

committees. Likewise, it can create agencies with quasi-legislative or quasi-judicial status, such as a human rights commission or a zoning appeals board.

The Model provides that the mayor shall be the presiding officer and a voting member of the council and shall perform certain specific duties which will enhance the mayor's role as policy leader.

**Section 2.02. Eligibility, Terms, and Composition.**

**(a) Eligibility.** Only registered voters of the city shall be eligible to hold the office of council member or mayor.

**Commentary.**

This section does not include length of residence requirements for city council candidates. In an era of great mobility in which people frequently live in one place and work in another, length of residence requirements lose what little validity they may once have had. A prospective council member need only be a registered voter of the city.

**(b) Terms.**

The term of office of elected officials shall be four years elected in accordance with Article VI.

**Commentary.**

The Model recommends four-year, staggered terms (§ 6.03). Under this approach, elections of council members take place every two years. In the seventh edition, the Model listed concurrent terms as an alternative. However, a strong majority of cities have chosen staggered terms over concurrent terms to avoid dramatic changes in council composition at each election.

The Model does not restrict reelection to subsequent four-year terms. Limiting reelection restricts the voters' opportunity to keep in office council members of whom they approve. Unlimited terms allow voters to provide a vote of confidence for council members who represent majority sentiment and a vote of opposition for members in the minority. Finally, the city benefits from the institutional memory of reelected council members.

**(c) Composition.**

There shall be a city council composed of [ ] members [see alternatives below].

**Commentary.**

The Model does not specify the exact number of council members but recommends that the council be small -- ranging from five to nine members. If the mayor were elected by and from the council (§ 2.03(b), Alternative I), there would be an odd number of council members. In the largest cities, a greater number of council members may be necessary to assure equitable representation. However, smaller city councils are more effective instruments for the development of programs and conduct of municipal business than large local legislative bodies. In the United States, it has been an exceptional situation when a large municipal council, broken into many committees handling specific subjects, has been able to discharge its responsibilities promptly and effectively. In large councils, members usually represent relatively small districts with the frequent result that parochialism and "log-rolling"—bargaining for and exchanging votes on a quid pro quo basis—distract attention from the problems of the whole city.

In determining the size of the council, charter drafters should consider the diversity of population elements to be represented and the size of the city.

**Alternative 1 - Option A** - District elections of an even number of council members.

**Alternative 1 – Option B** - Combination of district and at-large elections of an even number of council members.

**Alternative 1 – Option C** - In small homogeneous communities, at-large elections of an even number of council members may be suitable.

With each option, the mayor is elected separately as provided in § 2.03(b).

**Commentary.**

The Model for the first time recommends district or a combination of districts and at-large seats on city councils be used to address diversity and representation issues. The 8th edition listed district and mixed election systems as one of several alternatives, listing them after the alternatives of at-large election with district residency requirements. At-large elections should only be considered as an alternative for small communities that are homogeneous or have no geographic concentration of underrepresented voters. Adding district residency requirements disperses the members of the council geographically, but all the members of the council can still be elected by the same majority. Under-representation of specific interests is always a potential outcome with at-large elections.

Community members may feel isolated from and unconnected to their government without some geographical basis of representation. Cities with significant differences in or conflicts among ethnic, racial, or economic groups should consider which of the first two alternative systems will achieve more equitable representation of the city's population, promote sound governance, and avoid legal challenges under the Voting Rights Act.

The growing recognition that membership on councils should represent all racial and ethnic groups more adequately has spurred increased use of the single-member district system. With under-represented groups concentrated in particular sections of the city, it is easier to elect council members that represent those groups. Also, because district campaigns cost substantially less than citywide campaigns, single-member districts can open the way for greater diversity among candidates. Also, residents feel closer to district elected council members, whom they can hold responsible for addressing their community concerns.

In cities where courts have found that the at-large method of electing the city council violates the Voting Rights Act, the Justice Department has regularly approved the single-member district system as a replacement. The single-member system has drawbacks. An inherent problem is the danger that district elected members will subordinate citywide concerns to parochial problems. Single-member systems also have potential for the classic problem of "log-rolling" or vote swapping. Whenever districts are used, the drawing of district lines to provide "fair and equal" districts is of utmost importance and may involve litigation. Section 6.03 provides districting procedures and criteria designed to prevent gerrymandering and unequal districts, which are unconstitutional under the one person, one vote doctrine.

The mixed system for a council with members elected at large and members elected by and from districts has become increasingly popular since the U. S. Department of Justice approved it as a method of electing the city council that is compliant with the requirements of the Voting Rights Act. This makes the mixed method suitable in places where the at-large system has been challenged but where change to a single-

member district system is opposed. The mixed system combines the citywide perspective of the at-large council members with the local concerns and accountability of district council members. It can allow underrepresented residents who live in concentrated areas to influence or even determine the outcome of elections in their districts.

A problem can arise in mixed systems when at-large council members consider their position to be superior to that of district members and are perceived as rivals to the mayor. To prevent this, at-large and district council members should have equal status with respect to offices, services, and length of terms. Local preference should decide the ratio of at-large to district members. Opinion ranges from favoring a majority being elected at large to a majority being elected by and from districts. However, for jurisdictions concerned about scrutiny by the U. S. Department of Justice or the courts under either § 2 or § 5 of the Voting Rights Act, precedent shows a clear preference for a majority of the council to be elected by and from districts.

### **Section 2.03. Mayor.**

**(a) Powers and Duties.** The mayor shall be a voting member of the city council and shall attend and preside at meetings of the council, represent the city in intergovernmental relationships, appoint with the advice and consent of the council the members of community advisory boards and commissions, present an annual state of the city message, appoint the members and officers of council committees, assign subject to the consent of council agenda items to committees, and perform other duties specified by the council. The mayor 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 administrative duties.

**(b) Election.** At each regular election the voters of the city shall elect a mayor at large for a term of [the same term as other council members] years. The council shall elect from among its members a deputy mayor who shall act as mayor during the absence or disability of the mayor and, if a vacancy occurs, shall become mayor for the remainder of the unexpired term.

### **Commentary.**

(a) The office of mayor in cities having the council-manager form assumes a different character from city to city depending upon local political, economic, and social conditions. This variation has meant that the office is not well understood, and its potential has too often gone unrecognized. While the mayor of a council-manager city is not an executive as in the mayor-council form, he or she is uniquely positioned to be the political and policy leader of the city. As the presiding officer of the council and ceremonial head of the city, the mayor is the most conspicuous official of the city. Freedom from executive responsibilities for the day-to-day municipal operations allows the mayor to focus attention on major policy issues and important facilitative activities.

The mayor fills three facilitative roles that offer enormous leadership opportunities. First, the mayor may coordinate the activities of other officials by providing liaison between the city manager and the council, fostering a sense of cohesion among council members, and educating the public about the needs and prospects of the city. Second, the mayor may facilitate policy guidance through setting goals for the council and advocating the adoption of policies that address the city's problems. Third, the mayor is an ambassador who promotes the city and represents it in dealing with other governments as well as the public.

The specific responsibilities of the mayor listed in the Model enhance the mayor's leadership position. The traditional responsibility of presiding at council meetings allows the mayor to set the tone for city

government and help the council make decisions. Designation of the mayor as intergovernmental representative reflects the increased importance of relationships with other local governments as well as with the state and federal governments.

Mayoral appointment of boards and commissions with council advice and consent and of the membership of council committees creates the opportunity for purposeful balanced representation and can be used to forge coalitions and tap into networks of community activity. Finally, the mayor delivers the state of the city message. When the state of the city message includes the setting out of needs and goals for the city, it should reflect the thinking of the council and information provided by the staff, as well as the mayor's own priorities. In presenting the state of the city message, the mayor acts as spokesperson, educator, team leader, goal setter, and policy advocate. To avoid confusion, the time of delivery of the message should be sufficiently distanced from the presentation of the budget by the manager.

More than half of the cities operating with the council-manager form use the direct election at-large alternative. Many cities, particularly larger ones, believe that this method increases the potential for mayoral leadership by giving the mayor a citywide popular support base. This is particularly important when all or most of the council members are elected from districts. A potential disadvantage of this method is that the mayor may have views that diverge widely from those of a majority of the council on some important issues.

Whatever the method of election or the strength of the mayor's leadership role, the mayor is preeminently a legislator, a member, and leader of the council; the mayor is not an executive. However, the office may require some special staff support. Whatever arrangements are made for support either through the city manager or staff in the mayor's office should be consistent with two premises. First, the mayor should not encroach on the executive responsibilities of the manager. Second, the mayor and council collectively, as a body, oversee the operations of the city by the manager. Communities should avoid granting special voting status to the mayor (e.g., vote on council only to make or break a tie). Such power will likely impede rather than enhance the mayor's capacity to lead. Similarly, giving the mayor veto power in a council-manager city cannot help but confuse his or her role with that of the executive mayor in a mayor-council city.

No structural arrangement for government will ensure effective mayoral leadership. The person who occupies the office must understand the nature of the job—its possibilities, interdependencies, and limitations—and have the personal inclination, energy, and talent to exercise necessary leadership. Without that, no amount of structural support will produce a leader. However, the method of selection and the statement of responsibilities provided in the charter should help ensure the selection of a capable person with recognized leadership abilities who will make a significant contribution to the operation of the city.

#### **Section 2.04. Compensation; Expenses.**

The city council may determine the annual salary of the mayor and council members by ordinance, but no ordinance increasing such salary shall become effective until the date of commencement of the terms of council members elected at the next regular election. The mayor and council members shall receive their actual and necessary expenses incurred in the performance of their duties of office.

#### **Commentary.**

Under the Model, council members are part-time officials and do not direct city departments. Council salary level depends on a variety of factors specific to each community, including the part-time nature of

the position and the emphasis on policy-making rather than administration. The city should reimburse council members for expenses incurred in performing their duties, e.g., travel to the state capital to testify on behalf of the city. The Model rejects the setting of the actual amount of compensation in the charter except for the salary of the first council after the charter goes into effect (see § 10.05(f)). The delay in the effective date of any salary increases provides ample protection. The city should provide extra compensation for the mayor because, in addition to regular responsibilities as a council member, the mayor has intergovernmental, ceremonial, and city-related promotional responsibilities.

#### **Section 2.05. Relationship to City Manager.**

As explained in Article III, the city council hires the city manager to serve as the chief executive of the city government and may terminate the appointment of the city manager at any time. It is an ongoing responsibility of the city council to assure that the city manager and staff are accountable for their actions. The council shall formally evaluate the city manager's performance on an annual basis. The council shall also monitor the policy proposals submitted by the city manager and the administrative actions taken by the city manager and staff to ensure that the council's expectations are being met and that acceptable standards are being maintained.

#### **Commentary.**

Advocates of the strong mayor-council form of government claim that direct election of the chief executive makes city government more accountable but using the electoral process for accountability is a slow process and not necessarily available. The council-manager form has a chief executive who is continuously accountable to the city council. It is necessary to wait up to four years until the next election to hold the strong mayor accountable for poor performance, and accountability disappears in the mayor's final term. If a recall of the mayor is possible, this requires a large-scale collection of signatures on a recall petition and is very disruptive to city. Typically, chief administrative officers in mayor-council cities are neither independent nor accountable to the council. In contrast, the city manager in the council-manager form is independent but continuously accountable. The manager's performance should be evaluated regularly by the council, and the manager can be removed by the council at any time if his/her performance is not acceptable.

#### **Section 2.06. Prohibitions.**

**(a) Holding Other Office.** Except where authorized by law, no council member shall hold any other elected public office during the term for which the member was elected to the council. No council member shall hold any other city office or employment during the term for which the member was elected to the council. No former council member shall hold any compensated appointive office or employment with the city until one year after the expiration of the term for which the member was elected to the council, unless granted a waiver by the Board of Ethics. Nothing in this section shall be construed to prohibit the council from selecting any current or former council member to represent the city on the governing board of any regional or other intergovernmental agency.

**(b) Appointments and Removals.** Neither the city council nor any of its members shall in any manner control or demand the appointment or removal of any city administrative officer or employee whom the city manager or any subordinate of the city manager is empowered to appoint, but the council may express its views and fully and freely discuss with the city manager anything pertaining to appointment and removal of such officers and employees.

**(c) Interference with Administration.** Except for the purpose of inquiries, and investigations under § 2.10, the council or its members shall deal with city officers and employees who are subject to the direction and supervision of the city manager solely through the city manager, and neither the council nor its members shall give orders to any such officer or employee, either publicly or privately.

**Commentary.**

(a) This provision prohibits council members from concurrently holding other elective office, such as state legislator, as occurs in some states. Also prohibited is holding any other city office or employment during one's council term or for one year after leaving office. These provisions are designed to avoid conflict of interest situations. The charter is specific, however, that these prohibitions do not restrict any current or former officeholder from service on the boards of regional or other intergovernmental agencies. Such service is particularly valuable in accomplishing the objectives of intergovernmental cooperation.

