

*Publications Committee*

**BULLETIN**  
OF  
**THE UNIVERSITY OF TEXAS**

NUMBER 320

Issued Six Times a Month

Municipal Research Series No. 2

March 1, 1914

**A Model Charter for Texas Cities**  
(Second Edition)

BY

**HERMAN G. JAMES, J. D., Ph. D.**  
Director of the Bureau of Municipal Research and Reference



PUBLISHED BY THE UNIVERSITY OF TEXAS  
AUSTIN, TEXAS

Entered as second class matter at the postoffice at Austin, Texas



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## PREFACE TO THE SECOND EDITION

The unexpectedly large demand for copies of the "model charter" has necessitated the printing of a second edition much sooner than was anticipated. It was hoped that sufficient time would elapse between the appearance of the first and second editions to give the writer the benefit of criticisms that might be made. As it is, while many comments on the charter have reached the Bureau of Municipal Research and Reference, they have with few exceptions been commendatory and not suggestive of changes.

Nevertheless, some points have been noted as a result of criticisms and some others have been changed or elaborated at the writer's own suggestion, and it was therefore felt desirable to issue a new and somewhat revised edition, rather than to have a mere reprint made.

There has been added in the form of an appendix the majority report of a committee of the National Municipal League, which reported at the last meeting of the League and whose report has just appeared in the January issue of the *National Municipal Review*. This report by recognized experts in city government gives an unqualified endorsement to the city manager plan. The progress of the city-manager movement is also noted in the appendix. Finally, to give completeness to the whole, a table of contents and an index have been added.

The writer submits the second edition of this little publication, as he did the first, with a realization of its shortcomings and with the hope that he may have the benefit of suggestions and criticisms from all into whose hands the bulletin may find its way.

HERMAN G. JAMES,

Director of the Bureau of Municipal Research and Reference.  
January, 1914.



## PREFACE TO THE FIRST EDITION

The Bureau of Municipal Research and Reference was organized at the University of Texas in June, 1913. Its chief purpose is to aid, so far as may be possible, in the solution of some of the difficult problems that present themselves in the government of cities, especially in Texas.

To attain this end the Bureau is proceeding in two ways. In the first place, it is collecting all possible material relating to the government of cities in this country and abroad, which material will be at the disposal of any city that cares to take advantage of it. For this purpose the officials of the Bureau stand ready to answer, so far as they may be able, any inquiries that may be sent to the Bureau by the municipalities of Texas, or of other states.

In the second place, the Bureau aims to publish in bulletin form from time to time information on matters of municipal interest which might prove helpful to the cities of the State. At the present time the question of framing or revising city charters is the one with which the cities of more than 5,000 inhabitants are chiefly concerned. It was felt desirable, therefore, that the Bureau should make available in printed form for the cities of this State the latest conclusions of municipal science on the subject of charter making.

With this in view, the present bulletin is issued as the first official publication of the Bureau of Municipal Research and Reference. It is planned to have other bulletins follow as rapidly as material can be prepared.

The writer desires to acknowledge the aid received from various sources in the difficult task of preparing this charter. He is indebted chiefly for helpful co-operation to his colleague in the school of government, Professor C. S. Potts, who offered valuable criticisms and suggestions concerning the charter. Through the valuable counsel of Mr. J. B. Rector, City Attorney of Austin, the writer was able to avoid some of the legal and constitutional pitfalls into which he might otherwise have strayed. The important but wearisome task of proof-reading was performed by the Secretary of the Bureau, Mr. R. M. Jameson.

HERMAN G. JAMES, J. D., PH. D.

Director of the Bureau of Municipal Research and Reference.  
December, 1913.





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## INTRODUCTION

“Efficiency” is the watch word of the most recent attempts to solve the problem of American city government. For years, for decades, indeed for over a century, changes in the system of American city government have had in view primarily the establishment of popular control over city government, rather than the attainment of maximum efficiency.

If we go back and survey the changes that have occurred since colonial times, when city government in this country was a copy of the English type of borough government, down to the rise and spread of the commission government idea, we find that they are for the most part intended either to insure to the inhabitants of the cities a voice in the government of those cities, which they did not possess at all before, or to make real for them a share which they had possessed in theory, but which the growth of the party “boss” and his “machine” had not permitted them to enjoy.

The earlier developments indeed, though intended to secure popular control, were the very means by which the party boss was enabled to flourish. To cite only a few examples; the practice of going to the legislature for grants of power for the city soon made the city the creature of the dominant party machine in the state; the adoption from the scheme of the national government of the principle of the strict separation of governmental powers created a system of checks and balances in city government which destroyed responsibility without destroying the power of the boss; the introduction of the spoils system and the theory of short terms furnished the sinews of war for the boss and his machine and prevented the development of a popular sentiment in favor of rewarding merit in public officers; the practice of making administrative as well as legislative positions elective created a multiplicity of offices on the ballot which confused the voter and made him in large part dependent for the choice of nominees on the dictates of the dominant element in his party.

