ballot taken for transfer which does not clearly indicate any candidate as next choice among the continuing candidates shall be set aside as exhausted. If the same choice is marked for more than one candidate, it shall be disregarded except as to continuing candidates; but if two or more of the candidates marked with the same choice are continuing and all previous choices have been elected or defeated, the ballot shall be set aside as exhausted.

(9) When all the ballots of the candidates thus defeated have been transferred, the one candidate who is then lowest on the poll shall be declared defeated and all his ballots transferred in the same way.

(10) Thereupon the candidate who is then lowest on the poll shall be declared defeated and all his ballots similarly transferred. Thus candidates shall be defeated one at a time and all their ballots transferred until the election is at an end as hereinafter provided.

(11) When ballots are transferred they may be transferred in any order, except that if a quota can be completed during the transfer the ballots shall be transferred in the reverse order to that in which they were credited to the candidate whose ballots are being transferred, until the quota is completed.

(12) In deciding any tie a candidate shall be treated as having more votes than another if he was credited with more votes at the end of the last preceding transfer or sorting of ballots at which the numbers of their votes were different. Any tie that cannot be decided thus shall be decided by lot.

(13) If at any time as many candidates as are to be elected have received the quota, the other candidates shall all be declared defeated and the election shall be at an end. Any transfer that is in progress when the last candidate is elected may be completed for the record.

(14) If at any time all ballots of any defeated candidates have been transferred and it is impossible to defeat another candidate without reducing the continuing candidates below the number still to be elected, all the continuing candidates shall be declared elected and the election shall be at end.

(15) A record of the count shall be kept in such form as to show, after each sorting or transfer of ballots, the number thereby credited to each candidate, the number thereby found exhausted, the total for each candidate, the total found exhausted, and the total number of valid ballots found by adding the totals of all candidates and the total found exhausted.

(16) If at any time after the first sorting of the ballots a ballot is found to have been misplaced, it shall be credited to the candidate who should have it or set aside as exhausted in accordance with the choices shown on it, and any changes in the ballots composing completed quotas made necessary by the correction shall also be made forthwith. If the number of misplaced ballots found indicates that the list of continuing candidates may be incorrect, so much of the sorting and transferring as may be required to correct the error shall be done over again before the count proceeds.

(17) Every ballot that is transferred from one candidate to another shall be stamped or marked so as to show all the candidates to whom it is credited during the entire course of the count.

(18) If, in correcting an error or in recounting the ballots for any other purpose except in the filling of a vacancy, any ballots are re-sorted or re-transferred, every ballot shall be made to take the same course that it took in the original count unless the correction of an error requires its taking a different course.

Voting machines

163. The council shall have power to provide for the use of mechanical or other devices for voting or counting the votes in accordance with the principles set forth in this charter. For this purpose the council may modify the form of the ballot, the method of expressing choices and the arrangements for conducting the election and the count, but no change shall be made which will alter or impair the principles of the voting or of the counting. A limitation of the voter to a maximum of not fewer than twenty choices shall not be regarded as such alteration or impairment.

Public supervision and information

164. (a) At each election of the council any regularly nominated candidate shall be entitled upon written application to the election authorities at least five days before the election:

(1) To appoint one person and one alternate to represent him as watcher and challenger at each polling place. Any person so appointed shall have all the rights and privileges prescribed by law for other watchers and challengers at any election in the same place, but a watcher and his alternate shall not have the right both to remain within the voting place at the same time. Such watchers and challengers may exercise their rights at the voting places until the ballots have been sent to the central counting place and may accompany the ballot boxes to the central counting place, but not more than one watcher for the same candidate shall have the right to accompany two or more ballot boxes while they are being taken together.

(2) To appoint one representative at the count in the central counting place, who shall have full authority to move anywhere within the central counting quarters and to inspect all activities of the count without interfering therewith.

(3) To appoint one observer at the central counting place, who shall be given facilities for keeping in full view all ballots outside of containers and all containers of ballots at all times when such ballots are not being sorted or counted, from the time when the first ballots arrive until all ballots have been placed in containers and removed for safekeeping at the end of the count.