(b) The prohibition against interference by council members in the appointment and removal of employees and in the administration of city programs does not include the broad language of earlier editions of the Model because it was considered too rigid and unrealistic. This provision, while expressing the general policy of noninterference, does not exclude communication between council members and the manager on questions of appointment and removal. The manager may seek advice from the council regarding appointments. Council members are strictly prohibited from giving orders to city officers or employees. However, the prohibition against interference with administration does not prevent council members from making inquiries of department heads or employees for the purpose of obtaining information needed by them in the discharge of their duties including response to constituent requests. Information provided to one council member should be shared with the entire council as warranted. The council and manager should define the parameters for such requests and establish reasonable boundaries. In some cities, automated information systems make information on aspects of departmental operations readily available to council members on computer terminals.

**Section 2.07. Vacancies; Forfeiture of Office; Filling of Vacancies.**

**(a) Vacancies.** The office of a council member shall become vacant upon the member's death, resignation, or removal from office or forfeiture of office in any manner authorized by law.

**(b) Forfeiture of Office.** A council member shall forfeit that office if the council member:

- (1) Fails to meet the residency requirements,
- (2) Violates any express prohibition of this charter,
- (3) Is convicted of a crime involving moral turpitude, or
- (4) Fails to attend three consecutive regular meetings of the council without being excused by the council.

**(c) Filling of Vacancies.** A vacancy in the city council shall be filled for the remainder of the unexpired term, if any, at the next regular election following not less than sixty days upon the occurrence of the vacancy, but the council by a majority vote of all its remaining members shall appoint a qualified person to fill the vacancy until the person elected to serve the remainder of the unexpired term takes office. If the council fails to do so within thirty days following the occurrence of the vacancy, the election authorities shall call a special election to fill the vacancy, to be held not sooner than ninety days and not later than 120 days following the occurrence of the vacancy, and to be otherwise governed by law. Notwithstanding the requirement in § 2.12(c), if at any time the membership of the council is reduced to less than \_\_\_\_\_,

the remaining members may by majority action appoint additional members to raise the membership to \_\_\_\_\_.

**Commentary.**

The section specifies the events or conditions, which create a vacancy, the grounds for forfeiture of office, and the manner by which the council shall fill vacancies.

Subsection (b)(3) requires forfeiture of office for crimes involving “moral turpitude.” This is a legal standard that in most jurisdictions means the crime – felony or misdemeanor – violates community standards of morality and involves an element of knowing intent by the perpetrator. Court findings include *In re Flannery*, 334 Or. 224 (2002) (misrepresenting address in renewing driver license to obtain valid license to rent a car was not a crime involving moral turpitude); *Klontz v. Ashcroft*, 37 Fed. Appx. 259 (9th Cir. 2002) (petty theft and grand theft are both crimes of moral turpitude); *Antorietto v. Regents of the University of California*, 2002 WL 1265552 (Cal. App. 4 Dist. June 7, 2002) (misuse of university funds and fraudulent diversion of donor funds intended for the university are crimes that involve moral turpitude). Another approach focuses on felonies, as in Kansas City’s charter, which reads: —No member of the council shall, during the term for which he is elected, be found guilty or enter a plea of guilty or nolo contendere to a felony under the laws of the United States or of any state, even if subsequently followed by the suspended imposition of the sentence. The council shall temporarily fill vacancies until the next regular election, when the voters will fill such vacancies for the remainder of the term (unless that election occurs within sixty days of the vacancy, in which case the candidates would have insufficient time to file). The provision calls for a special election if the council fails to fill a vacancy within thirty days. This provision should ensure that the council will act, but in the event of a deadlock a special election will resolve the situation.

Finally, the section provides for filling vacancies by council action even if the membership falls below the quorum otherwise required for council action by § 2.12(c).

**Section 2.08. Judge of Qualifications.** The city council shall be the judge of the election and qualifications of its members, and of the grounds for forfeiture of their office. In order to exercise these powers, the council shall have power to subpoena witnesses, administer oaths and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand and notice of such hearing shall be published in one or more newspapers of general circulation in the city at least one week in advance of the hearing.

**Commentary.**

This section makes council the judge of qualifications for office and of grounds for forfeiture. It provides procedural safeguards to protect a member charged with conduct constituting grounds for forfeiture. The provision authorizing the council to set additional standards for the conduct of its members empowers the council to impose on itself the highest possible ethical standards.

**Section 2.09. City Clerk.** The city council or the city manager shall appoint an officer of the city who shall have the title of city clerk. The city clerk shall give notice of council meetings to its members and the public, keep the journal of its proceedings and perform such other duties as are assigned by this charter or by the council or by state law.

**Commentary.**

See §§ 2.16 and 2.17 for other duties assigned to the city clerk. In a number of states, certain statutory duties may be assigned to the city clerk, even in cities operating with their own charters.

**Section 2.10. Investigations.** The city council may make investigations into the affairs of the city and the conduct of any city department, office, or agency and for this purpose may subpoena witnesses, administer oaths, take testimony, and require the production of evidence. Failure or refusal to obey a lawful order issued in the exercise of these powers by the council shall be a misdemeanor punishable by a fine of not more than \$ \_\_\_\_\_, or by imprisonment for not more than \_\_\_\_\_ or both.

**Commentary.**

This section gives the council, but not the manager, the power to make investigations. The manager has the power to appoint, remove, and suspend officers, but it is inappropriate for the manager to have the power to subpoena witnesses and compel production of evidence.

**Section 2.11. Independent Audit.** The city council shall provide for an independent annual audit of all city accounts and may provide for more frequent audits as it deems necessary. Such audits shall be carried out in accordance with § 5.12.

**Commentary.**

The necessity for annual independent audits of the city's financial affairs has long been accepted. This section authorizes and charges the council to conduct them.

**Section 2.12. Procedure**

**(a) Meetings.** The council shall meet regularly at least once in every month at such times and places as the council may prescribe by rule. Special meetings may be held on the call of the mayor or of \_\_\_\_\_ or more members and, whenever practicable, upon no less than twelve hours' notice to each member. Except as allowed by state law, all meetings shall be public; however, the council may recess for the purpose of discussing in a closed or executive session limited to its own membership any matter which would tend to defame or prejudice the character or reputation of any person, if the general subject matter for consideration is expressed in the motion calling for such session and final action on such motion is not taken by the council until the matter is placed on the agenda.

**(b) Rules and Journal.** The city council shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings. This journal shall be a public record.

**(c) Voting.** Voting, except on procedural motions, shall be by roll call and the ayes and nays shall be recorded in the journal. \_\_\_\_\_ members of the council shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the council. No action of the council, except as otherwise provided in the preceding sentence and in § 2.07(c), shall be valid or binding unless adopted by the affirmative vote of \_\_\_\_\_ or more members of the council.

**Commentary.**

This section sets forth what are, for the most part, standardized and well accepted procedural rules to govern the official action of the council. The frequency of meetings can, of course, be suited to the needs of the particular city. The section contains the important, standard protection that meetings must be public

and that a journal of proceedings be kept as a public record. Most states have open meeting laws which specify the circumstances when closed or executive sessions may be held; such meetings are sometimes necessary for effective council functioning. This charter and state law contain ample safeguards to assure open meetings. All council actions require majority vote, except actions to adjourn, to compel attendance of members in the absence of a quorum, and to appoint additional members if the membership falls below a majority of the total authorized membership as provided in § 2.07(c).

### **Section 2.13. Action Requiring an Ordinance.**

In addition to other acts required by law or by specific provision of this charter to be done by ordinance, those acts of the city council shall be by ordinance which:

- (1) Adopt or amend an administrative code or establish, alter, or abolish any city department, office, or agency;
- (2) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;
- (3) Levy taxes;
- (4) Grant, renew, or extend a franchise;
- (5) Regulate the rate charged for its services by a public utility;
- (6) Authorize the borrowing of money;
- (7) Convey or lease or authorize the conveyance or lease of any lands of the city;
- (8) Regulate land use and development;
- (9) Amend or repeal any ordinance previously adopted; or
- (10) Adopt, with or without amendment, ordinances proposed under the initiative power. Acts other than those referred to in the preceding sentence may be done either by ordinance or by resolution.

#### **Commentary.**

This section assures that the enumerated types of council action be taken only after compliance with all the procedural safeguards required for passage of an ordinance by the succeeding sections.

Other subjects requiring an ordinance are not mentioned here because the requirement is specifically stated elsewhere in the charter. These include adoption of codes of technical regulations (§ 2.16), appropriation and revenue ordinances (§ 5.06), supplemental and emergency appropriations and reduction of appropriations (§ 5.07), and creation of a charter commission or proposal of charter amendments (§ 9.01). Council may act via ordinance or resolution on matters other than those enumerated in this section or as required by law or by specific provision in the charter to be by ordinance. This does not preclude motions relating to matters of council procedure, which may involve even less formality than resolutions.

### **Section 2.14. Ordinances in General**

**(a) Form.** Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject, which shall be clearly expressed in its title. The enacting clause shall be "The city of \_\_\_\_\_ hereby ordains . . ." Any ordinance which repeals or

amends an existing ordinance or part of the city code shall set out in full the ordinance, sections or subsections to be repealed or amended, and shall indicate matters to be omitted by enclosing it in brackets or by strikeout type and shall indicate new matters by underscoring or by italics.

**(b) Procedure.** Any member at any regular or special meeting of the council may introduce an ordinance. Upon introduction of any ordinance, the city clerk shall distribute a copy to each council member and to the city manager, shall file a reasonable number of copies in the office of the city clerk and such other public places as the council may designate, and shall publish the ordinance together with a notice setting out the time and place for a public hearing thereon and for its consideration by the council.

The public hearing shall follow the publication by at least seven days, may be held separately or in connection with a regular or special council meeting and may be adjourned from time to time; all persons interested shall have an opportunity to be heard. After the hearing, the council may adopt the ordinance with or without amendment or reject it, but if it is amended as to any matter of substance, the council may not adopt it until the ordinance or its amended sections have been subjected to all the procedures herein before required in the case of a newly introduced ordinance. As soon as practicable after adoption, the clerk shall have the ordinance and a notice of its adoption published and available at a reasonable price.

**(c) Effective Date.** Except as otherwise provided in this charter, every adopted ordinance shall become effective at the expiration of 30 days after adoption or at any later date specified therein.

**(d) "Publish" Defined.** As used in this section, the term "publish" means to print in the contemporary means of information sharing, which includes but is not limited to, one or more newspapers of general circulation in the city, and, if available, in a web site: (1) the ordinance or a brief summary thereof, and (2) the places where copies of it have been filed and the times when they are available for public inspection and purchase at a reasonable price.

#### **Commentary.**

This section dispenses with the unnecessary and cumbersome requirements of a full reading of all ordinances and publication of their full text both before and after adoption. Distribution of a copy to each council member obviates the need for a full reading. Permitting the printing of a brief summary, together with notice of the times and places where copies are available for public inspection, simplifies publication.

Further simplification occurs in §§ 2.15 and 2.16, which contain special provisions for expeditious handling of emergency ordinances and for adoption by reference of standard codes of technical regulations. The section retains the basic safeguards of a public hearing following notice by publication, and a second publication with notice of adoption. It does not go so far as charters that dispense with publication or that permit adoption at the same meeting at which a non-emergency ordinance is introduced. It retains protective features deemed necessary for full and careful consideration. Section 2.15 provides sufficient leeway for emergency situations.

#### **Section 2.15. Emergency Ordinances.**

To meet a public emergency affecting life, health, property or the public peace, the city council may adopt one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its services or authorize the borrowing of money except as provided in § 5.07(b). An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and

describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least \_\_\_\_\_ members shall be required for adoption.

After its adoption, the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance except one made pursuant to § 5.07(b) shall automatically stand repealed as of the sixty-first day following the date on which it was adopted, but this shall not prevent re-enactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

**Commentary.**

To facilitate timely action, the charter permits an extraordinary majority to introduce and adopt such ordinances at the same meeting. Ordinances passed pursuant to this section may also have an immediate effective date.

**Section 2.16. Codes of Technical Regulations.**

The city council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally except that:

- (1) The requirements of § 2.14 for distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance, and
- (2) A copy of each adopted code of technical regulations as well as of the adopting ordinance shall be authenticated and recorded by the city clerk pursuant to § 2.17(a).

Copies of any adopted code of technical regulations shall be made available by the city clerk for distribution or for purchase at a reasonable price.

**Commentary**

This provision permits adoption of standard and often lengthy, detailed, and technical regulations, such as building and sanitary codes, by an ordinance which simply incorporates and adopts the code by reference. Publication of the adopting ordinance satisfies publication requirements. The adopting ordinance should indicate the nature of the code. The council is not required to include all such technical codes in the general city code pursuant to § 2.16. This approach minimizes burden and expense while at the same time preserving the essential safeguards of the general ordinance procedure of § 2.13.

**Section 2.17. Authentication and Recording; Codification; Printing of Ordinances and Resolutions.**

**(a) Authentication and Recording.** The city clerk shall authenticate by signing and shall record in full in a properly indexed book kept for the purpose all ordinances and resolutions adopted by the city council.