It would be possible to enumerate other examples of a like nature, but these will be sufficient to show that the very measures which at first were thought to insure popular control; in reality de-

stroyed it. Thus it happened that at the commencement of the last quarter of the past century municipal affairs in this country were in a disgraceful condition. There was, in most of the large cities and in many of the smaller ones, not even the faintest vestige of popular government, and political organizations like the Tweed Ring in New York and other rings in other cities ruled absolutely without regard to the rights, to say nothing of the wishes, of the people.

Of course there was no talk of efficiency in such a condition of affairs, and naturally the first efforts of the reform movement that began at this time over the country as a whole were directed towards attaining as a fact that popular control which had existed up to that time in theory only. Legislative interference in municipal affairs was limited by constitutional provisions, the most recent being the so-called home-rule charter provisions, where the control of local affairs is secured to the inhabitants of the locality. The lack of responsibility and the friction resulting from co-ordinate independent legislative and executive organs were met in a measure by the commission form of government, which united the two functions in the hands of a small board. The spoils system was attacked by the progress of civil service reform, which provided for appointment on the basis of merit and prevented removal on political grounds. The evils of too many elective offices were remedied by a centralization of the appointive power. Freedom of candidacy was promoted by primary legislation and other measures intended to open a place on the ballot to all persons without the support of the regular party organizations. Party denominations were stricken off of municipal ballots in order to diminish the domination by state and national organizations. Finally, direct popular control was further safeguarded by the introduction of the initiative, referendum and recall.

But all these measures and others that might be added to the list did not, as has been said, aim at securing greater efficiency in city government, except merely so far as greater efficiency would result from greater honesty in city government. Even the civil service reforms were chiefly of advantage in taking the city's patronage out of the hands of the city boss. But mere honesty is not efficiency, nor inseparably connected with it. There remained

the big problem of providing a plan of city government which should make the city on its business side just as efficient as the great corporations that run private businesses.

It is in this direction, as was said at the outset, that the greatest advances are now being made, and it is the aim of this charter to embody, together with the best of the provisions meant to secure honesty and popular control, the most approved devices for securing that efficiency without which the most upright city government in the world would be a hopeless failure.

The belief that efficiency in city administration, which can be secured only by the employment of efficient administrators, is synonymous with bureaucracy and contrary to democracy is utterly unfounded. The reforms of the last forty years have made it possible for the voters of a city to elect and keep on the city legislative body men who are truly their representatives, if they so desire. Of course without that desire no form of government can be expected to work satisfactorily, and one form of government is just about as good, or as bad, as another. But having made it as easy as possible for voters to enforce their will, if they have any, by the election of men who are truly representative, then the choice of administrative experts must be left in the hands of these representatives. With the power of appointment and removal in the elected representatives of the people there need be no fear of undue bureaucracy on the part of the appointed officials.

The general plan, then, presented by this charter is a government by representatives of the people through the agency of expert administrators under the immediate direction of a chief executive who is appointed and removable by the representative body. This is merely adopting for the business of city government the form of organization that has been found efficient for private business. It is a familiar principle of organization there, and even as applied to government, it is not a novelty. For years the system of choosing expert mayors to administer the affairs of the city has been in vogue in Prussia, the country where city government has reached the highest level of efficiency.

But we need not even go beyond the confines of our own country, nor indeed even of our own State, to find this principle applied to city government. Beginning in Staunton, Virginia, followed by

Sumter, South Carolina, and most recently by Dayton, Ohio, the plan has been adopted by at least a dozen American cities in the states of North Carolina, Ohio, Arizona, Oregon, Oklahoma, and Texas, and others are considering the plan.<sup>1</sup> Of Texas cities, Amarillo and Terrell have decided in favor of trying the plan, and others are likely to follow.<sup>2</sup>

The other important features of the charter can most conveniently be discussed in connection with the provisions themselves. Wherever variations from the provisions as stated appear desirable for cities of a larger or smaller size,—the typical city being taken herein as one between 15,000 and 25,000 inhabitants,—such variations are indicated in the footnotes.

Wherever the constitution or laws are clearly against any provision suggested in the charter, this fact has also been noted. The same is true whenever there seems to be reasonable ground for doubt on that score. But the failure to make such notes cannot be taken as a guarantee of the validity of all provisions in this charter not so annotated. In the absence of court decisions on the effect of the home-rule amendment and the legislative enabling act, each charter convention will have to rely on the advice of the legal counsel of the city.

It is not expected that this charter will be adopted section for section by any city in the State, and it does not purport to be a model charter in the sense that it is the final word in city government, even at the present time, incapable of improvement. Far from that! But it is believed that the principles herein adopted are worthy of being given a trial, and it was felt that it was worth while to frame a charter which could be a model in the sense, for instance, of an artist's model; that is, a pattern to be worked with but to be improved upon.

Nor is it necessary that either all or none of the features of the charter should be adopted. Of course some of the provisions would be without meaning or without value unless accompanied by some of the other provisions, but many of the most desirable features, such as expert officials, civil service rules, finance and franchise

<sup>1</sup>See Appendix, p. 30, for complete list of cities that have adopted the plan.

