

CITY OF ENGLEWOOD

ORDINANCE NO. 2330

AN ORDINANCE AUTHORIZING A PETITION TO THE STATE LEGISLATURE FOR ENACTMENT OF 1\ SPECIAL LAW DEALING WITH THE INTERNAL AFFAIRS OF THE CITY OF ENGLEWOOD AND ADOPTING A CHARTER FOR THE CITY OF ENGLEWOOD IN ACCORDANCE WITH THE PROPOSED ENGLEWOOD CHARTER (1978) HEREIN SET FORTH.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ENGLEWOOD:

SECTION A. The Council of the City of Englewood hereby authorizes the submission of a petition to the legislature for the passage of a special and local law regulating the internal affairs of the City of Englewood and for the passage by the legislature of a charter for the City of Englewood as set forth in SECTION B hereof.

SECTION B. The aforesaid charter, including provisions for implementation and adoption thereof, reads in full as follows:

Section 1. Charter

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# THE ENGLEWOOD CHARTER (1978)

## ARTICLE I

### Short Title

Section 1.1 This act shall be known and may be cited as the "Englewood Charter (1978)."

## ARTICLE II

### Incorporation; nature of Charter; definitions and construction

Section 2.1 Incorporation. The inhabitants of the City of Englewood in the County of Bergen, within the boundaries heretofore established by law or as may be hereafter amended, shall be and remain a municipal body corporate and politic with perpetual succession.

Section 2.2 Definitions. For the purposes of this act, and for the interpretation of any law, ordinance or resolution applicable to the City, unless the context otherwise requires:

- (a) "Charter" shall mean the Englewood Charter (1978).
- (b) "Administrative code" shall mean an ordinance relating to the organization or administration of the city government, the exercise or discharge of its functions, powers and duties, or the management or control of its property, affairs or government.
- (c) "City" shall mean the City of Englewood within the boundaries now existing or which may be hereafter established

pursuant to law.

(d) "Council" shall mean the City Council as provided in the charter.

(e) "Department" shall mean an administrative unit of the city government established or designated by ordinance as a department.

(f) "Full Membership of the Council" means the number of members of the Council when all positions are filled.

(g) "General Law" shall mean all statutory provisions of the State of New Jersey which are now or may hereafter be applicable specifically to the City of Englewood, or to all cities of the second class, or to all cities alike, or to all municipalities, provided the same are not inconsistent with the Charter or, if inconsistent, specifically supersede all Charter provisions to the contrary.

(h) "Manager" shall mean the city manager as provided in the Charter.

(i) "Mayor" shall mean the mayor of the city as provided in the Charter.

(j) "Ordinance" shall mean any act of local legislation heretofore or hereafter adopted pursuant to law.

(k) "Person" shall mean any corporation, firm, partnership, association, organization or other entity, as well as an

individual.

(1) "Year" shall mean a calendar year unless otherwise specifically provided.

Section 2.3 Charter. The city shall be governed by the provisions of the Charter and by general law.

Section 2.4 Construction. For the purposes of the charter and except as the context may otherwise require:

(a) The present tense includes the past and future tenses and the future tense includes the present.

(b) The masculine gender includes the feminine and neuter.

(c) The singular number includes the plural and the plural includes the singular.

(d) The time within which an act is to be done shall be computed by excluding the first and including the last day, and if the last day be a Sunday or a legal holiday, that day shall be excluded.

(e.) "Writing" and "written" shall include printing, type-writing and any other mode of communication using paper or similar material which is in general use, as well as legible handwriting.

## ARTICLE III

### Powers

Section 3.1 Corporate Powers. Subject to the provisions of the charter and in addition to such powers as may otherwise be vested in the City pursuant to general law~ the city may:

- (a) Organize and regulate its internal affairs and establish, alter and abolish offices, positions and employments and define the functions, powers and duties thereof and fix their term, tenure and compensation;
- (b) Adopt and enforce ordinances and impose penalties for violation thereof, by fine or imprisonment or both as such sanctions are authorized by general law;
- (c) Construct, acquire, operate or maintain any and all public improvements, projects or enterprises for any public purpose;
- (d) Sue and be sued, have a corporate seal, contract and be contracted with, buy, sell~ lease, hold and dispose of real and personal property, appropriate and expend monies and adopt, amend and repeal such ordinances and resolutions as may be required for the management of the city and the good government thereof consistent with general law and this charter;
- (e) Exercise powers of condemnation, borrowing and taxation in the manner provided by general law;

(f) Exercise all powers of local government in such manner as its governing body may determine consistent with general law and .this charter.