**(b) Codification.** Within three years after adoption of this charter and at least every ten years thereafter, the city council shall provide for the preparation of a general codification of all city ordinances and resolutions having the force and effect of law. The general codification shall be adopted by the council by ordinance and shall be published, together with this charter and any amendments thereto, pertinent

provisions of the constitution and other laws of the State of \_\_\_\_\_, and such codes of technical regulations and other rules and regulations as the council may specify. This compilation shall be known and cited officially as the \_\_\_\_\_ city code. Copies of the code shall be furnished to city officers, placed in libraries, public offices, and, if available, in a web site for free public reference and made available for purchase by the public at a reasonable price fixed by the council.

**(c) Printing of Ordinances and Resolutions.** The city council shall cause each ordinance and resolution having the force and effect of law and each amendment to this charter to be printed promptly following its adoption, and the printed ordinances, resolutions and charter amendments shall be distributed or sold to the public at reasonable prices as fixed by the council. Following publication of the first \_\_\_\_\_ city code and at all times thereafter, the ordinances, resolutions and charter amendments shall be printed in substantially the same style as the code currently in effect and shall be suitable in form for integration therein. The council shall make such further arrangements as it deems desirable with respect to reproduction and distribution of any current changes in or additions to the provisions of the constitution and other laws of the state of \_\_\_\_\_, or the codes of technical regulations and other rules and regulations included in the code.

**Commentary.**

Subsections (a) and (c) of this section state essential procedures for maintaining legally authenticated records of all ordinances and resolutions and for making them available to the public. The merits of the general codification provided for in subsection (b) speak for themselves. The Model provides for inclusion of pertinent parts of the constitution and state statutes, thus envisioning a city code to which people may turn for all state and local legislation governing the city. This contrasts to the situation still existing in many cities where much of this legislation, particularly state laws of limited application, are nowhere collected and are often out of print, unavailable, or difficult to find.

**Article III  
CITY MANAGER**

**Introduction.**

In the council-manager plan, the city manager is continuously responsible to the city council, the elected representatives of the people.

**Section 3.01. Appointment; Qualifications; Compensation.**

The city council by a majority vote of its total membership shall appoint a city manager for an indefinite term and fix the manager's compensation. The city manager shall be appointed solely on the basis of education and experience in the accepted competencies and practices of local government management. Attention should be given to how the city manager expresses support for and enacts social equity. The manager need not be a resident of the city or state at the time of appointment but may reside outside the city while in office only with the approval of the council.

**Commentary.**

Six of the twelve items in the Code of Ethics established by the International City/County Management Association (ICMA) for members of the city management profession refer to the manager's relationships to the popularly elected officials and to the community:<sup>6</sup>

We believe professional management is essential to efficient and democratic local government by elected officials.

Demonstrate by word and action the highest standards of ethical conduct and integrity in all public, professional, and personal relationships in order that the member may merit the trust and respect of the elected and appointed officials, employees, and the public.

Submit policy proposals to elected officials; provide them with facts, and technical and professional advice about policy options; and collaborate with them in setting goals for the community and organization.

Recognize that elected representatives are accountable to their community for the decisions they make; members [of ICMA, i.e., city managers] are responsible for implementing those decisions.

Refrain from all political activities, which undermine public confidence in professional administrators. Refrain from participation in the election of the members of the employing legislative body [including the mayor].

Keep the community informed on local government affairs; encourage communication between residents and all local government officers; emphasize friendly and courteous service to the public; and seek to improve the quality and image of public service.

(The ICMA Code of Ethics can be found online at <https://icma.org/icma-code-ethics-guidelines>. The other items in the code refer to the manager's personal and professional beliefs and conduct.)

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<sup>6</sup> The review of the ICMA Code now in progress would add language related to equity, diversity, inclusion, and engagement. It will be early to mid-2022 before the revision is completed. This language reflects the 2020 version.

The ethical commitments of members of ICMA advance the values promoted in the Model City Charter.

As a professional administrator, the manager must be trained and experienced in the effective and equitable management of public service delivery. The manager must use this expertise to efficiently and effectively execute the policies adopted by the elected city council. Furthermore, the manager's breadth of knowledge and experience in the increasingly complex areas of local government operations obligates him or her to assist the elected council in the policy-making process. The policy role of managers has been central to the definition of the manager's position from the beginning and continues to be readily acknowledged.

Appointment of the manager by majority vote of the entire membership of the council, not simply a majority of a quorum, assures undisputed support for the appointee. Appointment "for an indefinite term" discourages contracting for a specified term or an arrangement that reduces the discretion of the council to remove a manager.

The requirement that the manager be "appointed solely on the basis of education and experience in the accepted competencies and practices of local public management" was added to the Eighth Edition to stress the basic principle of the council-manager form that the manager is a qualified professional executive. The precise level of education and experience required for the manager will vary from one municipality to the other depending on such factors as size of population and finances.

A useful guideline for the minimum qualifications for a city manager would be:

A master's degree with a concentration in public administration, public affairs or public policy and two years' experience in an appointed managerial or administrative position in a local government or a bachelor's degree and 5 years of such experience (for more information see ICMA's voluntary credentialing program at [www.icma.org](http://www.icma.org)).

While it is preferable for a manager to live in the community during employment, the Model does not require it. This flexible approach allows communities to attract and retain the most qualified individuals and accommodates the problem of housing availability and cost. It also enables two or more communities to employ a single manager.

Increasingly, appointment of the manager involves an employment agreement between the municipality and the manager. These agreements can cover all aspects of the manager's job, including salary, other forms of compensation, duties, performance standards, evaluation, and severance procedures. Employment agreements provide mutual protection for the manager and the local government. However, they are not tenure agreements and do not impede the council's power to remove the manager. (A model employment agreement can be found at <https://icma.org/documents/icma-model-employment-agreement-editable>)

### **Section 3.02. Removal.**

If the city manager declines to resign at the request of the city council, the city council may suspend the manager by a resolution approved by the majority of the total membership of the city council. Such resolution shall set forth the reasons for suspension and proposed removal. A copy of such resolution shall be served immediately upon the city manager. The city manager shall have fifteen days in which to reply thereto in writing, and upon request, shall be afforded a public hearing, which shall occur not earlier than ten days nor later than fifteen days after such hearing is requested. After the public hearing, if one is requested, and after full consideration, the city council by a majority vote of its total membership may

adopt a final resolution of removal. The city manager shall continue to receive full salary until the effective date of a final resolution of removal.

**Commentary.**

This section provides an orderly removal procedure when a manager declines to resign at the request of the council. This section does not protect the city manager's tenure. However, it assures that any unjust charges will come to light and be answered, by providing for presentation to the manager of a statement of reasons for removal in the preliminary resolution and the opportunity for the manager to be heard if he or she so requests. As an additional protection, this section requires a vote of a majority of all the members to pass a removal resolution, thereby preventing a minority from acting as the majority in a quorum. The council may delay the effective date of the final removal resolution in order to provide for termination pay. When an employment agreement exists between the city and the city manager, termination pay should be covered in that agreement.

**Section 3.03. Acting City Manager.**

By letter filed with the city clerk, the city manager shall designate a city officer or employee to exercise the powers and perform the duties of city manager during the manager's temporary absence or disability; the city council may revoke such designation at any time and appoint another officer of the city to serve until the city manager returns.

**Commentary.**

To remove doubt as to the identity of the acting city manager, the manager must designate a city officer or employee to serve as acting city manager during the temporary absence or disability of the manager. The council is free, of course, to replace the acting city manager if it is dissatisfied with performance. The acting city manager is not entitled to the protection of the removal procedure afforded the manager by § 3.02.

**Section 3.04. Powers and Duties of the City Manager.**

The city manager shall be the chief executive officer of the city, responsible to the council for the management of all city affairs placed in the manager's charge by or under this charter. The city manager shall:

- (1) Appoint and suspend or remove all city employees and appointive administrative officers provided for by or under this charter, except as otherwise provided by law, this charter or personnel rules adopted pursuant to this charter. The city manager may authorize any administrative officer subject to the manager's direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency;
- (2) Direct and supervise the administration of all departments, offices and agencies of the city, except as otherwise provided by this charter or by law;
- (3) Attend all city council meetings. The city manager shall have the right to take part in discussion but shall not vote;
- (4) See that all laws, provisions of this charter and acts of the city council, subject to enforcement by the city manager or by officers subject to the manager's direction and supervision, are faithfully executed;

- (5) Prepare and submit the annual (or biennial) budget and capital program to the city council, and implement the final budget approved by council to achieve the goals of the city;
- (6) Submit to the city council and make available and accessible to the public a complete report on the finances and administrative activities of the city as of the end of each fiscal year and provide information needed by the council for its annual evaluation of performance;
- (7) Make available and accessible such other reports as the city council may require concerning operations;
- (8) Keep the city council fully advised as to the financial condition and future needs of the city;
- (9) Make recommendations to the city council concerning the affairs of the city and facilitate the work of the city council in developing policy;
- (10) Provide staff support services for the mayor and council members;
- (11) Assist the council to develop long term goals for the city and strategies to implement these goals;
- (12) Encourage and provide staff support for partnerships with community organizations and for regional and intergovernmental cooperation and equitable programming;
- (13) Promote partnerships among council, staff, and community members in developing public policy and building a sense of community; and
- (14) Perform such other duties as are specified in this charter or may be required by the city council.

**Commentary.**

Although this section equips the manager with the necessary legal authority to discharge administrative responsibilities, the manager's authority may be limited in some states by provisions of state constitutions or laws. The listing of the manager's powers and duties assumes that the manager will not only perform managerial duties in the city's operations but will also have a significant role in the development of policy. There are important policy implications in the manager's duties to prepare and submit the budget; to report on the city's finances, administrative activities, departmental operations and future needs; and to make recommendations on city affairs. The duty to provide staff support for the mayor and council members includes providing information on policy issues before the council.

The expanded duties listed in items 9, 11, and 13 of the eighth edition reflect the complex responsibilities assigned to managers to make the processes of governance work in the community. Constructive interactions among the local government, businesses, non-profits, faith-based and special interest organizations and neighborhood groups define a successful community. In a similar manner, the responsibilities anticipated in item 12 charge the manager with placing each community in the context of its region and promoting both community and regional interests. Managers must inform and receive input from members of the community but also encourage their active engagement in city affairs.

**Article IV**  
**DEPARTMENTS, OFFICES, AND AGENCIES**

**Introduction.**

This Article provides for the creation of the departments, offices, and agencies which perform the day-to-day operations of the city. It provides that the city manager appoint and supervise department heads. It makes exceptions in the case of the city attorney, acknowledging the close relationship of the department of law and the city council in some cities. Finally, the Article addresses planning, focusing on environmentally sensitive planning that takes the needs of the surrounding region into account, and social equity, paying careful attention to race, ethnicity, and other social characteristics when analyzing problems, looking for solutions, and defining success throughout the organization.

**Section 4.01. General Provisions.**

**(a) Creation of Departments.** The city council may establish city departments, offices, or agencies in addition to those created by this charter and may prescribe the functions of all departments, offices, and agencies. No function assigned by this charter to a particular department, office, or agency may be discontinued or, unless this charter specifically so provides, assigned to any other.

**(b) Direction by City Manager.** All departments, offices, and agencies under the direction and supervision of the city manager shall be administered by an officer appointed by and subject to the direction and supervision of the manager. With the consent of council, the city manager may serve as the head of one or more such departments, offices, or agencies or may appoint one person as the head of two or more of them.

**Commentary.**

This section authorizes the city council to establish city departments, offices, and agencies. It neither enumerates the operating departments nor details their internal organization. It provides that the manager appoint, direct, and supervise the officer who administers city departments, thus precluding administration by a board or commission. The number of departments will vary in accordance with local needs as well as the distribution of functions among units of local government; for example, in some cases, cities or special districts will be responsible for services elsewhere performed by counties.

An administrative code adopted by the council is the appropriate place for the details of departmental organization and operating rules and regulations; this allows for change without necessitating a charter amendment. In addition, many aspects of the internal organization of specific departments or divisions should be governed by administrative order rather than by council action.

In a full-service city, operating departments typically will include public works, parks and recreation, police, fire, health, library, water and other utilities. In large cities, public works may be subdivided into separate departments such as transportation, buildings, and sanitation. State law generally will prescribe the organizational arrangement for housing and urban renewal functions.

The staff departments—such as finance, personnel, planning and law—likewise should be covered by the administrative code. To varying degrees, their organization may depend upon state law. For example, it may not be possible to provide for an integrated finance department which includes all aspects of finance administration. Instead, it may be necessary to provide for a city assessor and tax collector.

Adopting an equity lens will reshape decisions and activities across all departments and programs, and advancing equity through local governments requires a fundamental reorientation of day-to-day operations. To support such efforts, municipalities may consider creating a department, office, or agency whose sole task is to provide support to other divisions in local government with respect to the adoption of an equity lens. Given the breadth of implementation required for an equity lens – and the stated urgency of the issue – an equity office is best organized as a direct report to the City Manager’s office.

Social equity will be best advanced through the organization if each unit has designated an individual or a small team to serve as a lead resource within their department and a liaison to the City Manager’s equity office. This office should be tasked with supporting the implementation of an equity lens, through the development of trainings, tools, communications, and other activities related to equity. The city manager is the chief equity officer, and that role could be delegated to another office of the organization as appropriate. Still, the city manager should be the person responsible for equitable administration.