<sup>2</sup>The charter commissions of Denton and Waxahachie have decided to recommend the city-manager plan to the voters.

provisions, could be added as amendments to any existing charter without altering the form of government. It is believed that these features would not prove quite as effective without the other features suggested, but they undoubtedly have considerable intrinsic value as well.

It will no doubt frequently be deemed desirable to enter into somewhat more detail in certain portions of the charter than is herein done. But the writer, knowing the tendency of charter makers to enter into too great detail in framing the organic law, has preferred to err, if error there be, on the side of making the charter too concise by leaving what he considered the non-fundamental matters to be dealt with by ordinance.

Of course no charter, however perfect, can guarantee good city government. The intelligent *continued* interest of the citizenship is just as indispensable under one charter as under another. This charter can at best do no more than make it easy for such a continued interest to make itself effective.

The vital problem of municipal functions and the fundamental basis of efficiency on which alone such functions can rest, can be met only through the conscientious, earnest effort of the elected commissioners and their appointees, through whom the enlightened will of the community can be translated into action.

**MODEL CHARTER FOR TEXAS HOME-RULE CITIES****ARTICLE I. POWERS**

SECTION 1. The City of . . . . . shall constitute a body politic and corporate, and shall possess all powers not inconsistent with the constitution and laws of Texas.<sup>1</sup>

[It is much better to confer powers by general grant and then limit them by such restrictive provisions as appear desirable than to attempt to enumerate the powers. Such an enumeration is always incomplete because it is impossible to imagine all possible objects of local legislation. Therefore, if an enumeration is attempted it will be necessary either to add a blanket clause conferring all other desirable powers, or else such powers cannot be exercised until after a charter amendment. In the first case the specific enumeration is useless, in the second case the trouble and expense of a charter election are necessary to accomplish an end which might much more easily have been accomplished in the first place by a general grant.]

**ARTICLE II. FORM OF GOVERNMENT**

SEC. 2. All legal powers of the corporation, except as hereinafter denied or limited, shall be vested in a commission of five<sup>2</sup> members elected as hereinafter provided.

**ARTICLE III. ELECTIONS**

SEC. 3. Elections shall be held for commissioners every year, said commissioners to hold office for two years,<sup>3</sup> two to be chosen at one election and three at the next. At the first election the three candidates receiving the highest number of votes shall be declared elected for two years, the next two in order of votes

<sup>1</sup>There seems to be some doubt whether a general grant of this sort would be legally efficacious. If this doubt is well founded it might be necessary to resort to an enumeration of powers. If it is not well founded the considerations mentioned in the paragraph below apply.

<sup>2</sup>In cities of over 30,000 inhabitants, the number of commissioners should be fixed at seven; in cities of over 50,000 at nine; and in cities of over 100,000 at eleven.

<sup>3</sup>The Constitution of Texas limits the term of officers to two years. Otherwise a four or six-year term would be preferable.



shall serve for one year, after which time another election shall be held to fill the vacancies caused by the expiration of their term.<sup>1</sup>

[In order to secure at least some measure of continuity in the legislative body, it is necessary to put up with the disadvantages of annual elections, since the Constitution of Texas limits all official terms to two years. By having one-half the commission elected in one year and one-half in the next, the possibility of having a commission elected all of whose members are wholly without experience is eliminated. Furthermore, the number of commissioners to be chosen at each election is only half as great as it is when all are chosen at the same time. This is a distinct advantage, for the fewer the offices to be filled at any one election, the better the choice of the electors will be.]

SEC. 4. Only citizens of the United States<sup>2</sup> who are qualified to vote in the general elections of this State, who have resided at least six months in the city, and whose names have been duly entered in the voters' lists kept by the city clerk, shall be duly qualified voters.

SEC. 5. Any qualified voter shall be eligible for election as commissioner, provided he file his name with the city clerk not less than one nor more than three weeks prior to the date of election, and provided he deposit at the same time the sum of \$25.00. This sum is to be returned to the depositor if he polls as many as ten per cent of the total first, second, and third choices cast.

[Primary elections as a means of nomination are an unnecessary complication of the election procedure. It is more in accord with democratic ideas, furthermore, to make it possible for any citizen to appear as a candidate on the ballot without party backing, instead of limiting that privilege to two candidates for each office who receives the highest vote at the primary. But in order to prevent the needless expense and complexity of the ballot which might result from persons announcing as candidates who haven't the slightest claim to be considered as such, judging from the vote that is cast for them, it is suggested that a small sum of

<sup>1</sup>If a six-year term were made constitutional, cities having nine or eleven commissioners would have elections biennially, choosing three and four commissioners, respectively, at each election, except that in the latter case there would be in every third election only two commissioners to be chosen. In cities having seven commissioners, the elections would be held every three years, and there would be elected four and three commissioners alternately.