Section 3.2 Exercise by Officers.~. Powers vested in the city may be exercised by such city officers, boards and commissions as may be provided by ordinance, subject to the provisions of the charter and general law.

Section 3.3 Self-government generally. The general grants of municipal power contained in this article are intended to confer the greatest powers of local self-government consistent with the Constitution and general law of this state. Any specific enumeration of municipal powers contained in the charter shall not be construed in any way to limit the general description of powers contained in the charter, and any such specifically enumerated municipal powers shall be' construed as in addition and supplementary to the powers conferred in general terms by the charter and by general law. All grants of power to the city, whether in the form of specific enumeration or general terms, shall be liberally construed in favor of the city.

#### ARTICLE IV

##### The Council

Section 4.I Council as governing body; powers. The

city council shall be the governing body of the city. All powers of the municipality and the determination of all matters of policy shall be vested in the council, except as otherwise provided by the charter or by general law.

Section 4.2 Members of council. The council shall consist of five council members, with one elected from the city at-large and one elected from each of four wards.

Section 4.3 Council members; Election; term. Council members shall be elected at the general election to be held in November, or at such other time as may be provided by general law for the holding of general elections, each for a term of three years to begin on the first day of January next following election.

Section 4.4 Council members; qualification. Each council member shall be a legal voter and resident of the city, and in the Case of a council member elected from a ward, shall have been a resident of the ward from which elected for at least one year prior to the general election; and in the case of a council member elected at-large, shall have been a resident of the city for at least one year prior to the general election.

Section 4.5 Council members; vacancies. A vacancy in the office of council member occurring otherwise than by expiration of term, shall be filled as provided by general law.

Section 4.6 Council; organization and procedure; meetings.

(a) The council shall adopt rules for its own organization and rules of procedure not inconsistent with the charter.

(b) The council shall meet and organize, annually, during the first week in January and such organization meeting may be held on a legal holiday or a Sunday.

(c) At its organization meeting the council shall elect either a member of the council or the mayor as president of the

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council, and shall also elect a member of the council or the mayor as president pro tempore.

(d) A majority of the full membership of the council shall constitute a quorum. A resolution or ordinance, except as otherwise provided by the charter or by general law, shall be passed by the affirmative vote of not less than a majority of those present and voting, provided that the affirmative votes shall include the votes of at least three council members or the votes of two council members and the mayor. An abstention shall not be considered a vote.

(e) The mayor shall have the right to vote in the event of a tie vote or in the event that the mayor's vote is necessary to provide three affirmative votes for the passage of a resolution or ordinance.

(f) The council shall, by resolution, designate the time place of holding regular meetings, which shall be at least monthly, provided that such time and place may be changed from time to time by resolution.

(g) The vote upon every motion, resolution or ordinance shall be taken by roll call and the yeas and nays shall be entered in the minutes.

(h) The minutes of each meeting shall be kept by the city clerk and shall be signed by the officer presiding at the meeting and by the city clerk.

(i) The mayor or the council president may, and upon written request of a majority of the full membership of the council shall,

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call a special meeting of the council. The call for the special meeting shall designate the time, place and purpose of the special meeting and no other business shall be considered except with the unanimous consent of all council members present; provided that the council may, by ordinance, adopt regulatory provisions not inconsistent with the charter, governing the calling and conducting of special meetings.

(j) Ordinances may be adopted only by the council, must be introduced in written form by a member of the council, shall be

vote of the council and shall be subject to the notice, publication, and hearing requirements of general law. Any ordinance may incorporate by reference any standard technical regulations or code, official or unofficial, which need not be so published if the ordinance states that three copies of such regulations or code have been placed on file in the office of the city clerk, and in the office of the body or department charged with the enforcement of said ordinance and will remain on file in such offices for use and examination by the public until final adoption of the ordinance and so long as the ordinance shall remain in effect.