#### **Section 4.02. Personnel System.**

**(a) Merit Principle.** All appointments and promotions of city officers and employees shall be made solely on the basis of merit and fitness demonstrated by a valid and reliable examination or other evidence of competence.

**(b) Merit System.** Consistent with all applicable federal and state laws, the city council shall provide by ordinance for the establishment, regulation, and maintenance of a merit system governing personnel policies necessary to effective administration of the employees of the city's departments, offices and agencies, including but not limited to classification and pay plans, examinations, force reduction, removals, working conditions, provisional and exempt appointments, in-service training, grievances and relationships with employee organizations.

#### **Commentary.**

The personnel provisions are designed to provide a flexible system which will encourage the development of competent staff. As personnel systems are increasingly controlled by state law and are subject to federal regulatory authority, the charter should not impose additional constraints and details affecting personnel administration. It should, however, strongly state the commitment to the merit principle. The Model states that commitment and calls on the council to provide, by ordinance, for the organization and procedures of the personnel system. It lists subjects that may be covered by personnel policies. Particularly in smaller jurisdictions, state law may cover some of these adequately, and their inclusion in the local ordinance could be unnecessary. Cities should consider conducting an equity analysis in its personnel system, for example in terms of recruitment, retention, hiring, and promotion policies and practices. This type of audit can highlight the gaps in human resources that limit or undermine diversity and inclusion.

#### **Section 4.03. City Attorney.**

##### **Alternative I – Full time City Attorney – sole counsel to city.**

The city manager shall appoint a city attorney, subject to confirmation by the council. The city attorney shall be the chief legal officer of the city, conduct all the law business of the city, be the legal advisor to the council, the city manager, all departments, and other instrumentalities of the city government. The city attorney shall represent the city in all actions in which the city is a party and shall have the authority to settle claims and compromise debts in amounts not to exceed {\*\*\*} and to settle claims and compromise debts in greater amounts with the consent of the city manager. The city attorney and the staff of the office

shall engage in no other law practice. The city attorney may, with the approval of the council, temporarily employ special legal counsel to work on problems of an extraordinary nature when the work to be done is of such character or magnitude as to require services in addition to those regularly provided by the city attorney. The city attorney shall serve until removed from office by the joint action of the city manager and the Council.

**Alternative II – Full time City Attorney – sole counsel to city – removal by Council only.**

The city manager shall appoint a city attorney, subject to confirmation by the council. The city attorney shall be the chief legal officer of the city, conduct all the law business of the city, be the legal advisor to the council, the city manager, all departments, and other instrumentalities of the city government. The city attorney shall represent the city in all actions in which the city is a party and shall have the authority to settle claims and compromise debts in amounts not to exceed {\*\*\*} and to settle claims and compromise debts in greater amounts with the consent of the city manager. The city attorney and the staff of the office shall engage in no other law practice. The city attorney may, with the approval of the council, temporarily employ special legal counsel to work on problems of an extraordinary nature when the work to be done is of such character or magnitude as to require services in addition to those regularly provided by the city attorney. The city attorney shall serve until removed from office by the council.

**Alternative III – Part time City Attorney**

The City Manager shall appoint an attorney or law firm as independent contractors to act as city attorney, subject to confirmation by the council. When a law firm is hired as city attorney, the firm must designate an attorney to act as the city attorney for purposes of any requirement in law or otherwise that the city have a person filling that office; the person so designated must be approved by both the city manager and council. The city attorney shall be the chief legal officer of the city, conduct all the law business of the city, be the legal advisor to the council, the city manager, all departments, and other instrumentalities of the city government. The city attorney shall represent the city in all actions in which the city is a party and shall have the authority to settle claims and compromise debts in amounts not to exceed {\*\*\*} and to settle claims and compromise debts in greater amounts with the consent of the city manager. The city attorney may, with the approval of the council, temporarily employ special legal counsel at other law firms to work on problems of an extraordinary nature when the work to be done is of such character or magnitude as to require services in addition to those regularly provided by the city attorney. The city attorney shall serve until removed from office by the joint action of the city manager and the council.

**Alternative IV – Part time City Attorney- removal by Council action only**

The city manager shall appoint an attorney or law firm as independent contractors to act as city attorney, subject to confirmation by the council. When a law firm is hired as city attorney, the firm must designate an attorney to act as the city attorney for purposes of any requirement in law or otherwise that the city have a person filling that office; the person so designated must be approved by both the city manager and council. The city attorney shall be the chief legal officer of the city, conduct all the law business of the city, be the legal advisor to the council, the city manager, all departments, and other instrumentalities of the city government. The city attorney shall represent the city in all actions in which the city is a party and shall have the authority to settle claims and compromise debts in amounts not to exceed {\*\*\*} and to settle claims and compromise debts in greater amounts with the consent of the city manager. The city attorney may, with the approval of the council, temporarily employ special legal counsel at other law firms to work on problems of an extraordinary nature when the work to be done is of such character or magnitude as to require services in addition to those regularly provided by the city attorney. The city attorney shall serve until removed from office by the council.

**Commentary.**

The role of the city attorney fulfills both the legal requirement and the practical requirement that the legal entity have counsel. As counsel to the organization, the attorney must offer legal counsel to the organization as a legal entity and not to the council, manager, or agencies of the government as separate clients. The Rules of Professional Conduct for Lawyers, as adopted throughout the United States in various forms and versions, considers in Rule 1.13 these duties and obligations and offers the ethical rubric under which attorneys must act. Obligating the attorney to act on behalf of the organization rather than individual constituent members of the organization requires the attorney to provide counsel in the best interest of the entity, not the interest of one inquiring source.

- a. Models 1 & 3 require that the attorney be nominated by the manager and confirmed by the council and serve until removed by the joint action of both council and manager. Requiring action by both council and manager is designed to limit concern that the attorney's advice is tilted to either the legislative or executive branch. Oftentimes, a council or manager will ask for the attorney's legal opinion and this requirement provides an element of protection for the attorney when that advice conflicts with the goals of either the council or the manager. In any of these options mayor can be substituted for manager.
- b. Models 2 & 4 require that the attorney be nominated by the manager and confirmed by the council and serve until removed by the council. These models are the more common practice but create conflicts between the attorney's duty to the organization as the legislative and executive branches may disagree on whether the attorney's advice favors one branch or the other. In any of these options Mayor can be substituted for manager.
- c. Where the position is full-time, the attorney should not be allowed to have a private practice but may be able to engage in other activities such as teaching or charitable work subject to the city's ethics laws.
- d. In option 1, the city attorney holds sole responsibility for the legal work of the city. This option offers the city a single resource for legal analysis and advice. Should agencies, including the council or manager, feel they need a second opinion from another source, they must get both the approval of the city attorney and the council. By creating this process, shopping for legal opinions will be constricted but will also be available when appropriate and necessary.
- e. Options 3 & 4 address part time city attorneys who represent the city as part of a private practice.
- f. Each option includes an authority to settle or compromise claims and debts. Those matters should be handled by the attorney with some specific authority and by both the attorney and manager beyond that authority. There may be a need to address the issue in the Finance section as well. Moving settlements of cases outside the council process can help to resolve more claims and eliminate the political posturing in cases of sensitivity.

**Section 4.04. Land Use, Development, and Environmental Planning.**

Consistent with all applicable federal and state laws with respect to land use, development, and environmental planning, the city council shall:

- (1) Designate an agency or agencies to carry out the equitable planning function and such decision-making responsibilities as may be specified by ordinance;

- (2) Adopt an inclusive and comprehensive plan and determine to what extent zoning and other land use control ordinances must be consistent with the plan;
- (3) Determine to what extent an inclusive and comprehensive plan and zoning and other land use ordinances must be consistent with regional plan(s); and
- (4) Adopt development regulations, to be specified by ordinance, to implement the plan.

The designated agency, the city manager, and the mayor and council shall seek to act in cooperation with other jurisdictions and organizations in their region to promote integrated approaches to regional issues.

**Commentary.**

Regulation of land use and development is a council function and an important aspect of home rule, allowing local governments to manage growth and enhance quality of life in the community. However, land use and development decisions have not always been made through a social equity lens, which has resulted in differential benefits and burdens for community members. Furthermore, in many instances land use regulations have been employed to, explicitly, exclude marginalized groups. Therefore, we recommend that the designated agency, the city manager, and the mayor and council incorporate social equity concerns into land use, development, and environmental planning activities. For example, comprehensive plans, land use ordinances, zoning codes, and development decisions, should be assessed in terms of the impact they have on disenfranchised groups, particularly neighborhoods and people of color. Moreover, federal and state laws on land use, development, and environmental protection impose not only regulation, but also, in some cases, specific procedures on local governments. The Model provision provides the needed flexibility for the city to establish workable structures and procedures.

**Article V**  
**FINANCIAL MANAGEMENT**

**Introduction.**

This article provides for the development of a comprehensive financial program, allowing maximum flexibility within the boundaries of sound fiscal practices. The budget and the budget approval process constitute the most visible and important activity undertaken by the government. The annual (or biennial) operating budget and multi-year capital plan are the products of the translation of disparate and often conflicting community goals and objectives into comprehensive financial documents. The financial planning process establishes a set of short- and long-term goals for the community and aids in resolving disagreements that arise in the execution of the operations of the government.

The complete financial plan involves two major elements: 1) the current annual (or biennial) budget, and 2) the multi-year capital program which is coordinated with the budget.

**Section 5.01. Fiscal Year.**

The fiscal year of the city shall begin on the first day of \_\_\_\_\_ and end on the last day of \_\_\_\_\_.

**Commentary.**

It is strongly recommended that the fiscal year be set so that fiscally sound municipalities will not have to borrow for short terms in anticipation of taxes except in emergency situations. It is recognized, however, that before changes in the fiscal year can be made consideration must be given to the fiscal patterns of the other taxing jurisdictions affecting the city. The dates when the state usually pays significant amounts of grants in aid to the municipality should also be considered in developing an advantageous fiscal calendar.

**Section 5.02. Submission of Budget and Budget Message.**

On or before the \_\_\_\_\_ day of \_\_\_\_\_ of each year, the city manager shall submit to the city council a budget for the ensuing fiscal year and an accompanying message.

**Commentary.**

The specific submission date will depend upon the fiscal year but, in any case, it is suggested that it be at least 45 days prior to the beginning of the fiscal year to allow time for public input and council deliberation.

**Section 5.03. Budget Message.**

The city manager's message shall explain the budget both in fiscal terms and in terms of the work programs, linking those programs to organizational goals and community priorities. It shall outline the proposed financial policies of the city for the ensuing fiscal year and the impact of those policies on future years. It shall describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the city's debt position, including factors affecting the ability to raise resources through debt issues, and include such other material as the city manager deems desirable.

**Commentary.**

The budget message should clearly present the manager's program for accomplishing the council's

goals and priorities for the community for the coming year as translated into financial terms. Programs of the various city departments should be explained and the city's debt position summarized. From a careful reading of the budget message, members of the council and residents should be able to obtain a clear and concise picture of what the manager expects to accomplish in the coming year, the estimated cost, sources of revenue and changes in the city debt.

**In Section 5.04. Budget.**

The budget shall provide a complete financial plan of all city funds and activities for the ensuing fiscal year and, except as required by law or this charter, shall be in such form as the city manager deems desirable or the city council may require for effective management and an understanding of the relationship between the budget and the city's strategic goals. The budget shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year. It shall indicate in separate sections:

- (1) The proposed goals and expenditures for current operations during the ensuing fiscal year, detailed for each fund by department or by other organization unit, and program, purpose or activity, method of financing such expenditures, and methods to measure outcomes and performance related to the goals;
- (2) Proposed longer-term goals and capital expenditures during the ensuing fiscal year, detailed for each fund by department or by other organization unit when practical, the proposed method of financing each such capital expenditure, and methods to measure outcomes and performance related to the goals; and
- (3) The proposed goals, anticipated income and expense, profit and loss for the ensuing year for each utility or other enterprise fund or internal service fund operated by the city, and methods to measure outcomes and performance related to the goals. For any fund, the total of proposed expenditures shall not exceed the total of estimated income plus carried forward fund balance exclusive of reserves.

**Commentary.**

The budget is the translation of disparate and often conflicting community aspirations into a comprehensive financial document that reflects the governing body's goals. It is a complete financial plan for all funds and activities that includes both revenues and expenditures. Expenditures for current operations and capital outlays should be shown separately with the source of financing indicated.

The Model does not provide a detailed classification of revenues, expenditures, and specific funds because classifications will be developed by ordinance or administrative order, if they are not established by state agencies concerned with local finance as part of a uniform accounting system. Proposed current expenditures are to be presented in terms of the work programs of the respective offices, departments, and agencies; this approach is the fundamental feature of program or performance budgeting.

Traditional performance measures used in the budget may include input, output, efficiency, and outcome measures with comparisons over time to encourage the government to benchmark its performance for continuous improvement. However, cities should consider adding new performance measures around

social equity, particularly in terms of the measurement, allocation, and impacts of resources. The city should determine whether there is equal access to programs and services, the same quality of services for all groups and all parts of the city, and fair and consistent law enforcement. A city should strive toward development of outcome measures which reflect actual impact of a program, service, or project on its residents, as well as the equitable distribution of impacts. Community members, council, and city staff should work together to undertake performance measurement subject to the year-to-year needs and demands of the community.