<sup>2</sup>The Texas Constitution now permits some others to vote—hence this limitation would be unconstitutional.

money should be deposited to cover the expense and trouble resulting from having such names appear on the ballot. This deposit can be returned to those candidates who poll a respectable number of votes. This provision cannot work a hardship, for any candidate who can get the support of ten per cent of the voters can also get someone to deposit the sum of \$25.00 as security of his bona fide candidacy.]

SEC. 6. The order of appearance of the names on the official ballot shall be alphabetical, in rotation. That is, there shall be as many sets of ballots printed as there are candidates, each set beginning with the name of a different candidate. The names following thereon shall appear in alphabetical order until the last name is reached, below which the first and other names preceding alphabetically the name beginning that ballot will follow in alphabetical order. Each polling place is to receive an equal number of ballots from each set and before handing the ballots to the voters the polling officers shall thoroughly mix together the ballots from the various sets.

[There is undoubtedly some advantage to candidates in having their names appear first on the ballot. Hence this device is adopted in order to insure that each candidate will share equally with the others in this advantage. If it is felt that this plan involves too much trouble for the election authorities for the benefit to be derived, the order of names on the ballot might be determined by lot.]

SEC. 7. Polling places shall be in school buildings whenever possible, and when necessary, school exercises shall be suspended on voting day.

SEC. 8. Voting shall take place by means of the so-called preferential ballot. That is, the ballot shall contain the names of the candidates arranged as provided in the previous section, without party or other designation, and to the right of the names there shall be three columns headed, respectively, first choice, second choice, and third choice. Each voter shall be entitled to indicate on his ballot not only his first choice but also those other two candidates, in the order of his preference, whom he would be willing to support in case his first choice should fail of election. This is done by marking a cross opposite the candidates' names in the column desired. Each voter therefore can vote as many first

choices as there are places to be filled, and the same number of second and of third choices; but only one cross may be put after any one name.

SEC. 9. Candidates who receive a clear majority of first choices are declared elected. If the number of candidates receiving a clear majority of first choices is less than the number of places to be filled, the second choices cast for each remaining candidate shall be added to his first choices. Those candidates who have now received a total of first and second choices amounting to a majority of the number of ballot papers filled out shall be declared elected in the order of their totals. If there are still places unfilled because not sufficient candidates have yet received such a majority, the process is repeated with the third choices. Any vacancies thereafter remaining shall be filled by the candidates in the order of the total choices.

[The merit of the preferential system of voting is that it enables the voter to express his whole choice instead of his partial choice only. With the ordinary ballot it is only possible for the voter to say, in effect, "I want Mr. A., and do not want any of the other candidates." But it frequently happens that some of the other candidates are extremely objectionable to the voter in question, while some are almost as acceptable as Mr. A. Without the preferential ballot he has no chance of expressing his opinion on the other candidates, and so it frequently happens that if Mr. A. does not get enough votes to be elected, the very person to whom the particular voter most objects is chosen by a plurality. Choice by plurality is itself undemocratic, but such choice becomes especially unfortunate in view of the fact that usually the better element in the electorate scatter their votes among several good candidates, while the undesirable element much more readily unite on one and so elect him. He is in that case chosen against the wishes of a large majority of the best voters in the city. Such a situation is impossible under the system of preferential ballot. There are several methods of counting the second and third choices, all of which are open to some theoretical objections. The one here suggested has the great merit of being relatively simple.]

#### ARTICLE IV. THE COMMISSION

SEC. 10. The Commission shall consist of unpaid members and shall elect its own chairman. The Commission shall meet regularly once a month, and oftener on the call of the Mayor, herein-

after provided for. The Commission shall see that all ordinances necessary and proper for carrying out the powers and duties herein specified are passed, and that they are enforced by the Mayor. The Commission shall promote in any way it sees fit, subject only to the limitations imposed by the Constitution or laws of this State or by the provisions of this charter, the welfare of the city and its inhabitants.

[The provision that members of the Commission shall serve without pay is meant to secure a higher type of representatives than is likely to be obtained by paying salaries. There is not, under the system of expert administration here provided, any great demand made upon the time of the members of the Commission. It should be possible to get in every community a sufficient number of representative, public spirited men to look after the interests of their city without expecting pay. It has been found possible in England and on the continent of Europe. Shall we conclude that the citizens of a republic are less interested in their government than are the subjects of a monarchy? By making service on the Commission honorary, we are making it at the same time honorable by eliminating the professional office seeker who, though totally unfit for the place, usually finds it possible to get a living at the expense of the public, which he is unable to secure in private employment because of his inefficiency.]

#### ARTICLE V. THE MAYOR OR CITY MANAGER<sup>1</sup>

SEC. 11. The Mayor shall be the chief executive officer of the city. He shall be chosen by the Commission for a term of six years<sup>2</sup> and shall be eligible for re-appointment indefinitely.

He shall be chosen solely on the basis of administrative qualifications, from among all candidates who apply in answer to public advertisements. The choice shall not be limited to inhabitants of the city or of the State. Notice of a vacancy in the office of Mayor shall be inserted by the Commission in a dozen papers of the most general circulation in this State, and in at least thirty papers of

<sup>1</sup>Some authorities have criticised the use of this term, on different grounds, preferring to apply the term city manager. But the writer, for various reasons, thinks this usage preferable. But this is, of course, not a vital matter.