Section 4.7 Council president, duties; president pro tempore.

(a) The council president shall preside at meetings of the council.

(b) The council president may appoint committees of the council to assist in the conduct of the council's business.

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(c) The council president shall have such other powers and duties as may be prescribed by the charter, or by ordinance not inconsistent with the provisions of the charter.

(d) The president pro tempore shall perform the duties of council president during the temporary absence or disability of the council president, and shall succeed to the position of the council president in the event that the said position shall become

vacant.

#### Section 4.8 Approval or veto of ordinances by mayor.

(a) An ordinance adopted by the council shall be submitted to the mayor, and the mayor shall, within ten days after receiving any ordinance, either approve the ordinance by signing the same, or return it to the council by delivering it to the city clerk together with a statement setting forth the mayor's objections thereto. No ordinance shall take effect without the mayor's approval, unless the mayor fails to return an ordinance to the council within ten days after it has been presented to the mayor, in which event the ordinance shall become effective following the expiration of said ten-day period; or unless the council, upon reconsideration thereof, on or after the third day following its return by the mayor, shall by a vote of two-thirds of the full membership of the council, resolve to override the mayor's veto.

(b) In the event that the council president or the council president pro tempore shall be serving as mayor, such person shall have the power to veto an ordinance to the same extent and with the same effect as any person elected to the position of mayor.

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#### Section 4.9 Investigation; removals.

(a) The council may make investigations into the affairs of the city and the conduct of any city department, office, commission,

or agency and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence. In addition to any other remedy, any person who willfully fails or refuses to obey a lawful order issued in the exercise of these powers by the council shall be adjudged a disorderly person, punishable by a fine of not more than \$200 or by imprisonment for not more than 30 days, or both.

(b) Except as herein otherwise provided with respect to the city manager, the council may remove any officer or employee, other than the mayor or a council member, for cause, upon notice and an opportunity to be heard, subject to standard personnel policies and regulations adopted by ordinance. Nothing herein shall be construed as limiting the right of the council to eliminate any job or position.

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## ARTICLE V

### The Mayor

Section 5.1 Election of mayor. The mayor shall be elected at the general election to be held in November, or at such other time as may be provided by law for the holding of general elections, for a term of three years beginning on the first day of January next following election.

Section 5.2 Powers and duties of mayor. The mayor shall

have the right to attend and speak at council meetings, may serve as council president or president pro tempore if elected to that position by the council, but shall not be a member of the council. The mayor shall have the right to vote only in those instances listed in Section 4.6(e) of the charter.

Section 5.3 Temporary absence or disability of mayor. During any temporary absence or disability of the mayor, the council president shall serve as acting mayor, or if the council president shall also be temporarily absent then the council president pro tempore shall serve as acting mayor.

Section 5.4 Vacancy in the office of mayor. If a vacancy occurs in the office of mayor for any reason other than expiration of term of office, the vacancy shall be filled in the following manner:

(a) If the vacancy occurs on or after September 1 in the next to the last year of the term of the mayor, the council president shall succeed to the office of mayor and shall hold such office until expiration of the term of the person last

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elected thereto, or if the mayor shall also have been the council president, then the council president pro tempore shall so succeed to the office of mayor for such time.

(b) If the vacancy occurs prior to September 1 in the next to the last year of the term of the mayor, the vacancy shall be filled for the unexpired term at the next ensuing general election and the vacancy shall be filled, temporarily, until such election and qualification of a Successor mayor, by the council president or, if the mayor shall also have been council president, by the council president pro tempore.

(c) Any person elected to serve the unexpired term of a mayor, shall take office immediately after such election and upon qualifying therefor.

Section 5.5 Powers of council resident or resident pro tempore while serving as mayor.

(a) If the council president or the council president pro tempore shall be serving as mayor or acting mayor, such person shall not, by reason thereof, be required to vacate his or her council position, but may remain a member of the council while so serving as mayor; provided that, in such event, such person may vote on council matters as a council member, but shall have no additional vote on such matters by reason of serving as mayor.