**Section 5.05. City Council Action on Budget.**

**(a) Notice and Hearing.** The city council shall publish the general summary of the budget and a notice stating:

- (1) The times and places where copies of the message and budget are available for inspection by the public, and
- (2) The time and place, not less than two weeks after such publication, for a public hearing(s) on the budget.

**(b) Amendment Before Adoption.** After the public hearing, the city council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for an estimated cash deficit, provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than total estimated income.

**(c) Adoption.** The city council shall adopt the budget on or before the \_\_\_ day of the \_\_\_ month of the fiscal year currently ending. If it fails to adopt the budget by this date, the budget proposed by the city manager shall go into effect.

**(d) "Publish" defined.** As used in this article, the term "publish" means to print in the contemporary means of information sharing, which includes but is not limited to, one or more newspapers of general circulation in the city, and, if available, in a web site.

**Commentary.**

The only restrictions placed on the council with respect to action on the budget are those governing the adoption procedure, the requirement that certain mandatory expenditures may not be decreased or deleted, and the requirement that total authorized expenditures may not exceed the total of estimated income.

No specific date as the deadline for adoption of the budget has been included. Setting a deadline for adoption does not preclude the earlier completion of action on the budget with ample time for public hearings and council consideration of the budget if the manager submits it early enough.

When amendments are made following public hearing but before adoption that result in significant changes in the budget which the public would not have anticipated, the council should consider holding an additional public hearing to consider the amendments.

The Model promotes a favored course of action for dealing with the failure of the council to adopt the budget by the prescribed deadline. It recommends that the budget as submitted by the manager be deemed adopted. Among other possibilities in such a situation are (1) for the amounts appropriated for operations in the current fiscal year to be deemed adopted; (2) for the manager's budget to be deemed

adopted but with amendments by the council being permitted during the first month of the new fiscal year; (3) to authorize the council to make temporary appropriations for a period not to exceed one month, during which time it would presumably complete adoption of the budget for the remainder of the fiscal year; and (4) to provide that the budget of the preceding fiscal year should be applicable automatically for the first month of the ensuing year, with the presumption that action will be completed during that time.

The city is required to publish and make the budget publicly available. In doing this, as with any publishing, the city should also consider translating the budget into other languages to communicate better with residents if necessary.

#### **Section 5.06. Appropriation and Revenue Ordinances.**

To implement the adopted budget, the city council shall adopt, prior to the beginning of the fiscal year:

- (a) an appropriation ordinance making appropriations by department, fund, service, strategy or other organizational unit and authorizing an allocation for each program or activity;
- (b) a tax levy ordinance authorizing the property tax levy or levies and setting the tax rate or rates; and
- (c) any other ordinances required to authorize new revenues or to amend the rates or other features of existing taxes or other revenue sources.

#### **Commentary.**

The previous edition of the Model in the adoption subsection provided: "Adoption of the budget shall constitute appropriations of amounts specified therein as expenditures from the funds indicated and shall constitute a levy of the property tax therein proposed." It took note that some states required that appropriations and the tax levy be by ordinance. Alternative language to cover that requirement was included. This edition specifically calls for appropriation ordinances and revenue ordinances and that appropriations be by department, fund, service, strategy or major organizational unit within each fund. The appropriations for each department or unit would not be broken down in the same detail as the budget. There would be a property tax levy ordinance and other revenue ordinances authorizing revenues from non-property taxes.

#### **Section 5.07. Amendments after Adoption.**

**(a) Supplemental Appropriations.** If during or before the fiscal year the city manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the city council by ordinance may make supplemental appropriations for the year up to the amount of such excess.

**(b) Emergency Appropriations.** To address a public emergency affecting life, health, property or the public peace, the city council may make emergency appropriations. Such appropriations may be made by emergency ordinance in accordance with the provisions of § 2.15. To the extent that there are no available unappropriated revenues or a sufficient fund balance to meet such appropriations, the council may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid or refinanced as long-term debt not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.

**(c) Reduction of Appropriations.** If at any time during the fiscal year it appears probable to the city

manager that the revenues or fund balances available will be insufficient to finance the expenditures for which appropriations have been authorized, the manager shall report to the city council without delay, indicating the estimated amount of the deficit, any remedial action taken by the manager and recommendations as to any other steps to be taken. The council shall then take such further action as it deems necessary to prevent or reduce any deficit and for that purpose it may by ordinance reduce or eliminate one or more appropriations.

**(d) Transfer of Appropriations.** At any time during or before the fiscal year, the city council may by resolution transfer part or all of the unencumbered appropriation balance from one department, fund, service, strategy or organizational unit to the appropriation for other departments or organizational units or a new appropriation. The manager may transfer funds among programs within a department, fund, service, strategy or organizational unit and shall report such transfers to the council in writing in a timely manner.

**(e) Limitation; Effective Date.** No appropriation for debt service may be reduced or transferred, except to the extent that the debt is refinanced and less debt service is required, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

**Commentary.**

Supplemental appropriations, which can be the bane of any good budget procedure, are restricted to situations in which the manager certifies to council the availability of money in excess of the total revenues estimated in the budget. Another possibility for use of such "windfall" sums is to require their use in the succeeding year's budget as revenue, which would have the effect of reducing the tax levy. Supplemental appropriations may be made only by ordinance and all the provisions regarding publication, notice of hearing, etc., applicable to other ordinances must be followed. Emergency appropriations may be budgeted in accordance with the procedure for emergency ordinances.

Provision is made for reduction of appropriations when the manager believes available revenues will not cover appropriations and a deficit is likely. The primary responsibility is clearly the manager's, but it is his or her duty to inform the council and then implement any ordinances or resolutions the council may enact.

With appropriations being made by departments, funds, services, strategies and major organizational units and not by objects, the manager has the freedom to make transfers from unencumbered balances within departments of units but must notify the council of transfers. When an unencumbered balance exists in one department or unit, all or part of it may be transferred to the appropriation of another department or unit by council resolution.

**Section 5.08. Administration and Fiduciary Oversight of the Budget.**

The city council shall provide by ordinance the procedures for administration and fiduciary oversight of the budget.

**Commentary.**

The council will by ordinance establish the procedures and controls for implementation of the budget. The council is entrusted with the fiduciary responsibility for the city and as such must provide review and oversight of the budget. The city manager administers the budget and manages the work programs

and spending by departments within the policy goals and appropriations set by the council.

Proposed work programs and requested allotments should be submitted to the manager by department heads following adoption of the budget. The manager should review the programs and allot portions of the total appropriation based upon the work expected to be performed during a particular period of time, usually three months. As chief administrator, the manager must have the authority to revise the allotments at any time during the year and for any reason.

**Section 5.09. Capital Program.**

**(a) Submission to City Council.** The city manager shall prepare and submit to the city council a multi-year capital program no later than three months before the final date for submission of the budget.

**(b) Contents.** The capital program shall include:

- (1) A clear general summary of its contents;
- (2) Identification of the long-term goals of the community;
- (3) A list of all capital improvements and other capital expenditures which are proposed to be undertaken during the fiscal years next ensuing, with appropriate supporting information as to the necessity for each;
- (4) Cost estimates and recommended time schedules for each improvement or other capital expenditure;
- (5) Method of financing upon which each capital expenditure is to be reliant;
- (6) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired;
- (7) A commentary on how the plan addresses the sustainability of the community and the region of which it is a part; and
- (8) Methods to measure outcomes and performance of the capital plan related to the long-term goals of the community.

The above shall be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

**Commentary.**

The Model's multi-year capital program provisions should compel long-range, goal-oriented, regionally sensitive planning of capital improvements. They should also help develop a meaningful relationship between capital and current operating expenditures. Finally, they should provide adequate time for systematic consideration of capital projects by the council.

The Model requires that the manager submit the capital program three months prior to the final date for submission of the budget. This gives the council an opportunity to review the proposed projects and their cost and the methods of finance before the manager submits the annual budget. Actual capital expenditures are carried each year as the capital outlay section of the current budget. These expenditures may be in the form of direct capital outlays from current revenues or debt service payments.

A sixth edition innovation continued in the seventh and eighth editions requires that the capital program include estimated operating and maintenance costs of proposed capital facilities. This forces more realistic projections of expenditures, because sometimes the operating cost of a facility will exceed the amortized annual capital charge. It also discourages neglect of maintenance.

**Section 5.10. City Council Action on Capital Program.**

**(a) Notice and Hearing.** The city council shall publish the general summary of the capital program and a notice stating:

- (1) The times and places where copies of the capital program are available for inspection by the public, and
- (2) The time and place, not less than two weeks after such publication, for a public hearing(s) on the capital program.

**(b) Adoption.** The city council by resolution shall adopt the capital program with or without amendment after the public hearing and on or before the \_\_\_ day of the \_\_\_ month of the current fiscal year.

**Commentary.**

The capital program's adoption, which must be preceded by required publication, notice and hearing, means a positive commitment by the council to undertake a scheduled multi-year capital improvement program. The methods of financing the improvements will be detailed. Bond issues authorized by either a bond ordinance or by a popular referendum will finance major improvements. Most projects requiring bond issues will extend over a period of more than one year.

Other projects, to be financed from current income, also may extend over more than one year and will normally involve construction contracts with adequate safeguards for both parties. Still other capital projects may be completed within a single fiscal period as part of the work program of various city departments. In all cases, actual disbursements for capital items during a single fiscal year, whether in the form of debt service or direct outlays, are carried as the capital outlay section of the budget for that year.

The requirement that the capital program each year be submitted well in advance of the budget enables the council to consider the proposed improvements, the methods for financing them, and the recommended priorities in sufficient time to make decisions on capital items which will be subsequently reflected in the budget. The fact that most capital improvement decisions must be made well in advance of actual disbursements means that the bulk of the capital items in a particular budget will be the result of decisions made several years earlier. Changes, often of a relatively minor nature, may be made each year.

Because all states regulate borrowing for capital improvements by general legislation, no article on this subject is included.

**Section 5.11 Independent Audit.**

The city council shall provide for an independent annual audit of all city accounts and may provide for more frequent audits as it deems necessary. An independent certified public accountant or firm of such accountants shall make such audits. Such audits should be performed in accordance with Generally Accepted Auditing Standards (GAAS) and Generally Accepted Governmental Auditing Standards (GAGAS).

The Council shall designate no fewer than three of its members to serve as an Audit Committee. This Committee shall:

- (1) Lead the process of selecting an independent auditor;
- (2) Direct the work of the independent auditor as to the scope of the annual audit and any matters of concern with respect to internal controls; and
- (3) Receive the report of the internal auditor and present that report to the council with any recommendations from the Committee.

The council shall, using competitive bidding, designate such accountant or firm annually, or for a period not exceeding five years, but the designation for any particular fiscal year shall be made no later than 30 days after the beginning of such fiscal year. The standard for independence is that the auditor must be capable of exercising objective and impartial judgment on all issues encompassed within the audit engagement. No accountant or firm may provide any other services to the city during the time it is retained to provide independent audits to the city. The city council may waive this requirement by a majority vote at a public hearing. If the state makes such an audit, the council may accept it as satisfying the requirements of this section.

**Commentary.**

Since the value of independent audits is directly related to the caliber of those who conduct them, it is provided that certified public accountants be retained, except when a state audit is required.

Selection of a professional accountant or firm does not lend itself to the usual requirement, however, of choosing the "lowest responsible bidder." While the council should not disregard cost, this is a case where the factors of competence, reliability and reputation are more significant. For an audit to be most beneficial, some of it must extend over the entire year, which necessitates designation of the auditor during the first month. If the state conducts periodic audits of the city's finances that meet council-established requirements, the state audit may be an acceptable and money-saving substitute for an audit by a private firm.

While the Model emphasizes financial audits, the council also has a responsibility to institute performance and management audits to evaluate the operations of departments, services, and programs.

**Section 5.12. Public Records.**

Copies of the budget, capital program, independent audits, and appropriation and revenue ordinances shall be public records.

**Commentary.**

In addition to compliance with the formal legal requirement that copies of the budget document and capital program be made available, many cities prepare and widely distribute popular summaries, which provide residents with essential general information.

## Article VI ELECTIONS

### Introduction.

Previous editions of the Model contained detailed provisions on the nomination and election process. Since the election laws of each state apply to municipalities whether or not they operate with a local charter, these provisions from earlier editions have been removed. The text on methods of electing council members that appears below has been moved from Article II in the earlier editions of the Model. Provision for nonpartisan elections and control over the timing of elections are among the few aspects of elections that remain under local discretion. Operating within the limitations imposed by state law, the city may by ordinance adopt regulations deemed desirable.

### Section 6.01. City Elections.

**(a) Regular Elections.** The regular city election shall be held [at the time established by state law] on the first \_\_\_\_\_ [day of week], in \_\_\_\_\_ [fall or spring month of odd-or even- numbered year], and every 2 years thereafter.

**(b) Registered Voter Defined.** All residents legally registered under the constitution and laws of the state of \_\_\_\_\_ to vote in the city shall be registered voters of the city within the meaning of this charter.