<sup>2</sup>If the constitutional limitation of the term of office to two years applies to such a position as that of the mayor, as herein indicated, he would have to be reappointed every two years.

the most general circulation in the rest of the United States, for at least one month prior to the date fixed for the choice of the Mayor. The Mayor shall receive a compensation of not less than \$3000.00 a year,<sup>3</sup> and shall be removable on three months' notice by the Commission. He may demand written charges and a public hearing on the same before the Commission at any time between the issuance of the order of removal and the date on which it is to take effect.

SEC. 12. The Mayor shall be responsible to the Commission for the proper administration of all affairs of the city and to that end shall make all appointments to the directorships of the city departments, and (under civil service regulations as hereinafter provided for) shall make all appointments to minor positions in the city service on recommendation of the directors of the various departments.

SEC. 13. The Mayor shall prepare and submit the annual budget on the basis of estimates made by the directors of the departments. He shall make recommendations to the Commission on all matters concerning the administration of the city, and in no case (save when the Commission is considering the removal of the Mayor himself) shall the Commission act without first having asked the opinion in writing of the Mayor on that point.

[The function of this official, who, though usually designated city manager, is practically the officer called "burgomaster" or mayor in Germany, is to give that centralization of administration under an expert head which is so sorely needed to make our city governments efficient. This is the keystone of the city-manager plan of government which has been discussed in the introduction to this charter. The all important thing, of course, is to get the best man to be had for the place, and it is chiefly in the way the Commission uses its power of choice that it can show whether or not it is worthy of confidence of the public. For such a position as that of Mayor herein described training, experience, and personality are the factors to be considered. These are qualities that cannot well be tested by any device of written examinations. Hence full power must be left to the Commission to choose from among all those candidates who present themselves the man best

<sup>3</sup>The minimum salary would vary from \$2500 to \$10,000 or more, according to size of city and requirements of office. Dayton, Ohio, a city of 117,000 inhabitants, has just appointed a city manager at a salary of \$12,500 per year.

fitted for the place. If the Commission fail in this it is because representative government is to that extent a failure and, in that case, no scheme of government based on that idea can succeed.]

#### ARTICLE VI. THE ADMINISTRATIVE DEPARTMENTS

SEC. 14. There shall be six administrative departments as follows: law, public works and utilities, public health, public safety and welfare, public education, and public finance.<sup>1</sup>

SEC. 15. At the head of each department there shall be a Director appointed by the Mayor and removable by him. This Director shall in every case be chosen for his particular qualifications in the field of work assigned to him, and shall possess certain minimum requirements of training and experience to be determined by the Commission on recommendation of the Civil Service Board.

[There is likely to be some opposition to taking the management of school affairs out of the hands of special authorities as now constituted, but that opposition is based wholly on the fear of evils that might result from getting school affairs "into politics." But since it is the purpose of this charter to prevent as far as possible getting *any* matters of municipal administration "into politics," there is no more reason for taking school matters out of the jurisdiction of the Commission than there is for taking any or all of the other departments out. Certainly "political" health administration is every bit as objectionable as "political" school administration. Yet to take these departments out of the jurisdiction of the city Commission and put them into the hands of separately elected boards would put city administration right back into the undesirable situation from which we are trying to escape. Under this charter the Director of the Department of Public Education would be the same person who is now superintendent of schools, the Commission performing the functions of a school board.]

<sup>1</sup>In cities of less than 10,000 inhabitants it would probably not be necessary to have more than four departments, and if the administration of schools be left in the hands of separate authorities, then only three would be necessary. These might be denominated public finance; public safety, health and welfare; and public works. The services of a lawyer and of a health officer could be secured under contract without making them separate departments. In larger cities, even over 100,000, there would be no need of more than six departments, though the six would need to be subdivided. In the smaller cities, a city manager should be chosen who is a trained engineer, and could, therefore, take direct charge of the department of public works.

SEC. 16. The Directors of Departments shall receive adequate salaries, to be determined by the Commission, and any appointment to such position may be disallowed by vote of four-fifths of the Commission on the ground that the candidate does not possess the requisite qualifications. Before removal, the Director of a Department may demand written charges to be filed by the Mayor with the Civil Service Board, and shall be entitled to a public hearing before the same. If the Board recommends the reinstatement of the Director in question, the Commission may, by a four-fifths vote, nullify the Mayor's order of removal.

SEC. 17. The Directors of Departments shall be immediately responsible to the Mayor for the administration of their Departments, and their advice in writing shall be asked by the Mayor on all questions affecting their Departments. They shall make up the departmental estimates and all other reports and recommendations concerning their Departments, at stated intervals, and when requested by the Mayor.

SEC. 18. There shall be provided a City Clerk and a Purchasing Agent and such other inferior officers as the Commission shall deem necessary, at salaries to be fixed by the Commission. The duties of all these officers shall be determined by the Commission, subject to any provisions of this charter affecting the same.