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(b) If the council president or the council president pro tempore shall be serving as mayor or acting mayor, such person shall have the power to make appointments to the same extent and

with the same effect, as any person elected to the position of mayor, and such person may also vote, as a member of the council,' respecting any required council confirmation of such appointment.

Section 5.6 Report to the council. The mayor shall make an annual address to the council on the condition of the city and recommend policies relating thereto.

Section 5.7 Mayor; state of emergency. Whenever the mayor shall determine that conditions exist within the city which present a clear and present danger to the safety of the people of the city, the mayor (with the approval of the council, if there be time to assemble the council) may declare a city emergency. Upon such declaration the mayor may assume the personal direction of any department, agency or instrumentality of the city government as may, in the mayor's discretion, be necessary to alleviate the emergency; and the mayor may take such action as may be deemed necessary or desirable to that end for the duration of the emergency; provided that if such declaration be made without the approval of the council, the mayor shall call a special meeting of the council as soon as practicable, and such declaration shall continue in effect thereafter only if approved by the council.

Section 5.8 Mayor; ad hoc committees. The mayor shall have the power to appoint such ad hoc advisory committees as the mayor may deem appropriate or beneficial.

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## ARTICLE VI

### The Manager

Section 6.1 Appointment and qualification of manager. The council shall appoint a city manager, who shall be chosen solely on the basis of executive and administrative qualifications with special reference to actual experience in, or knowledge of, accepted practice in respect to the duties of the office of manager as hereinafter set forth. At the time of appointment, the manager need not be a resident of the city of Englewood or the State of New Jersey, but while in office he may reside outside the city only with the approval of the council.

Section 6.2 Manager's term; removal. The manager shall hold office for an indefinite term and may be removed by a majority vote of the full membership of the council. At least thirty days before such removal shall become effective, the council shall, by a majority vote of the full membership of the council, adopt a preliminary resolution stating the reasons for removal. The manager may reply in writing and may request a public hearing, which shall be held not earlier than twenty days or later than thirty days after the filing of such request. After such public hearing, if one be requested, and after full consideration, the council by majority vote of the full membership of the council, may adopt a

final resolution of removal. By the preliminary resolution or by resolution thereafter adopted, the council may suspend the manager from duty, or may suspend the manager's power to exercise any portion of the manager's powers but in such case the manager shall continue to receive his salary and, in the event of adoption of a final resolution of removal, the manager shall be entitled to receive salary for the next three calendar months following adoption of such final resolution of removal.

Section 6.3 Manager's powers and duties. The manager shall:

- (a) exercise all of the executive and administrative functions of the city government except as otherwise provided in the charter or by general law;
- (b) execute all laws and ordinances of the city;
- (c) appoint and remove all department heads and a deputy manager (if such position be authorized by the council), provided that no such appointment or removal of a department head or deputy manager shall be effective unless confirmed by the council;
- (d) subject to and in accordance with the provisions of standard personnel policies and regulations adopted by the council by ordinance, appoint and remove all other officers, subordinates, assistants and employees for whom no other method of appointment or removal is provided by the charter or by general law;
- (e) report all appointments and removals to the council at

its first meeting following such appointment or removal;

(f) supervise and direct the activities of department heads and the deputy manager if there be one, and the activities of all officers, subordinates, assistants, and employees whom the manager is empowered to appoint;

(g) negotiate contracts for the city subject to the approval of the council, make recommendations concerning the nature and location of municipal improvements, and execute municipal improvements as determined by the council;

(h) assure that all terms and conditions imposed in favor of the city or its inhabitants in any statute, public utility, franchise, or other contract are faithfully kept and performed, and upon learning of any violation, call the same to the attention of the council;

(i) attend all meetings of the council with the right to take part in discussions, but without the right to vote;

(j) recommend to the council for adoption such measures as the manager may deem necessary or expedient, keep the council advised of the financial condition of the city, make reports to the council as requested by it, and at least once a year make an annual report of the manager's activities, for the benefit of the council and the public;

(k) perform such other duties, not inconsistent with

the charter or general law, as may be required of the manager by ordinance or resolution of the council.