**(c) Conduct of Elections.** The provisions of the general election laws of the state of \_\_\_\_\_ shall apply to elections held under this charter. All elections provided for by the charter shall be conducted by the election authorities established by law. Candidates shall run for office without party designation. For the conduct of city elections, for the prevention of fraud in such elections and for the recount of ballots in cases of doubt or fraud, the city council shall adopt ordinances consistent with law and this charter, and the election authorities may adopt further regulations consistent with law and this charter and the ordinances of the council. Such ordinances and regulations pertaining to elections shall be publicized in the manner of city ordinances generally.

**(d) Ranked-Choice Voting or Proportional Representation.** The council may be elected in a single election by the method of ranked-choice voting or the single transferable vote form of proportional representation.

**(e) Beginning of term.** The terms of council members shall begin the \_\_\_ day of \_\_\_ after their election.

### Commentary.

(a-c) Although most states regulate local elections entirely or to a very substantial extent by state statutes, a local charter may provide certain variations. For example, home rule charters may provide for nonpartisan local elections as provided in this section. Traditionally, the Model has advocated separating municipal elections from state and national elections to allow a clear focus on local issues. State election laws and city charters frequently schedule municipal elections in the fall of odd-numbered years or in the spring of the year. Evidence suggests that turnout is higher during state and national elections, and some now advocate moving local elections to coincide with state and national elections to increase participation in local races. Although the Eighth Edition did not make a choice regarding holding local elections at the same time as state and national elections or in separate years, the preference for off-year elections has been reasserted by the Committee. There is an increasing risk that partisan polarization will carry over from the higher-level races to the local races even if they are supposedly nonpartisan when all elections are held at the same time. The focus on local issues is difficult to achieve with the attention being given

to higher level races. Introducing methods to increase turnout in a single local election such as ranked-choice voting (RCV) is preferable to holding elections for offices at all levels of government at one time.

(d) Since the sixth edition, proportional representation (PR) via the single transferable vote method has been advocated as an alternative means for electing the council. Until 1964 (when the sixth edition of the Model City Charter was published), the Model recommended the Hare system (also known as preference voting, choice voting, and the single transferable vote system) of PR as the preferred method of electing city councils. It had been used in 22 American cities but by the early 1960s had been discarded in all but Cambridge, Massachusetts, where it is still used to elect the city council and school committee.

Unquestionably, PR provides the greatest equity in representing all sectors of the community. However, the relative complexity of PR when using antiquated voting procedures and the long and expensive process of counting ballots by hand concerned some voters where it was used and initially prevented it from becoming a widespread reform measure. Now referred to as ranked-choice voting, it is used in 21 local government elections in 2021. It is a local option for adoption by local governments in Colorado, New Mexico, Utah, and Virginia.

Ranked-choice voting addresses a common issue when elections are a two-stage process with either a primary before or a runoff after the general election—uneven turnout. The turnout for the primaries that narrow the field of candidates or for run-off elections if no candidate receives a majority of votes is generally lower than the general election. The use of ranked-choice voting provides an “instant runoff” that determines winners in a single election, and the Charter Committee recommends that local governments consider adopting this type of election. In 2002, San Francisco became the first major U.S. city to adopt instant runoff voting to elect its mayor, board of supervisors, district attorney, city attorney, treasurer, sheriff, assessor-recorder and public defender.

There is an interest in RCV because of its potential to assure representation of minority populations and because technological developments now allow a computerized voting and counting system, thus eliminating the major objection to RCV. Voters rank candidates by preference. The method depends on creation of a winning threshold—a share of votes that each council member must receive to be elected. Election officials determine the threshold after all votes are counted, using a formula to determine the fewest number of votes that only the winning number of candidates can receive.

In Cambridge, for example, officials divide the total number of valid ballots cast by the number of positions to be elected plus one. Under this approach, in an election for nine council seats where voters cast 15,000 valid ballots, the winning threshold is 1,501, or 15,000 divided by ten, plus one. Ten candidates theoretically could receive 1,500 votes, but only nine can obtain 1,501. Once a particular candidate receives the designated threshold of first choices, ballot counters redistribute any surplus votes for that candidate to another candidate based upon the voter’s preferential ranking. After all surplus votes are redistributed, the weakest candidate is eliminated, and ballots from that candidate are counted for the next choice candidate on those voters’ ballots. This process of redistributing votes from winning candidates and weak candidates continues until the necessary number of candidates have reached the threshold, or only nine candidates remain. In Cambridge, this has consistently led to ninety percent of voters helping to elect a candidate, more than sixty-five percent of voters having their first choice candidate win, and more than ninety-five percent of voters seeing one of their top three choices win.

There is evidence that RCV contributes to the civility of campaigning. Instead of candidates focusing on attacking their opponents, candidates perform better when they reach out positively to as many voters as possible, including those supporting their opponents. Even though they may not get the first vote from

these voters, they may get a high-ranked vote. Campaigns may be friendlier as a result. Reports on the impact of ranked-choice voting on civility in elections are available from FairVote.<sup>[7]</sup>

More information about the mechanics of RCV can be obtained from the Ranked Choice Voting Resource Center, [www.rcvresources.org](http://www.rcvresources.org).

**Section 6.02. Council Districts; Adjustment of Districts (for use with Alternatives II, III and IV of § 6.03).**

(a) **Number of Districts.** There shall be \_\_\_\_\_ city council districts.

**(b) Districting Commission; Composition; Appointment; Terms; Vacancies; Compensation.**

- (1) There shall be a districting commission consisting of five members. No more than two commission members may belong to the same political party. The city council shall appoint four members. These four members shall, with the affirmative vote of at least three, choose the fifth member who shall be chairperson.
- (2) No member of the commission shall be employed by the city or hold any other elected or appointed position in the city.
- (3) The city council shall appoint the commission no later than one year and five months before the first general election of the city council after each federal decennial census. The commission's term shall end upon adoption of a districting plan, as set forth in § 6.02(c).
- (4) In the event of a vacancy on the commission by death, resignation or otherwise, the city council shall appoint a new member enrolled in the same political party from which his or her predecessor was selected to serve the balance of the term remaining.
- (5) No member of the districting commission shall be removed from office by the city council except for cause and upon notice and hearing.
- (6) The members of the commission shall serve without compensation except that each member shall be allowed actual and necessary expenses to be audited in the same manner as other city charges.
- (7) The commission may hire or contract for necessary staff assistance and may require agencies of city government to provide technical assistance. The commission shall have a budget as provided by the city council.

**(c) Powers and Duties of the Commission; Hearings, Submissions and Approval of Plan.**

- (1) Following each decennial census, the commission shall consult the city council and shall prepare a plan for dividing the city into districts for the election of council members. In preparing the plan, the commission shall be guided by the criteria set forth in § 6.02(d). The report on the plan shall include a map and description of districts recommended.

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<sup>7</sup> [https://www.fairvote.org/research\\_rcvcampaigncivility](https://www.fairvote.org/research_rcvcampaigncivility)

- (2) The commission shall hold one or more public hearings not less than one month before it submits the plan to the city council. The commission shall 39 make its plan available to the public for inspection and comment not less than one month before its public hearing.
- (3) The commission shall submit its plan to the city council not less than one year before the first general election of the city council after each decennial census.
- (4) The plan shall be deemed adopted by the city council unless disapproved within three weeks by the vote of the majority of all members of the city council. If the city council fails to adopt the plan, it shall return the plan to the commission with its objections and with the objections of individual members of the council.
- (5) Upon rejection of its plan, the commission shall prepare a revised plan and shall submit such revised plan to the city council no later than nine months before the first general election of the city council after the decennial census. Such revised plan shall be deemed adopted by the city council unless disapproved within two weeks by the vote of two-thirds of all of the members of the city council and unless, by a vote of two-thirds of all of its members, the city council votes to file a petition in the \_\_\_\_\_ Court, \_\_\_\_\_ County, for a determination that the plan fails to meet the requirements of this charter. The city council shall file its petition no later than ten days after its disapproval of the plan. Upon a final determination upon appeal, if any, that the plan meets the requirements of this charter, the plan shall be deemed adopted by the city council and the commission shall deliver the plan to the city clerk. The plan delivered to the city clerk shall include a map and description of the districts.
- (6) If in any year population figures are not available at least one year and five months before the first general election following the decennial census, the city council may, by local law, shorten the time periods provided for districting commission action in paragraphs (2), (3), (4), and (5) of this subsection.

**(d) Districting Plan; Criteria.**

- (1) In preparation of its plan for dividing the city into districts for the election of council members, the commission shall apply the following criteria which, to the extent practicable, shall be applied and given priority in the order in which they are herein set forth.
- (2) Districts shall be equal in population except where deviations from equality result from the application of the provisions hereinafter set forth, but no such deviation may exceed five percent of the average population for all city council districts according to the figures available from the most recent census.
- (3) Districts shall consist of contiguous territory; but land areas separated by waterways shall not be included in the same district unless said waterways are traversed by highway bridges, tunnels or regularly scheduled ferry services both termini of which are within the district, except that, population permitting, islands not connected to the mainland or to other islands by bridge, tunnel or regular ferry services shall be included in the same district as the nearest land area within the city and, where such subdivisions exist, within the same ward or equivalent subdivision as described in paragraph (5) below.

- (4) In cities whose territory encompasses more than one county or portions of more than one county, the number of districts, which include territory in more than one county, shall be as small as possible.
- (5) In the establishment of districts within cities whose territory is divided into wards or equivalent subdivisions whose boundaries have remained substantially unaltered for at least fifteen years, the number of such wards or equivalent subdivisions whose territory is divided among more than one district shall be as small as possible.
- (6) Consistent with the foregoing provisions, the aggregate length of all district boundaries shall be as short as possible.

**(e) Effect of Enactment.**

The new city council districts and boundaries as of the date of enactment shall supersede previous council districts and boundaries for all purposes of the next regular city election, including nominations. The new districts and boundaries shall supersede previous districts and boundaries for all other purposes as of the date on which all council members elected at that regular city election take office.

**Commentary.**

With two of the three alternatives provided for the election of the city council involving districts, the provision for drawing and redrawing district lines assumes particular importance.

The process of drawing districts described in this edition and in the seventh and eighth editions differs from that of earlier editions, in response to the Voting Rights Act and related court decisions. Rather than a two-part process with an advisory commission recommending a plan, followed by city council passage of a plan (which might or might not resemble that of the advisory commission), the Model provides for a more direct process – redistricting by an independent commission. The lead time for redistricting should provide sufficient time to resolve some of the increasing number of local government redistricting suits and allow sufficient time to comply with the requirements of § 5 of the Voting Rights Act if applicable. In addition, the Model provides for ordered, specific criteria for redistricting based on population rather than the “qualified voter” standard of the sixth edition.

The Model provides for a bipartisan commission. Even cities with nonpartisan elections may have problems with political parties (either local or national) wanting to dominate the process to achieve advantage. To facilitate the commission’s ability to work together despite partisan differences, the Model recommends that the four council appointees (and mandates that at least three of the four) agree on the choice of chairman. Once the bipartisan commission submits its plan to the city council, the council can neither approve nor veto the result. This avoids the conflict of interest created when council members consider new districts whose lines may materially affect their political futures. The council may, however, prevent implementation of the plan if it finds the plan in violation of the charter and files with the courts for such a determination.

Subsection (d) lists the criteria that the commission must abide by when it draws the new districts. The criteria are designed to preclude gerrymandering that either protects or punishes incumbents or that prevents particular voting groups from gaining power. With the proper ordered criteria, the redistricting process is less open to manipulation. Flagrant gerrymandering will be almost impossible without a clear violation of the mandated criteria. The criteria concerning waterways and islands should be included in charters where appropriate. The exact terminology for election administration subdivisions (e.g., wards or

equivalent subdivisions) should be adjusted to conform to state law. Depending on the jurisdiction, wards and districts sometimes have the same meaning and sometimes have different meanings.

Some cities prefer that the city council perform redistricting. This may stem from a belief that the redistricting process essentially involves a series of political decisions, and that attempts to separate the process from the politics is futile and foolish. Or, where the city council has historically performed this function without causing unrest, such a preference may derive from the sense that there is no need for change. When a city opts for redistricting by the city council, the following provisions should be substituted in § 6.02(b) and (c) and a new § 6.02(d) be added as follows.

**(b) Council to Redistrict.** Following each decennial census, the city council shall, by ordinance, adjust the boundaries of the city council districts using the criteria set forth in § 6.02(e).

**(c) Procedures.**

- (1) The city council shall hold one or more public hearings prior to bringing any proposed plan to a vote. Proposed plans must be available to the public for inspection and comment not less than one month before the first public hearing on said plan. The plan shall include a map and description of the districts recommended.
- (2) The city council shall approve a districting plan no later than 10 months (300 days) prior to the first regular city election following the decennial census.

**(d) Failure to Enact Ordinance.** If the city council fails to enact a redistricting plan within the required time, the city attorney shall, the following business day, inform the \_\_\_\_\_ Court, \_\_\_\_\_ County, and ask that a special master be appointed to do the redistricting. The special master shall, within sixty days, provide the Court with a plan drawn in accordance with the criteria set forth in § 6.02(e). That plan shall have the force of law unless the court finds it does not comply with said criteria. The court shall cause an approved plan to go into effect no later than 210 days prior to the first regular city election after the decennial census. The city shall be liable for all reasonable costs incurred by the special master in preparing the plan for the court.