SEC. 19. All positions in the city's service, except those of Mayor, Directors of Departments, and members of the Civil Service Board, shall be filled on the merit system under a set of rules to be prepared and enforced by the Civil Service Board.

[While the Mayor must be a man primarily of general executive ability, the directors of departments must be men who are experts in the particular field of work included in their departments. There should, therefore, be certain minimum qualifications insisted upon before a person could be considered as a candidate. But among those who satisfy these minimum requirements, the Mayor must be allowed to choose his man, for personal qualities are of great importance here also, and above all there must be absolute harmony between the Mayor and his subordinates. He must, for the same reason, have a free power of removal subject only to such a guarantee against arbitrary removal as publicity provides. The directors of departments are of course responsible for the smooth working of their own departmental machines, and if they fail in that they are to that extent incompetent administrators.]

## ARTICLE VII. CIVIL SERVICE BOARD

SEC. 20. A Civil Service Board shall be appointed by the Commission to consist of a salaried secretary and two unsalaried members, all to serve six years,<sup>1</sup> and terms to expire, one every two years. This Board shall formulate rules to be enacted by the Commission and administered by the Board for the appointment, discipline, promotion, and removal of all city officials and employees under the Directors of Departments. The members of the Board shall be removable by the Commission in the same way and under the same limitations as were prescribed in case of the Mayor.

[Such a board is required in order to carry out the principles of efficiency in the inferior positions in the city service, and particularly to guard against political appointments and removals. This is simply applying to the municipal service the principles which have been applied more or less completely in the federal service for thirty years.]

## ARTICLE VIII. CITY FINANCES

SEC. 21. The budget shall be prepared by the Mayor on the basis of estimates submitted by the Directors of Departments. These departmental estimates, showing the expenses of the Department for the preceding year and indicating wherein increases or diminutions are recommended for the ensuing year, shall be printed in one of the city newspapers for two weeks before submission by the Mayor to the Commission, and printed copies of the estimates shall be available to any citizen upon request at the city hall. The Mayor shall make up the budget and submit it to the Commission. Due announcement shall be made of the day on which the budget is to be discussed by the Commission, and printed copies of the budget as recommended by the Mayor shall be available to any citizen at the city hall at least one week before the date set for the discussion in the Commission. This discussion shall be in open meeting, and at least three hours shall be given to hearing protests

<sup>1</sup>Here again the constitutional limitation of official terms to two years might prevent the appointment of such a board for more than two years. In that case annual appointments would be necessary, the secretary to be appointed in one year, the other two members in the alternate year.



and objections, oral or written, to any items in the budget, or to omissions therefrom.

SEC. 22. Expenditures shall be legal only on the basis of appropriations in the budget and on the authority of warrants issued by the Director of Finances, and countersigned by the Mayor.

SEC. 23. The city's accounts shall be kept in such a manner as to show fully at all times the financial condition of the city, and the books shall at all times be open to the public for inspection. The Director of Finances shall see that accounts are kept in the most approved fashion, including all necessary balance sheets, in detail and in summary, revenue and expense statements, treasury statements, stores accounts, operation statistics, and other reports necessary to show completely each month the state of the city finances.

SEC. 24. Contracts shall be awarded by the Mayor only after competitive bidding to the lowest responsible bidder. All supplies shall be purchased through the Central Purchasing Agent at the lowest obtainable prices. No contract shall be valid in which any Commissioner, the Mayor or Directors of Departments, are directly or indirectly interested.

SEC. 25. The pay roll of the city shall be certified each week to the Commissioner of Finance, and in no case shall more than one-twelfth of the sum appropriated for any yearly salary be available in any one month. A periodic audit of the accounts of the city by expert public accountants shall be provided for by the Commission.

[Since it is business efficiency that is particularly sought after in this charter, the management of municipal finances becomes one of the most important features of the city's activities. The principles of good public accounting and finances are fairly clear, and it becomes the duty of the finance director to see that they are applied. It is not the function of a charter to go into great detail on such questions, but it should state clearly that accuracy, simplicity, and publicity must be assured.]

#### ARTICLE IX. FRANCHISES AND PUBLIC UTILITIES

SEC. 26. Franchises shall be granted only for indeterminate terms, reserving to the city the right to purchase at a fair value the

franchises and property of the corporation at the end of the first ten years, and at the termination of every five years thereafter.

SEC. 27. All franchises shall be subject to the right of the city, whether expressly stated or not, to make all reasonable regulations concerning the service, capitalization, and rates of the corporation to which the franchise is granted, subject to the city's power to inspect the corporation's books at all times and to require accounts to be so kept as to show clearly how the finances of the corporation are run and whether the franchise requirements as to sinking fund, depreciation fund, improvements and capitalization are met. The enforcement of the franchise provisions shall be in the immediate charge of the director of public finance.