The election authorities and the director of the count shall permit candidates to make substitutions for persons originally appointed as watchers, challengers, representatives or observers.

(b) The candidates, representatives of the press and, so far as may be consistent with good order and convenience, the public shall be afforded every facility for being present and witnessing the count.

(c) The ballots cast at each election shall be preserved by the election authorities until the terms of the members elected thereat have expired and shall be available for examination, under the supervision of the election authorities, on written application signed by one hundred or more qualified electors and the payment of twenty-five dollars for each day on which such inspection is held.¹⁸

¹⁸These specific figures may be varied, of course, in cities of different sizes. It may be thought wise, in addition, to require the election authorities to examine the ballots before the time set for the councilmen elected to take office and to make public, for each voting place, such information as the number of first choices cast for each candidate, the number of ballots finally counted for each of the elected candidates, the number of the exhausted ballots which showed one or more choices for elected candidates and the number which did not, the number of invalid ballots, the causes of invalidity, and the number held invalid for each cause, the number of blank ballots, and the numbers of first choices, second choices, third choices, etc., used in the election of each of the elected candidates. Such information would be of interest and value, but would not ordinarily be available without special provision. This suggestion may be more practicable and less expensive when satisfactory means of machine sorting are developed.

(d) The decisions of the director of the count shall be final unless appealed from, in which case they shall be subject to immediate review by the election authorities.¹⁹

¹⁹If those adopting the charter have authority to impose duties on the courts, it may be desirable to add provisions for court review. The courts would usually have the power of review without special provision in the charter.

Vacancies in the council²⁰

²⁰Section 165 provides that vacancies be filled by the recount method, which has the advantage that it places the right of the new member to his place in the council upon the same foundation as that of every other member. An alternative method, finding favor with some, is to permit the council to fill vacancies. This method, however, has been utilized at times to increase majority control, thereby tending to destroy the representative character of the council. In cities which do not have proportional representation, the committee recommends that vacancies be filled by the council unless the term is longer than two years, in which case they should be filled by the council temporarily and then by the voters at the next general election if one occurs at least a year before the end of the term.

165. (a) If a seat in the council becomes vacant, it shall be filled for the remainder of the unexpired term by a public recount of the ballots credited at the last municipal election to the vacating member (or to his predecessor if he was elected to fill a vacancy). This recount shall be conducted under the supervision of the election authorities according to the following rules:

1. All choices marked for members of the council in office, for members who have resigned from the council since the last election of councilmen, or for candidates who have become ineligible for the council or have expressed to the election authorities in writing their desire to withdraw shall be disregarded. All other candidates at the original election shall be treated as eligible in the recount.

2. The ballots shall be sorted each to the first of the choices marked on it for any of the eligible candidates.

3. If any candidate has to his credit more than half of the ballots which show any preference among these candidates he shall be declared elected to the vacant place.

4. If no candidate has to his credit more than half of the ballots which show such a preference, every candidate who has no ballots to his credit shall be declared defeated.

5. Thereupon the remaining candidate lowest on the poll shall be declared defeated and all his ballots transferred, each to the candidate indicated on it as next choice among the undefeated candidates.

6. Thus lowest candidates shall be declared defeated one after another and all their ballots transferred until some candidate is credited with more ballots than all the other undefeated candidates together.

7. As soon as one candidate is credited with more ballots than all the other undefeated candidates together he shall be declared elected to the vacant place.

8. Except as herein otherwise provided and except that the rules for assembling and checking the ballots and arranging them by precincts and those regarding the quota may be disregarded, the recount shall be governed by the provisions for the original count.

9. If two or more vacancies occur at the same time they shall be filled separately in the order in which they are certified by the council to the election authorities.²¹

²¹The city of Yonkers, N.Y., adopted a different set of rules which would fill together instead of separately two or more vacancies occurring at the same time--and would include not only the ballots by which the vacating members were elected but also the exhausted ballots--in other words, all the ballots not represented by members remaining on the council. If this plan is preferred, the following should be substituted for subdivision (a) of this section:

(a) If one or more vacancies occur in the council at any time, they shall be filled by a recount of the ballots which were credited to the vacating member or members together with the other ballots which were not credited to any of the elected members remaining in office. Any such recount shall be conducted according to the provisions for the original count except that:

1. The rules for assembling and checking the ballots and arranging them by precincts may be disregarded.

2. All choices marked for members of the council in office, for members who have resigned from the council since the last election of councilmen, or for candidates who have become ineligible for the council or have expressed to the election authorities in writing their desire to withdraw shall be disregarded. All other candidates at the original election shall be treated as eligible in the recount and the ballots sorted and counted according to the choices marked on them for such candidates.