Subsections 6.03(d) and (e) of the Model should be retained, relettered (e) and (f), respectively, and the words “city council” substituted for “commission.”

Subsection 6.03(d) of the substitute language (Failure to Enact Ordinance) gives incentive for the council to complete redistricting on time. Failure to redistrict will not result in another election using the old districts, as earlier editions provided. Even the most divided of city councils would probably prefer to compromise than have a special master redistrict for them—and few would want to explain the additional cost of paying someone else to draw up a plan that probably would not improve upon their own compromise.

**Section 6.03. Methods of Electing Council Members.**

The text in this section complements the information on the composition of the council found in Article II, § 2.02(c).

**Alternative I –Mixed At-Large and Single Member District System; Mayor Elected Separately**

At the first election under this charter \_\_\_\_\_ council members shall be elected; all district candidates and the \_\_\_\_\_ at-large candidates receiving the greatest number of votes shall serve for terms of four years, and the \_\_\_\_\_ at-large candidates receiving the next greatest number of votes shall serve for terms of

two years. Commencing at the next regular election and at all subsequent elections, all council members shall be elected for four-year terms.

**Alternative II – Single-Member District System; Mayor Elected Separately.**

At the first election under this charter \_\_\_\_\_ council members shall be elected; council members from odd-numbered districts shall serve for terms of two years, and council members from even-numbered districts shall serve for terms of four years. Commencing at the next regular election and at all subsequent elections, all council members shall serve for terms of four years.

**Limited Alternative III – Council Elected At Large; Mayor Elected Separately.**

At the first election under this charter \_\_\_\_\_ council members shall be elected; the \_\_\_\_\_ [one-half the number of council members] candidates receiving the greatest number of votes shall serve for terms of four years, and the \_\_\_\_\_ [one-half the number of council members] candidates receiving the next greatest number of votes shall serve for terms of two years. Commencing at the next regular election and at all subsequent elections, all council members shall be elected for four-year terms.

**Commentary.**

In all the alternatives, the mayor is elected at large as provided in Alternative II of § 2.03. The preferred alternatives include district representation to ensure that all parts of the community are represented and have a voice on the council. In most cities, racial minorities and lower-income groups are concentrated in selected neighborhoods, so districts elections are crucial to representativeness. There are advantages in having a minority of members who represent the city as a whole. Some cities nominate the candidates for district representation in a primary open only to voters within each district but use a general election in which all voters in the city choose which nominee will be elected to the council from each district. This method obviously strengthens the at-large orientation of the city council while assuring that council members live in all the council districts. Cities that use or consider using this method should be aware of the possibility that the candidate preferred in the district or representing the majority racial or ethnic group in the district may not be chosen by the voters citywide. The same majority can elect all the members of the council. This method also requires a two-election process and precludes a single election with an instant runoff. The totally at-large council is called a limited alternative III because it should only be used in small and homogeneous cities or one in which all segments of the population are intermixed in all parts of the city. Even in a city that is fully integrated, using ranked-choice voting can help to ensure that diverse perspectives are represented on the council.

**Section 6.04. Initiative, Referendum, and Recall.**

(a) **Alternative I – Provisions Provided by State Law.** The powers of initiative, referendum, and recall are hereby reserved to the electors of the city.

**Alternative II - General Authority for Initiative, Referendum, and Recall.**

- (1) **Initiative.** The registered voters of the city shall have power to propose legislation and charter amendments to the council and, if the council fails to adopt legislation or charter amendment so proposed without any change in substance, to adopt or reject it at a city election, but such power shall not extend to the budget or capital program or any ordinance relating to appropriation of money, levy of taxes, salaries of city officers or employees or effect any existing contract the city is party to, including Collective Bargaining Agreements or other contracts between the city and its officers and

employees. Proposed legislation must not violate the Constitution, the laws of this State or this Charter and a proposed Charter Amendment must be limited to Charter material and not be legislative in character.

- (2) **Referendum.** The registered voters of the city shall have power to require reconsideration by the council of any adopted legislation and, if the council fails to repeal a legislative ordinance so reconsidered, to approve or reject it at a city election, but such power shall not extend to the budget or capital program or any emergency ordinance or ordinance relating to appropriation of money or levy of taxes or to salaries or benefits of public officers or employees.
- (3) **Recall.** The registered voters of the city shall have power to recall elected officials of the city, but no recall petition shall be filed against any official within six months after the official takes office, nor, in case of a member subjected to a recall election and not removed, until at least six months after the election.

**(b) Commencement of Proceeding; Petitioners' Committee; Affidavit.** Any five of city's registered voters entitled to vote in city elections may commence initiative, referendum, or recall proceedings by filing with the city clerk an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance, citing the legislation sought to be reconsidered, or stating the name and title of the officer sought to be recalled accompanied by a statement, not to exceed 200 words, of the reasons for the recall. Grounds for recall should relate to and affect the administration of the official's office and be of a substantial nature directly affecting the rights and interests of the public.

Promptly after receipt of a recall petition, the clerk shall serve, personally or by certified mail, a copy of the affidavit on the elected officer sought to be recalled. Within 10 days of service of the affidavit, the elected officer sought to be recalled may file a statement with the city clerk, not to exceed 200 words, in response. Promptly after the affidavit of the petitioners' committee is filed, and the response, if any, of the elected official sought to be recalled is filed, the clerk shall submit the proposed initiative, proposed referendum petition and recall petition to the city attorney for review.

The city attorney must issue an opinion on the legality of the initiative, referendum, and recall and if the city attorney determines them to be legal shall provide the clerk with a title of the measure to be included on the petition and which will also be the title to be included on any ballot should the petition be sufficient. The clerk shall then issue the appropriate petition blanks to the petitioners' committee for those measures the city attorney determines are legally sufficient.

**(c) Petitions.**

- (1) **Number of Signatures.** Initiative and referendum petitions must be signed by registered voters of the city equal in number to at least [5 to 10] percent of the total number of registered voters to vote at the last regular election. Recall petitions must be signed by registered voters of the city equal in number to at least [10 to 20] percent of the total number of registered voters to vote at the last regular election.
- (2) **Form and Content.** All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the address of the person signing. Referendum

and Initiative petitions throughout their circulation shall clearly state the title of the legislation, include the city attorney's description of the legislation or Initiative and make available to anyone who asks for it or make available through a link to the city's website (if there is one) the full text of the legislation sought to be reconsidered or the Initiative being proposed.

- (3) **Affidavit of Circulator.** Each paper of a petition shall have attached to it when filed an affidavit executed by the person circulating it stating that he or she is a registered voter of the city entitled to vote in a city election, personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his or her presence, that he or she believes them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the legislation proposed or sought to be reconsidered if requested.
- (4) **Time for Filing Referendum and Recall Petitions.** Referendum petitions must be filed within 30 days after adoption by the council of the ordinance sought to be reconsidered. Recall petitions must be filed within [40 to 160] days of the filing of the petitioners' affidavit initiating the recall procedure.

**(d) Procedure after Filing.**

- (1) **Certificate of Clerk; Amendment.** Within twenty days after the petition is filed, the city clerk shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the petitioners' committee by registered mail. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the clerk within two days after receiving the copy of his or her certificate and files a supplementary petition upon additional papers within ten days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of paragraphs (2) and (3) of § 6.04(c), and within five days after it is filed the clerk shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioners' committee by registered mail as in the case of an original petition. If a petition or amended petition is certified sufficient, or if a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend or request council review under paragraph (2) of this subsection within the time required, the clerk shall promptly present his or her certificate to the council and the certificate shall then be a final determination as to the sufficiency of the petition.
- (2) **Council Review.** If a petition has been certified insufficient or deemed illegal by the city attorney and the petitioners' committee does not file notice of intention to amend it or if an amended petition has been certified insufficient or deemed illegal by the city attorney, or if the committee disagrees with the title or description provided by the city attorney, the committee may, within two days after receiving the copy of such certificate or notice of the city attorney's determination, file a request that it be reviewed by the council. The council shall review the certificate or determination at its next meeting following the filing of such request and approve or disapprove it or modify the title or description, and the council's determination shall then be a final determination as to the sufficiency of the petition.

- (3) **Court Review; New Petition.** A final determination as to the sufficiency of a petition shall be subject to court review. A final determination of insufficiency, even if sustained upon court review, shall not prejudice the filing of a new petition for the same purpose after the passage of one year from the date of the final determination of insufficiency.

**(e) Referendum Petitions; Suspension of Effect of Ordinance.**

When a referendum petition is filed with the city clerk, the legislation sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

- (i) There is a final determination of insufficiency of the petition, or
- (ii) The petitioners' committee withdraws the petition, or
- (iii) The council repeals the legislation, or
- (iv) Thirty days have elapsed after a vote of the city on the legislation.

**(f) Action on Petitions.**

- (1) **Action by Council.** When a referendum or initiative petition has been finally determined sufficient, the council shall promptly reconsider the referred legislation by voting its repeal or adopting the initiative proposed. If the council fails to repeal the referred legislation or adopt the initiative as proposed within thirty days after the date the petition was finally determined sufficient, it shall submit the referred or initiated legislation to the voters of the city.
- (2) **Submission to Voters of Referred or Initiated Legislation.** The vote of the city on referred or initiated legislation shall be held not less than 30 days and not later than one year from the date of the final council vote thereon. If no regular city election is to be held within the period prescribed in this subsection, the council shall provide for a special election; otherwise, the vote shall be held at the same time as such regular election, except that the council may in its discretion provide for a special election at an earlier date within the prescribed period. Copies of the referred or initiated legislation shall be made available at the polls.
- (3) **Withdrawal of Petitions.** A referendum or initiated petition may be withdrawn at any time prior to a determination that the petition is sufficient. Once determined sufficient, the petition may only be withdrawn if the council enacts the initiated legislation or repeals the referred legislation.

**(g) Results of Election.**

- (1) **Initiative.** If a majority of the registered voters voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.
- (2) **Referendum.** If a majority of the registered voters voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

- (3) **Recall.** Ballots used at recall elections shall read: —Shall [name] be recalled (removed) from the office of \_\_\_\_\_? If a majority of the registered voters voting on a proposed recall vote in its favor, the official is removed and the winning candidate for successor, if any, shall be elected as a replacement for the duration of the unexpired term. Otherwise the vacancy shall be filled in accordance with § 2.06 (c).

**Commentary.**

Unlike other provisions, this article must be completely self-executing. Detail should not be filled in by the council because these devices guard against possible inadequacies of council.

(a) Neither the initiative nor the referendum should be applicable to the budget, capital program, any ordinance relating to the appropriation of money or the levy of taxes, or, of course, to salaries of city officers or employees, for this would interfere with responsible officials striving to achieve a properly balanced long-range fiscal program. Recall should not apply to recently elected officials, because officials need time to establish themselves in office, and because election results should not be promptly challenged by another election.

(b) Requiring a petitioners' committee places clear responsibility for the undertaking of initiative, referendum, or recall proceedings.

(c) The number of signatures required for initiative and referendum petitions in the seventh edition was fifteen percent of the total number registered to vote at the last regular city election. The eighth edition permits charter drafters to decide upon a reasonable threshold for their city, chosen from a range equal to or greater than five percent but less than or equal to ten percent of registered voters to vote at the last city election. The percentage used should neither be too easy nor too burdensome. Communities typically require more signatures for recall petitions than for initiative and referendum petitions. In determining the recall percentage, drafters should consider distinguishing between at-large and district offices. Limiting the period for filing a referendum petition to thirty days after passage insures that the effective date of an ordinance will not be delayed unless the referendum effort is of serious proportions. The timing of the recall procedure prevents the threat of recall from pending without limitation. The time period for signature collection should be reasonably related to the signature requirement and the size of the city, within the provided range of 40 to 160 days.

(d) The mandatory language prevents the city clerk from delaying certification of the sufficiency or insufficiency of petitions beyond the twenty days specified.

(e) The fact that filing a referendum petition with the city clerk suspends the effective date of an ordinance will spur the city clerk and the council into prompt action on the question of sufficiency. When an ordinance is subjected to a referendum vote and the council's action is sustained, termination of the suspension must be delayed until sufficient time has passed for official determination of the election results. This will vary with local practice. The thirty days indicated in § 6.04(e) (iv) is arbitrary. If there is a definite provision for the official reporting of election results, the lifting of the suspension should probably coincide with the reporting.

(f) This section mandates council consideration of the proposed "initiative ordinance" and reconsideration of the "referred ordinance" prior to the circulation of petitions and the ensuing ballot question. The words "adopt a proposed initiative ordinance without any change in substance" permit correction of technical imperfections. If an election is necessary, provisions for submitting a proposed or referred ordinance to the voters, or ordering a recall election, permit considerable latitude as to the election date to encourage

holding the vote at a regular election if possible. One of the most important reasons for requiring a petitioners' committee is to provide a mechanism for withdrawing an initiative, referendum, or recall petition if those originating the proceedings change their minds or feel that action of the council satisfies the need which prompted the petition.