The manager shall be responsible to the council for carrying out all policies established by it and for the proper administration of all affairs of the city within the jurisdiction of the council.

## ARTICLE VII

### Appointments

Section 7.1 Appointments. Except as otherwise provided in the charter:

- (a) The council shall appoint a city solicitor who shall be the chief legal officer of the city, such assistant city solicitors and public defenders as may be authorized by ordinance, a city auditor, a municipal court judge, and a city physician.
- (b) The mayor shall appoint the members of the board of education.
- (c) Appointments which, by general law, are required to be made by the mayor or the chief executive, shall be made by the mayor.
- (d) Appointments which, by general law, are required to be made by the governing body, shall be made by the council.
- (e) Appointments to boards, agencies, commissions or commit-

tees established by the council shall be made as provided in the ordinance or resolution establishing such entity, or if no provision for appointment shall be made in such ordinance or resolution, then such appointments shall be made by the mayor with the consent of the council.

(f) Appointments to any committee established by the mayor shall be made by the mayor.

(g) All other appointments to boards, agencies, commissions, or committees shall be made by the mayor with the consent of the council.

## ARTICLE VIII

### Organization and Administration

#### Section 8.1 Council relationship with manager.

(a) It is the intent of the charter to provide for a separation of the legislative and administrative functions of the city government, except as specifically otherwise provided by the charter or by general law.

(b) Except as otherwise provided in the charter or by general law, the direction and supervision of city employees shall be solely by and through the manager. The council or any member thereof shall intervene in administrative matters only for purposes of an inquiry or investigation authorized pursuant to law.

(c) The council and the members thereof shall direct the

administrative service only through the manager and shall not, either publicly or privately, issue orders or directives to any subordinate of the manager.

(d) The council shall direct, and communicate policy to, the manager either by formal written action of the council as a whole, or through the council president, who may delegate such responsibility to some other council member, provided that at all times there shall be clear and non-conflicting lines of authority between the council and the manager. This provision shall not be deemed to prohibit or restrict communication between any council member and the manager.

(e) Nothing herein contained shall prevent the council from appointing committees or commissions of its own members, or of citizens, to conduct investigations into the conduct of any officer or department, or any matter relating to the welfare of

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the city, and delegating to such committees or commissions such powers of inquiry as the council may deem necessary.

(f) Notwithstanding the foregoing, nothing contained in the charter shall be deemed to prohibit the council or any member thereof from dealing directly with or directing the activities of the city solicitor or any assistant city solicitor, the city auditor, and the holder of any position created for the

purpose of working directly with and assisting the council in carrying out its functions and duties.

Section 8.2 Administrative code; departments.

(a) The council shall adopt and may from time to time amend, supplement and revise an administrative code to provide for department and otherwise to govern the organization and administration of the city government, subject to the provisions of the charter and general law.

(b) The administrative code shall allocate and assign all of administrative functions, powers and duties of the city government among the departments created by the code. The head of each department shall be a single executive, and one person may be appointed to head two or more departments.

(c) The manager may be appointed as department head of one or more of the aforesaid departments.

(d) The administrative code may make provisions for the appointment or designation of an acting department head for any or all of such departments, with such appointments or designations to be made in the same manner as department heads are appointed.

(e) The administrative code may authorize the manager to delegate to the head of any or all of such departments, the power to appoint and/or remove subordinates within such department.

(f) The council, with respect to employees hired after the effective date of this charter, may prescribe as a condition to employment and/or continued employment, residency within a prescribed geographic area relating to the City of Englewood.

Section 8.3 Deputy manager; acting manager.

(a) The administrative code may provide for the position of deputy manager, and set out the duties and functions of such

(b) The administrative code may make provisions for the appointment or designation of an acting city manager, to serve in the absence or disability of the manager, with such appointment or designation to be made in the manner and by the authority prescribed in the code. The power and authority of an acting manager may be limited as prescribed in the code, and need not be coextensive with the power and authority of the manager.