3. The number of councilmen to be elected shall be equal to the number of vacancies.

(b) If a vacancy occurs which cannot be filled by the foregoing procedure, the council may by a majority vote of the remaining members appoint a qualified person to fill it for the remainder of the unexpired term.

(c) If all the places on the council should become vacant at once and the vacancies cannot be filled by the foregoing procedure, the election authorities shall call a special election of members to serve for the remainder of the unexpired term, except that if a regular election for members of the council to serve for the next regular term has already been held, or is to be held not more than sixty days after the occurring of the vacancies, such a special election need not be held and the members elected to the council at the regular election shall take office forthwith or as soon as the regular election is completed. Any special election of the council shall be held as nearly as practicable according to the provisions for a regular election.

ARTICLE X
INITIATIVE AND REFERENDUM

- Section 166. Power of initiative
167. Power of referendum
168. Form of petitions; committee of petitioners
169. Filing, examination and certification of petitions
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171. Effect of certification of referendum petition
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173. Submission to electors
174. Form of ballot for initiated and referred ordinances
175. Availability of list of qualified electors
176. Results of election
177. Repealing ordinances; publication

Power of initiative

166. The electors shall have power to propose any ordinance, except an ordinance appropriating money or authorizing the levy of taxes, and to adopt or reject the same at the polls, such power being known as the initiative. Any initiated ordinance may be submitted to the council by a petition signed by qualified electors of the city equal in number to at least ten per centum of the registered voters at the last regular municipal election.

Power of referendum

167. The electors shall have power to approve or reject at the polls any ordinance passed by the council, or submitted by the council to a vote of the electors, except as provided in section 67, such power being known as the referendum. Ordinances submitted to the council by initiative petition and passed by the council without change shall be subject to the referendum in the same manner as other ordinances. Within twenty days after the enactment by the council of any ordinance which is subject to a referendum, a petition signed by qualified electors of the city equal in number to at least ten per centum of the registered voters at the last preceding regular municipal election may be filed with the city clerk requesting that any such ordinance be either repealed or submitted to a vote of the electors.

Form of petitions; committee of petitioners

168. All petition papers circulated for the purposes of an initiative or referendum shall be uniform in size and style. Initiative petition papers shall contain the full text of the proposed ordinance. The signatures to initiative or referendum petitions need not all be appended to one paper, but to each separate petition there shall be attached a statement of the circulator thereof as provided by this section. Each signer of any such petition paper shall sign his name in ink or indelible pencil and shall indicate after his name his place of residence by street and number, or other description sufficient to identify the place. There shall appear on each petition the names and addresses of the same five electors, who, as a committee of the petitioners, shall be regarded as responsible for the circulation and filing of the petition. Attached to each separate petition paper there shall be an affidavit of the circulator thereof that he, and he only, personally circulated the foregoing paper, that it bears a stated number of signatures, that all the signatures appended thereto were made in his presence, and that he believes them to be the genuine signatures of the persons whose names they purport to be.

Filing, examination and certification of petitions

169. All petition papers comprising an initiative or referendum petition shall be assembled and filed with the city clerk as one instrument. Within twenty days after a petition is filed, the city clerk shall determine whether each paper of the petition has a proper statement of the circulator and whether the petition is signed by a sufficient number of qualified electors. The city clerk shall declare any petition paper entirely invalid which does not have

attached thereto an affidavit signed by the circulator thereof. If a petition paper is found to be signed by more persons than the number of signatures certified by the circulator, the last signatures in excess of the number certified shall be disregarded. If a petition paper is found to be signed by fewer persons than the number certified, the signatures shall be accepted unless void on other grounds. After completing his examination of the petition, the city clerk shall certify the result thereof to the council at its next regular meeting. If he shall certify that the petition is insufficient he shall set forth in his certificate the particulars in which it is defective and shall at once notify the committee of the petitioners of his findings.