[There are two elements to be considered in the regulation and granting of franchise rights, namely, the interests of the public, and the interests of the corporation. If the interests of the public are not properly safeguarded by requirements of reasonable rates and good service, the citizens are being robbed of their rights. If the corporations are not secured some protection against extortion by the city, they are being robbed of their rights, and investors will not trust the field of public utilities. These charter provisions are meant to protect the public against unwise signing away of their rights by the Commission. The corporations themselves can usually be trusted to look after their own interests and are free to do so by refusing to operate under the franchises which to them seem oppressive. It is the business of the Commission to make franchises sufficiently liberal to attract capital, there being these fundamental safeguards for the public provided in the charter.]

#### ARTICLE X. DIRECT LEGISLATION AND THE RECALL

SEC. 28. Upon petition of thirty per cent of the qualified voters any ordinance may be submitted to the Commission for enactment. If the Commission shall fail to act within a month from the time of submitting the ordinance, or shall reject the ordinance, or pass it in amended form, it shall be the duty of the Commission to call an election within thirty days after the expiration of the month, unless there be a regular election within sixty days at which the ordinance may be submitted. At this election the original ordinance shall be printed on the ballot, and if the Commission has amended the ordinance then such ordinance shall also appear in the amended form and the voters be given an opportu-

ity to choose between the two or to reject both. In no case shall a measure be considered as adopted unless more than twenty-five per cent of the total registered vote shall have been cast in favor of the measure.

SEC. 29. Any ordinance passed by the Commission shall be subject, within one month after its passage, to protest by a petition of thirty per cent of the registered voters, asking that said ordinance be submitted to a referendum vote of the people. If the ordinance is not declared an emergency ordinance, it shall not go into effect until the month has expired, or until the referendum vote has been had, if this is demanded in due form. If an emergency measure, it shall go into effect immediately, subject to repeal by referendum. Such an election, if demanded, shall be held within thirty days of the filing of the petition unless there shall be a regular election within sixty days' time at which the ordinance may be submitted. The ordinance shall not be considered as rejected unless the majority of votes cast against it shall be equal to twenty-five per cent of the total registered vote.

SEC. 30. All ordinances providing for the issuance of bonds and those granting franchise rights in the streets shall be submitted to a referendum of the voters before becoming effective. It shall require a majority vote by at least twenty-five per cent of the qualified voters to defeat an ordinance passed by the Commission for granting a franchise or issuing bonds.<sup>1</sup>

SEC. 31. Upon petition of thirty per cent of the qualified voters, a recall election must be provided for to apply to any member of the Commission. A recall election shall not be had for any member of the Commission until that member shall have served at least one year in office, nor until a year after a previous recall election in which the right of that member to retain his seat on the Commission shall have been determined.

[As a further assurance of responsiveness on the part of the Commissioners to the wishes of the electorate, these weapons of direct control are provided. But these measures are emergency measures, and if too easily employed they do not insure representative government, but destroy it. Hence there should be required

<sup>1</sup>This provision so far as it relates to bonds is inconsistent with the provisions of the State law governing bond elections (Revised Statutes, 1911, Title 18, Article 605), and would therefore be inoperative.

a sufficiently large percentage of voters to put these weapons into operation so that they will be used only as emergency measures.]

#### ARTICLE XI. MISCELLANEOUS PROVISIONS

SEC. 32. Until a Mayor shall have been elected, and during any subsequent vacancy in the office, the chairman of the Commission shall act as Mayor and receive his salary.

SEC. 33. Until the civil service rules shall have been prepared and put into effect, all appointments except that of Mayor shall be for one year only. Thereafter all appointments shall be for indefinite terms, and removal shall be subject to the rules drawn up by the Civil Service Board, save that no removal shall occur without written charges and a public hearing, and that there shall be no appeal to the courts from the order of removal.

SEC. 34. No one shall be eligible for appointment to any salaried position in the city who is related to any member of the Commission, to the Mayor, or to the Director of the Department in which he is appointed, either in direct line or collaterally nearer than the fourth degree.

SEC. 35. It shall be the duty of the Commission to provide for advisory boards to be appointed by the Commission and to serve without pay, such as school boards, city planning boards, boards of charities, and any other boards that shall be found desirable. It shall be the function of these boards to consult and advise on matters submitted to them by the administrative officers, as may be required by act of the Commission.

[The practice of employing lay boards to consult with the administrative officers on questions of policy has at least two merits. On the one hand it stimulates the interest of the citizens themselves in studying particular problems of general interest. On the other hand it tends to keep the professional officials in closer touch with the sentiments of the community and guides them in the recommendations they make to the Commission.]

SEC. 36. The acts of the Commission, the orders of the administrative officers and all departmental reports shall be kept in public records and shall always be available for inspection. All matters of general interest, such as the minutes of the Commission meetings, summary departmental reports, etc., shall be published in some newspaper of general circulation in the city.