Section 8.4 Budget; preparation and submission.

(a) The city budget shall be prepared by the manager. During the month of November in each year the manager shall require all department heads to submit requests for appropriations for the ensuing budget year, and, if the manager deems it necessary or advisable, to appear before the manager at public hearings thereon.

(b) On or before the fifteenth day of January in each year the manager shall submit to the council a recommended budget together with such explanatory comment or statement as the manager

may deem desirable. The budget shall be in such form as is required by law and, in addition, shall have appended thereto detailed analysis of the various items of expenditure and revenue together with such additional information as the council may direct.

Section 8.5 Financial control. The council shall provide by ordinance for the exercise of a control function in the management of the finances of the city. The control function shall include provisions for an encumbrance system of budget operation, for expenditures only upon written requisition, for the pre-audit of all claims and demands against the city prior to payment, and for the control of all payments out of public funds. The city official charged with responsibility for the operation of such system shall, if so directed by the council, report directly to the council, as well as to the manager, on the financial administration and condition of the city.

Section 8.6 Execution of documents.

The administrative code may designate the officer or officers who shall be authorized to execute contracts, deeds, bonds, notes and other documents and papers on behalf of the city, subject to the charter and general law, and subject to such limitations and requirements as may be set out in the code.

## ARTICLE IX

### City Clerk

#### Section 9.1 City clerk elected.

(a) The city clerk shall be elected at the general election to be held in November, or at such other time as may be provided by general law for the holding of general elections, for a term of three years beginning on the first day of January next following election.

(b) Nothing contained in the charter shall be deemed to override or conflict with any general law pertaining to the city clerk's tenure in office.

#### Section 9.2 Duties of city clerk.

(a) The city clerk shall perform the duties of a municipal clerk as prescribed by general law and shall serve as clerk of the council.

(b) Specifically, but not by way of limitation of the foregoing, the city clerk shall:

(i) keep a journal of council proceedings and record the minutes of every meeting;

(ii) Have custody of the city seal and affix it to such official city papers and documents as are required by law to be sealed with the seal of the city;

(iii) record and safely keep all ordinances and

resolutions adopted by the council, and once each year compile, index and bind all ordinances and resolutions which then remain in force and effect.

(c) The city clerk shall also perform such additional duties and functions, not inconsistent with the charter, as the council may from time to time prescribe.

(d) The activities of the city clerk shall be under the control and supervision of the manager, who may prescribe additional duties and functions to be performed by the city clerk, provided that such control, supervision and the prescribing of such additional duties and functions shall be subject to such limitations and policies as may be established by the council.

## ARTICLE X

### Wards

#### Section 10.1 Initial ward boundaries.

Until the reapportionment hereinafter described shall take place following the 1980 federal census, the ward boundaries within the city, as they existed on January 1, 1978, shall remain in effect.

#### Section 10.2 Adjustments in ward boundaries following census.

(a) Within three months following publication of the necessary data from each federal decennial census, ward

commissioners, as hereinafter defined, shall meet and make adjustments in ward boundary lines, so that each ward shall be formed of compact and contiguous territory, as nearly equal in number of inhabitants as practicable, according to the most recent census data.

(b) The members of the Bergen County board of elections, together with the city clerk, shall constitute the ward commissioners.

(c) Within thirty days after such meeting, the ward commissioners shall make and file their report and certificate over at least three of their signatures, setting forth and properly describing the ward boundaries fixed and determined, to which there shall be annexed a map of the municipality with the ward boundaries clearly marked thereon. The report so certified shall be filed in the office of the clerk of Bergen County, and a copy thereof shall also be filed with the Secretary of State and in the office of the city clerk.

(d) A notice of the ward boundaries as fixed and determined by the ward commissioners shall be published by the city clerk at least once in at least one newspaper circulating in the municipality within two weeks immediately next succeeding the filing of the aforesaid report and certificate.

(e) Upon completion of such publication, the former wards, if any, shall be superseded, and thereafter all council members representing the wards of the city shall be elected from the wards so fixed by the ward commissioners.