Amendment of petitions

170. An initiative or referendum petition may be amended at any time within ten days after the notification of insufficiency has been sent by the city clerk, by filing a supplementary petition upon additional papers signed and filed as provided in case of an original petition. The city clerk shall, within five days after such an amendment is filed, make examination of the amended petition and, if the petition be still insufficient, he shall file his certificate to that effect in his office and notify the committee of the petitioners of his findings and no further action shall be had on such insufficient petition. The finding of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

Effect of certification of referendum petition

171. When a referendum petition, or amended petition as defined in section 170 of this charter, has been certified as sufficient by the city clerk, the ordinance specified in the petition shall not go into effect, or further action thereunder shall be suspended if it shall have gone into effect, until and unless approved by the electors, as hereinafter provided.

Consideration by council

172. Whenever council receives a certified initiative or referendum petition from the city clerk, it shall proceed at once to consider such petition. A proposed initiative ordinance shall be read and provision shall be made for a public hearing upon the proposed ordinance. The council shall take final action on the ordinance not later than sixty days after the date on which such ordinance was submitted to the council by the city clerk. A referred ordinance shall be reconsidered by the council and its final vote upon such reconsideration shall be upon the question, "Shall the ordinance specified in the referendum petition be repealed?"

Submission to electors

173. If the council shall fail to pass an ordinance proposed by initiative petition, or shall pass it in a form different from that set forth in the petition therefor, or if the council fail to repeal a referred ordinance, the proposed or referred ordinance shall be submitted to the electors not less than thirty days nor more than one year from the date the council takes its final vote thereon. The council may, in its discretion, and if no regular election is to be held within such period shall, provide for a special election.¹

¹There is much to be said for making the final submission dependent on the filing of an additional petition, since a change made by the council may actually be acceptable to the original petitioners as an improvement. If this suggestion is taken, the number of signatures required for bringing the proposal before the council should probably be reduced to five per centum and an additional five per centum be required for submission of the original proposal.

Form of ballot for initiated and referred ordinances

174. Ordinances submitted to vote of the electors in accordance with the initiative and referendum provisions of this charter shall be submitted by ballot title, which shall be prepared in all cases by the director of law or other principal legal adviser of the city. The ballot title may be different from the legal title of any such initiated or referred ordinance and shall be a clear, concise statement, without argument or prejudice, descriptive of the substance of such ordinance. The ballot used in voting upon any ordinance, if a paper ballot, shall have below the ballot title the following propositions, one above the other, in the order indicated: "FOR THE ORDINANCE" and "AGAINST THE ORDINANCE". Immediately at the left of each proposition there shall be a square in which by making a cross (X) the elector may vote for or against the ordinance. Any number of ordinances may be voted on at the same election and may be submitted on the same ballot, but any paper ballot used for voting thereon shall be for that purpose only. If voting machines are used, the ballot title of any ordinance shall have below it the same two propositions, one above the other or one preceding the other in the order indicated, and the elector shall be given an opportunity to vote for either of

the two propositions and thereby to vote for or against the ordinance.

Availability of list of qualified electors

175. If any organization or group requests it for the purpose of circulating descriptive matter relating to the ordinance to be voted on, the board of elections or city clerk or other office, department or agency of the city having the list of qualified electors shall either permit such organization or group to copy the names and addresses of the qualified electors or furnish it with a list thereof.

Results of election

176. If a majority of the electors voting on a proposed initiative ordinance shall vote in favor thereof, it shall thereupon be an ordinance of the city. A referred ordinance which is not approved by a majority of the electors voting thereon shall thereupon be deemed repealed. If conflicting ordinances are approved by the electors at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

Repealing ordinances; publication

177. Initiative and referendum ordinances adopted or approved by the electors shall be published, and may be amended or repealed by the council, as in the case of other ordinances.

WAR RELOCATION AUTHORITY

NOV 27 1942

GILA RIVER PROJECT
ADMINISTRATIVE DIVISION

Project Attorney's Report

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By James & Jerry~~

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