## APPENDIX

Majority report as to the city manager variation of commission government by Charles A. Beard, Clinton Rogers Woodruff, William Bennett Munro and Richard S. Childs.<sup>1</sup>

“The city manager feature is a valuable addition to the commission plan, and we recommend to charter-makers serious consideration of the inclusion of this feature in new commission government charters. Its advantages are:

1. It creates a single-headed administrative establishment instead of the five separate administrative establishments seen in the Des Moines plan. This administrative unity makes for harmony between municipal departments since all are subject to a common head.

2. The city manager plan permits expertness in administration at the point where it is most valuable, namely, at the head.

3. It permits comparative permanence in the office of the chief executive; whereas, in all plans involving elective executives, long tenures are rare.

- a. This permanence tends to rid us of amateur and transient executives and to substitute experienced experts.

- b. This permanence gives to the administrative establishment the superior stability and continuity of personnel and policies which is a necessary precedent to solid and enduring administrative reforms.

- c. This permanence makes more feasible the consideration and carrying out of far-sighted projects extending over long terms of years.

- d. This permanence makes it worth while for the executives to educate themselves seriously in municipal affairs, in the assurance that such education will be useful over a long period and in more than one city.

4. The city manager plan permits the chief executives to migrate from city to city, inasmuch as the city manager is not to be necessarily a resident of the city at the time of his appointment,

<sup>1</sup>Reprinted from the *National Municipal Review*, Vol. III, No. 1, January, 1914, p. 46.

and thus an experienced man can be summoned at advanced salary from a similar post in another city.

*a.* This exchangeability opens up a splendid new profession, that of 'city managership.'

*b.* This exchangeability provides an ideal vehicle for the interchange of experience among the cities.

5. The city manager plan, while giving a single-headed administration, abolishes the one-man power seen in the old mayor-and-council plan. The manager has no independence and the city need not suffer from his personal whims or prejudices since he is subject to instant correction, or even discharge, by the Commission. Likewise, in the Commission, each member's individual whims or prejudices are safely submerged and averaged in the combined judgment of the whole Commission, since no member exerts any authority in the municipal government save as one voting member of the Commission.

*a.* This abolition of one-man power makes safer the free-handed extension of municipal powers and operations hampered by checks and balances and red tape.

*b.* More discretion can be left to administrative officers to establish rulings as they go along, since they are subject to continuous control and the ultimate appeal of dissatisfied citizens is to the fairness and intelligence of a group (the Commission) rather than to a single and possibly opinionated man (an elective mayor). Inversely, laws and ordinances can be simpler, thus reducing the field of legal interpretation and bringing municipal business nearer to the simplicity, flexibility and straightforwardness of private business.

6. The city manager plan abandons all attempts to choose administrators by popular election. This is desirable because:

*a.* It is as difficult for the people to gauge executive and administrative ability in candidates as to estimate the professional worth of engineers or attorneys. As stated under No. 13 in our 1911 report, such tasks are not properly popular functions.

*b.* By removing all requirements of technical or administrative ability in elective officers, it broadens the field of popular choice and leaves the people free to follow their instinct which is to choose candidates primarily with reference to their representative

character only. Laboring men, for instance, can then freely elect their own men to the Commission, and there is no requirement (as in the Des Moines charter) that these representatives shall, despite their inexperience in managing large affairs be given the active personal management of a more or less technical municipal department.

7. The city manager plan leaves the lines of responsibility unmistakably clear, avoiding the confusion in the Des Moines plan between the responsibility of the individual commissioners and that of the Commission as a whole.

8. It provides basis for better discipline and harmony, inasmuch as the city manager cannot safely be at odds with the Commission, as can the Des Moines commissioners in their capacity as department heads, or the mayor with the council in the mayor-and-council plan.

9. It is better adapted for large cities than the Des Moines plan.

Large cities should have more than five members in their Commission to avoid overloading the members with work and responsibility, and to avoid conferring too much legislative power per individual member.

Unlike the Des Moines plan, the city manager plan permits such enlarged Commissions, and so opens the way to the broader and more diversified representation which large cities need.

10. In very small cities, by providing the services of one well-paid manager instead of five or three paid commissioners, it makes possible economy in salaries and overhead expenses.

11. It permits ward elections or proportional representation as the Des Moines plan does not. One or the other of these is likely to prove desirable in very large cities to preserve a district size that will not be so big that the cost and difficulty of effective canvassing will balk independent candidacies, thereby giving a monopoly of hopeful nominations to permanent political machines. (See No. 11 in the 1911 report.)

12. It creates positions (membership in the Commission) which should be attractive to first-class citizens, since the service offers opportunities for high usefulness without interruption of their private careers."

LIST OF CITIES UNDER CITY MANAGER FORM OF GOVERNMENT, JANUARY 1, 1914

	Population
Sumter, S. C.....	8,109
Hickory, N. C.....	3,716
Morgantown, N. C.....	2,712
Dayton, O.....	116,577
Springfield, O.....	46,921
Phoenix, Ariz.....	11,134
La Grande, Ore.....	4,843
Amarillo, Tex.....	9,957
Abilene, Kans.....	4,118
Morriss, Minn.....	1,685
Cadillac, Mich.....	8,675
Terrell, Tex.....	7,050



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