(g) Initiative ordinances approved by the electorate become effective, just as is the case with an ordinance passed by council, in thirty days or at whatever later date is specified.

**Article VII**  
**THE ROLE OF PUBLIC ENGAGEMENT IN LOCAL GOVERNANCE**

**Introduction.**

The active, informed, inclusive, and equitable engagement of community members, both individually and collectively, is an essential element of healthy civic life and a thriving local democracy. This article describes the role of public engagement in local governance and establishes the principles for successful engagement.<sup>8</sup>

Effective public engagement activities, whether or not they are designed and convened by government officials, can inform public decisions and further community goals. Consistent with the principles of engagement enumerated in this article, anchor institutions,<sup>9</sup> community-based organizations, civic associations, community foundations, faith groups, and grassroots activist groups may convene effective public engagement and problem-solving efforts that can inform elected and appointed officials in the pursuit of their duties. Individual residents can be better informed and invited to take part in public affairs.

Local governments can encourage and support these efforts by modeling good engagement practices, by evaluating engagement, by sharing engagement learning among department staff and with appointed and elected officials, and by offering resources on outreach, facilitation, and other skills to members of the community.<sup>10</sup> Local governments also have unique institutional structures, such as council committees, community advisory bodies (CABs), task forces, neighborhood advisory committees, and annual planning and budgeting processes, that can be established and leveraged toward this purpose. In other words, cities can create the foundations for a healthy civic infrastructure throughout the community.

**Section 7.01. Public engagement as an essential part of civic infrastructure.**

The city shall treat public engagement as an integral part of effective and trusted governance, not just as an occasional process or activity.

The city shall treat engagement as a “multi-channel” endeavor that includes face-to-face meetings, virtual interactions, and other online communications.

The departments of city government shall encourage collaboration in public engagement efforts with other government jurisdictions and authorities, anchor institutions, community-based organizations, civic groups, and individual residents.

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<sup>8</sup> The term “public engagement” is understood to include “public involvement,” “public participation,” “citizen engagement,” “community engagement,” and “stakeholder engagement,” and includes robust forms of in-person, technology-aided, or online communication that provide opportunities for public input, dialogue, or deliberation among participants, so people’s concerns, needs, interests, and values are incorporated into decisions and actions on public matters and issues.

<sup>9</sup> Anchor institutions are major organizations that can shape the development of the city including universities, hospitals, museums, sports franchises, military installations, and large corporations.  
[https://www.huduser.gov/portal/pdredge/pdr\\_edge\\_hudpartrpt\\_062211.html](https://www.huduser.gov/portal/pdredge/pdr_edge_hudpartrpt_062211.html).

<sup>10</sup> This term is used instead of citizen. The word “citizen” has a rich history in democracy, but it can also be a confusing term. Sometimes it is defined in a narrow, legal way, meaning only those people who hold U.S. passports or are eligible to vote. In this Charter, reference is made to “community members,” “residents,” or “persons.”

**Commentary.**

Cities fail to realize the full benefits of engagement when they conduct participation activities on a piecemeal, occasional, or differing department-by-department basis. Public engagement will be more effective, equitable, and efficient if the city treats it as part of the normal governance process and civic infrastructure of the community as a whole.

Public engagement is particularly important in long range planning and annual budgeting processes. For example, participatory budgeting (PB) is a type of engagement in which community members develop projects to improve the community, often in concert with city officials, and then vote on how to allocate public funds among those projects and ideas. Cities throughout the world have instituted annual PB processes.

To ensure that public engagement is accessible and convenient, cities should “meet people where they are,” both geographically (holding meetings in many different locations) and digitally (using different information technology tools and platforms, including neighborhood and community networks).

Furthermore, if cities don’t collaborate with leaders and organizations outside government, leaders may misunderstand community preferences and perspectives. City officials should develop relationships with a wide range of community members and community organizations in order to participate in, respond to, and support engage resident-led initiatives. Government officials should leverage the connections and networks that already exist in the community, rather than treating each engagement initiative as a separate, stand-alone effort.

At the same time, the success of any local government’s engagement efforts is dependent on the recognition by residents of their responsibilities as community members. These responsibilities include voting, volunteering, deliberating respectively with other members of the community, seeking and sharing information honestly, and engaging with local institutions to co-produce public goods and services and address community challenges.

**Section 7.02. Institutional structures to support and coordinate engagement.**

The city shall establish new institutional structures or adapt existing structures to oversee, support, coordinate, track, and measure engagement on an ongoing basis. These structures can include:

- (1) Council committees that include residents and other stakeholders
- (2) Departments or administrative positions
- (3) Public engagement commissions
- (4) Community advisory boards, including boards designated to address the concerns of specific populations.
- (5) Youth commissions
- (6) Participatory budgeting processes and commissions

**Commentary.**

By establishing structures to support public engagement, the city can help ensure that engagement is sustained and improved over time through organizational arrangements. These types of institutional

structures provide platforms to hear testimony from experts and support productive deliberation while meeting the requirements of open meeting laws.

Because effective public engagement requires specific types of expertise such as outreach and facilitation, designated departments, and administrative roles, such as an engagement coordinator, can ensure that engagement is well executed. The city manager should be in regular contact with these operational units to ensure that they are investing in robust public engagement consistent with the spirit and principles of this Article. Additionally, descriptions of city manager and department administrator positions may usefully contain language that calls for attention to public engagement-related learning, exemplary practices, and capacity building by, as appropriate, the municipality or department.

A public engagement commission or office can collaborate with city staff to: develop multi-year plans to guide public engagement activities, programs, and policies; develop engagement guidelines and recommendations for city agencies; provide advice and recommendations regarding the implementation of engagement guidelines and practices to staff and stakeholders alike. A public engagement commission could also review process evaluation results to provide advice and recommendations regarding continuous improvement of engagement policies and practices and provide an annual report regarding the status of public engagement in the city and community at large.

Other CABs that address specific policy arenas should actively engage residents in a variety of ways; this responsibility should be reflected in the charter of the CAB and its members. These advisory bodies can be particularly valuable as platforms for broad, early public engagement on important issues and decisions. CABs should be encouraged to adopt public engagement processes in advance of formal deliberation and decision-making efforts. Public engagement staff can provide training and how-to resources to support the engagement work of CABs.

Youth commissions can elevate the voices of young people in city decisions. Like other CABs, youth commissions are most successful if the members engage their peers in dialogue and deliberation, rather than only representing their individual interests. These types of structures can hear testimony from experts and support productive deliberation while meeting the requirements of open meeting laws.

### **Section 7.03. Principles of public engagement.**

To ensure public engagement centers on the needs and goals of community members, the city shall uphold the following principles, using them as the basis of public engagement protocols and in the remits of public engagement structures (as listed in Section 7.02):

**(a) Equity in engagement.** Principles of justice, equity, diversity, and inclusion should guide the design and execution of public engagement activities, in several ways:

- (1) Government-sanctioned bodies such as CABs may become “gatekeeping” entities that reflect the ideas of self-designated community leaders if they aren’t inclusive, open, and accessible to all members of the public. City officials, therefore, should conduct continual public outreach to bring in new voices.
- (2) When engaging community members, city officials should identify and proactively reach out to the community in its full diversity. To ensure that public engagement activities are not attended only by people already active in local government and politics, city officials should regularly recruit residents through face-to-face or personal written invitations, social media requests, and randomized selection methods. Materials should be written in

plain, comprehensible English, and should also be translated into the other predominant languages that residents speak and read.

- (3) Traditionally excluded and marginalized individuals and communities should be included in ways they themselves identify as authentic and meaningful. City officials should co-design engagement processes with community members to meet the needs of the communities served. Processes should respect a range of values, interests, perspectives, experiences, cultures, and knowledge of those involved.
- (4) The city should expect local the organizations and networks it works with to engage their members in equitable and deliberative ways, so that the input received is representative of their constituents.
- (5) The city should use an equity lens to evaluate data on impacts of engagement, including costs, benefits, and responsibilities.

**(b) Accountability in engagement.** There should be meaningful opportunities for community members to bring issues, concerns, and priorities to city officials to influence city policy, ordinances, and actions. Public engagement activities should be designed to appropriately fit the legal authority, scope, character, and potential impact of a policy, program, or project. There should be clarity about process sponsorship, purpose, design, and how the results will be used. The purpose and potential influence of each public engagement process should be known by all participants in advance but should be flexible enough to adapt to changing conditions during implementation.

**(c) Transparency in engagement.** Communications about public issues and public engagement opportunities should ensure community members can engage effectively. Communications should be made in the predominant languages that residents understand. Participants should have the opportunity to bring and share their own experiences as well as information they have gathered about the issues at hand. Full and complete results should be shared and explanations of how the results will be used or how they will influence decisions should be provided to process participants and the broader public.

**(d) Accessibility in engagement.** Public engagement activities should be broadly accessible in terms of schedule, location, facilities, and information and communication technologies. Schedules should accommodate a variety of participants. Locations should be nearby and reachable via affordable transit, and some engagement activities should be conducted in places where community members already gather regularly. Facilities should be welcoming public spaces and not present physical or cultural barriers to participation. Online engagement opportunities should use technologies that are freely available to residents and attend to barriers people may face, such as: no access to broadband, limited proficiency with technology, and challenges related to deaf-blind accessibility.

**(e) Collaboration in engagement.** Public engagement efforts should build on and help develop long-term, collaborative working relationships and mutual learning opportunities with residents of all ages, civic groups, organizational partners, and other governments. This may include project-specific or ongoing community engagement initiatives.

**(f) Evaluation of engagement activities.** Each public engagement activity and the state of engagement overall should be evaluated through participant feedback, analysis, and learning that is shared publicly and broadly. The ideas, preferences, and/or recommendations contributed by participants should be fully documented and be made available to participants and the broader public. Lessons learned should be applied to future public engagement activities and contribute to the city's overall engagement plan.

### Commentary.

Elected representatives and city administrators have important roles to play in public engagement. Elected leaders should inspire, encourage, oversee, and (when appropriate) participate in engagement efforts. Perhaps most importantly, they should respond to the input and ideas that emerge from engagement efforts, reacting to policy recommendations and supporting other ways for community members to help solve public problems.

City administrators have many of the same responsibilities as elected officials, plus the duty to help staff, support, and coordinate public engagement efforts. Administrators should ensure that relevant city employees have the right skills, training, and job incentives to work effectively in engagement activities.

To actualize the principles laid out in this article, the city council may need to amend local ordinances to allow for effective public participation processes and structures that differ from the conventional public testimony model. In addition to public participation related to decisions made by city council, in the mayor's office, or in the city administrator's office, each city department or bureau should adopt its own public participation practices that are consistent with the principles established in Article VII.

There are a number of resources that can be helpful to local government officials and staff:

- *Making Public Participation Legal* (National Civic League, 2013), which includes a model ordinance to support more effective engagement.
- *Strengthening and Sustaining Public Engagement: A Planning Guide for Communities* (Public Agenda, 2018).
- *Public Participation for 21<sup>st</sup> Century Democracy* (Nabatchi and Leighninger, 2015).
- "Repurposing Citizen Advisory Bodies," (Stout, *National Civic Review*, 2014).
- Participedia, the world's largest online database of engagement examples, processes, tools, and organizations.
- The Civic Tech Field Guide, a crowdsourced, global collection of technology for tools and projects.

### General Commentary.

Upgrading the engagement capacity of local government is one of the most significant changes to be found in the Ninth Edition of the Model City Charter. Previous editions emphasized the importance of administrative professionalism, efficiency, and ethics in local government. The Ninth Edition continues that tradition but also elevates the importance of just, inclusive, and equitable public engagement; the values of democratic professionalism and ethics; and community-centered governance and problem solving.

There are many reasons for this new emphasis on public engagement, including:

- (1) Local governments face complex challenges. For some of these issues, governments must negotiate tensions and tradeoffs among competing, underlying public values. This work is best done in collaboration with community members, through deliberative problem-solving, planning, and decision-making, rather than solely through technical expertise or adversarial politics.

- (2) Public engagement can bridge divides. While most conventional engagement processes seem to encourage tensions and divisions among community members, and between community members and government, more participatory and equitable practices have achieved success in building mutual understanding and establishing common ground and consensus across different groups of people.
- (3) Community members have tremendous problem-solving capacities. In fact, many public problems simply cannot be addressed without the support of large numbers of people, through changes in their behavior, increased volunteerism, and/or collaboration between community members and government officials.
- (4) Equity and engagement require one another. It is difficult to address issues of race and equity (past and present) without engaging large, diverse numbers of people, and it is difficult to engage large, diverse numbers of people without addressing issues of race and equity. Making public engagement more inclusive and participatory will help produce more equitable outcomes for a wider range of people, as will engaging people in evaluating whether policy outcomes are in fact equitable.
- (5) Civic health matters. Strong, ongoing connections among community members, robust relationships between community members and public institutions, and positive attachments between people and the places they live are highly correlated with a range of positive outcomes, from better physical health to higher employment rates to better resilience in the face of natural disasters.

For all these reasons, public engagement should be pursued in the interest of the health, prosperity, justice, safety, and the general well-being of the community.