(f) Council members from wards who are in office at the time that ward lines are changed as hereinabove provided shall continue in office until their respective terms of office shall expire.

(g) In the performance of their duty to fix and determine ward boundaries, the ward commissioners shall be entitled to the aid and assistance of a surveyor or engineer and, when they deem necessary, may employ a competent surveyor or engineer and such other assistants to aid them in the discharge of their duties.

(h) Each ward commissioner shall be entitled to be reimbursed for necessary expenses incurred in the performance of duties, and to such compensation, not to exceed \$500, as shall be determined by the council. Upon certification of the ward commissioners, the council shall provide for payment of the expenses of the ward commissioners, for payment of compensation as determined by the council, and for payment of expenses for the services of the surveyor, engineer or such other assistants as shall have been incurred by the ward

commissioners.

ARTICLE XI  
General and Miscellaneous Provisions

Section 11.1 Vacancy in elected office; non-residency.

If an elected official elected from the city at-large shall cease to be a resident of the city, or if an elected official from a ward shall cease to be a resident of the ward from which elected, such person's position shall immediately be deemed vacant.

Section 11.2 Fraud of officers or employees. Any council member or other officer or employee of the city who shall willfully violate or evade any provision of law relating to such person's office or employment, or commit any fraud upon the city, or convert any of the public property to such person's own use, or knowingly permit any other person to convert it, or by gross or culpable neglect of duty allow the same to be lost to the city, upon conviction thereof and in addition to other penalties imposed by law, shall forfeit his or her office or employment, and be excluded forever thereafter from receiving or holding any office or employment under the city government.

Section 11.3 Duty to testify. If the mayor, any council member or other officer or employee of the city shall, after lawful notice or process, expressly referring to this section, willfully refuse or fail to appear before any legislative commit-

tee of the council, or any city officer, board or body authorized to conduct any hearing or inquiry, or having appeared shall refuse to testify or to answer any question relevant to the hearing or inquiry regarding the property, government or affairs of the city or regarding the nomination, election, appointment, or official conduct of any officer or employee of the city, such person's term or tenure of office or employment shall terminate and such office or employment shall be vacant, and such person shall not be eligible thereafter to election or appointment to any office or employment under the city government or any agency thereof.

#### Section 11.4 Conflicts of Interest.

(a) Except as hereinafter provided, no city official, officer, or employee shall take any action, official or unofficial, with respect to any contract in which such person or member of the family of such person has any financial interest.

(b) The term "member of family" shall be deemed to include any person with whom a city official, officer, or employee has any of the following relationships by blood, adoption, or marriage: spouse, parent, grandparent., child, grandchild, brother, sister, uncle, aunt, nephew, niece, or first cousin.

(c) The term "take action" shall include any official act by way of voting, issuing orders, directives, or approvals, and shall also include any unofficial attempt to influence or affect

the action of any other city official.

(d) If any city official, officer or employee is aware or becomes aware of the existence of, or intention to enter into, an such contract in which such person or a member of such person's family has a financial interest and if he or she is or may be called upon to act with respect thereto, he or she shall formally disclose such interest to the council in writing, and shall refrain from taking any such action.

(e) The term "financial interest" shall not be deemed to include ownership of less than one percent of the stock in a corporation whose stock is available for purchase by the general public; or any retail customer relationship constituting less than one percent of the annual receipts of such retailer, or any bank depositor relationship constituting less than one percent of the deposits of such bank.

#### Section 11.5 Employee Relationship.

(a) Any city official, officer, or employee engaged, directly or indirectly, in the hiring, appointment, or fixing the terms of employment of persons to positions within the employ of the city, shall disclose to the council, in writing, any family relationship between such person and any prospective employee or appointee.

(b) The manager shall insure that standard policies respecting the employment or prospective employment of individuals by

the city includes a disclosure by any such employee or prospective employee of any family relationship between such person and any official, officer, or employee of the city.

(c) The term family relationship, as used herein, shall have the meaning set out in Section 11.4 (b).

Section 11.6 Implementing Ordinances. The council may adopt ordinances designed to implement the policies of sections 11.4 and 11.5, which may include more extensive prohibitions and disclosure requirements than are set out therein.

Section 11.7 Initiative, Referendum and Recall;  
inapplicability.

No provision of general law providing for initiative, referendum or recall shall be applicable to the city.

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## ARTICLE XII

### Transitional provisions

Section 12.1 Effect of charter. The charter shall take effect on the first day of January following the date of the general election at which the first elected officials under this charter are elected.

Section 12.2 Other laws and ordinances.  
(a) All laws and parts of laws relating to or affecting the City of Englewood and all ordinances and regulations of the city are hereby repealed and superseded to the extent that the same are

inconsistent with the provisions of this charter, and only to that extent and with respect to such application.

(b) All ordinances and regulations of the city, to the extent that they are not inconsistent with the charter, shall remain in full force and effect until repealed or amended pursuant to law.

#### Section 12.3 Election of Officials.

(a) The first elected officials to be elected under this charter shall be elected at the first general election following approval of the charter by the voters of the city.

(b) Elections of the mayor, members of the council, and city clerk shall be staggered so that in one year council members shall be elected from two wards, in another year council members shall be elected from the remaining two wards, and in another year (when no regular election of ward council members shall be scheduled) the mayor, the council member at-large, and the city clerk shall be elected.

(c) In order to accomplish the intent of subsection (b) hereof, the city council shall provide for staggered terms of the

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first elected officials to serve under this charter, so that some shall serve for one year following the effective date of the charter, some for two years, and some for three years, and following such transition period, all shall be elected, as herein-

above prescribed, for three-year terms.

Section 12.4 Appointive officers and employees.

(a) At 12 o'clock noon on the 1st day of January following the general election at which the first elected officials to be elected under this charter have been elected, all offices then existing in the municipality shall be abolished and the terms of all elected and appointed officers shall immediately cease and determine; provided, that nothing in this section shall be construed to abolish the office or terminate the term of office of any member of any statutory board, body or agency, of the municipal judge, or of any official or employee then protected by any tenure of office law or ordinance or of any policeman, fireman, teacher, principal or school superintendent whether or not protected by a tenure of office law or ordinance.

(b) provision for officers and for the organization and administration of the city government under the charter may be made by resolution pending the adoption of ordinances, but any such resolution shall expire not later than 90 days after the effective date of the charter.

(c) No subordinate board, department, body, office, position or employment shall be created and no appointments shall be made to any subordinate board, department or body, or to any office, employment or position, including without limitation patrolmen and fire-

en, between the date of the first election of officers and the date the newly elected officers take office under the charter.

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(d) All actions and proceedings of a legislative, executive or judicial character which are pending upon the effective date of the charter may continue, and the appropriate officer of employee under the charter shall be substituted for the officer or employee theretofore exercising or discharging the function, power or duty involved in such action or proceeding.

Section 2. Referendum. The charter (Section I of this Act) shall be submitted to referendum, and shall take effect upon a favorable vote thereon, as herein provided. The question of adoption of the charter shall be submitted to the legal voters of the City of Englewood at the next General Election to be held not less than 25 days after its passage.

(a) There shall be printed in the space provided for public questions on the ballot to be used in such general election the following question:

Yes

Shall "An act to provide a special charter for the City of Englewood, in the County of Bergen" be adopted?

No

(b) If at such election a majority of all the valid votes cast for and against the adoption of this act shall be cast in favor of the adoption thereof, the charter shall take effect and become operative in accordance with its terms.

(c) The city clerk of the City of Englewood shall, following such referendum, forthwith file his certificate of the results of the vote on the public question with the Secretary of State.

Section 3. Validation. All proceedings of the charter commission of the City of Englewood, including the appointment and qualification of its members and the submission of its report and recommendations, and all actions of the mayor and common council with respect thereto including the petition to the legislature for the passage of this special act, and the time and manner of all publications required in connection therewith, are hereby ratified, confirmed and validated.

Section 4. Severability. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have rendered.

Section 5. Effective Date. This act shall take effect  
immediately.

SECTION C. This ordinance shall take effect upon passage  
and publication as provided by law.

AUG 30 1978  
APPROVED