Crystal (Minn.).
City Council Minutes and Agenda Packets.

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Version 3
August 20, 2018

SENT WITH PRELIMINARY AGENDA 4/19/84

Addendum to Dave Kennedy's contract agreement dated April 13, 1984.

MN Statutes Chapter 410 re Classification; Charters

League of MN Cities information bulletin dated 3/1974 re Sources of Assistance to Charter Commissions.

League of MN Cities bulletin of Jan.'77 re Principles & PROBLEMS OF Charter Making.

Charter of City of Faribault.

Chater of City of Minnetonka.

Charter of City of Coon Rapids

Charter of City of St. Cloud

Letter from Dave Kennedy of 4/19/84 re Charter Changes.

SENT WITH AGENDA 4/24/84

League of MN Cities information bulletin on Home Rule Charter Commission Procedure, Revised Oct. 1974.

League of MN Cities information bulletin "A Model Charter for Minnesota Cities 1977 edition."

Notice of legislative meeting on 4/28/84.

COUNCIL AGENDA

April 24, 1984

Pursuant to due call and notice thereof, a work session by the Crystal City Council was held on April 24, 1984, at 7:00 P.M., at 4141 Douglas Drive, Crystal, Minnesota. The Secretary of the Council called the roll and the following were present:

Councilmembers	Staff
_____ Herbes	_____ Irving
_____ Rygg	_____ Kennedy
_____ Schaaf	_____ Olson
_____ Pieri	_____ Sherburne
_____ Meintsma	_____ Peterson
_____ Aaker	_____ Deno
_____ Smothers	_____ Ahmann

The Mayor led the Council and the audience in the Pledge of Allegiance to the Flag.

1. The City Council discussed possible changes in the City Charter.

Moved by Councilmember _____ and seconded by Councilmember _____ to adjourn the work session. Motion Carried.

Public Packet

April 19, 1984

Dear Councilmembers:

This is just a reminder of Tuesday's workshop.

Enclosed is the information you asked us to get for you.

I have also enclosed a copy of a letter I received from Dave Kennedy regarding the attorney switch-over. I have included that so that you know things are running smoothly and the transition will be accomplished by April 30--at least if it goes as scheduled now.

Have a nice holiday weekend!

J A C K

da
enc.

P.S. I just received Dave's comments and have included them.

Phone: 537-8421

City of Crystal

4141 DOUGLAS DRIVE NORTH
CRYSTAL, MINNESOTA 55422

COUNCILMEMBER - SECTION I
Thomas N. Aaker

March 25, 1984

to: Members of the Crystal City Council

From: Tom Aaker

Subject: City Charter

Over the past 8 years, and particularly during the past two years, I have been of the opinion that some changes are necessary in the Crystal City Charter. The makeup of the Council has always bothered me, and the fact the Pete Meintsma could not assume a seat on the Metropolitan Transit Commission was particularly botheresome. Our city charter, in effect, blocked Crystal's ability to have a strong voice on that Commission. Similarly, if someone were to be named to the MAC or any other areawide commission they would be required to turn it down. We are being denied, in effect, participation on these important councils by a charter which, although proper at the time of its inception, is obviously out of date in 1984.

These pages are not necessarily my opinion, however many of them are, but rather they are suggestions or "food for thought," if you will.

I think it's time the Crystal City Council address these charter inequities. I have discussed some of them with you on a one-to-one basis, now I share this memo which I hope will have the affect of opening up discussion on how the city should proceed on this very important matter.

Sincerely,

Tom Aaker

City Charter Changes

1. CHARTER AMENDMENT: It would be necessary for the City Attorney to provide the city council with the manners in which the city charter could be amended. The city charter refers this procedure to state statutes. However, it is my understanding the council can amend the charter on a unanimous vote, or take the recommendation of either a Charter Commission or of the City Council and have those recommendations placed on the city ballot. I think Dave Kennedy should prepare a memo to the council regarding the various procedures by which the charter could be amended.

2. Sec. 1.01 NAME AND BOUNDARIES. Although the name has been changed to the City of Crystal by state statutes, it might be well to change the charter at this time to reflect the new identity.

3. Sec. 2.01 FORM OF GOVERNMENT. This section defines the type of government in the City of Crystal. At present, we have the Council-Manager plan. Charter change would also allow a change in the type of government we now have in Crystal. There are several, and I put forth this rather informal list of some of the options we might have in this regard.

   [a] Council-Manager; The current system of government in Crystal.

   [b] Strong Mayor-Council; This is similar to the type of government in both Minneapolis and St. Paul. The almost full time nature of this type of government might well auger against its use in Crystal. However, a strong Mayor-Council form of government is also in use in other municipalities in Minnesota where a city administrator is hired rather than a city manager. This form of government removes the Mayor as a voting member of the Council, but generally gives him veto power.

   [c] Strong City Council; This can take several forms. Generally, however, the Mayor in this form of government is a voting member and Chairman of the City Council. The administration of the city under this type of government is to be determined by the Council. Generally, the Council in this type of government retains financial control with the power to appoint principal officers of the city. The Mayor, then, has no veto power. The Council, further, can determine the roles for the Mayor and Councilman. Duluth employs a similar system where the Mayor is full time and the Council, I believe, is part time. This type of government allows for the most variation in work assignements. Some of those assignments will be covered as suggestions or "food for thought," when we discuss the makeup of the City Council. I personally favor this kind of charter change because it seems to me it would allow for change in the future without having difficult changes in the charter.

   [d] Commission Form of Government; This type of government has been largely discarded in most municipalities in the country. St. Paul I believe, was the last Commission form of government in

the Mayor in what amounts to "special elections" where there there are no other choices but the municipal elections. The turnouts for those elections have been abysmal, and certainly not representative of the electorate of those districts. This I also regard as a priority change. I'm sure there was some justification for three year terms, but frankly I can't imagine what it was. I have long been critical of school board elections for the same reason. An "elite" voter interested in only single elections determines who serves on the City Council. I somehow believe these elections are more important than that. The alternative, of course, would be two year terms, but I feel those are silly, both on a state and municipal basis. After serving eight years on the council I feel the experience gained by councilmembers during their term in office is vital to the constituents. Changing horses every two years could wind up in a lot of inexperienced councilmembers voting on issues that take not only maturity, but some background.

Sec. 2.04. RESIDENT COUNCILMEN: This is another area I feel is of primary importance in considering charter change. I'll be darned if I still know why I am a sectional councilmember, as opposed to Ade or Ron being Ward Councilmembers. Our jobs are identical, I just have to run in twice as big an area. It seems to me we could move in a couple of different directions.

[a] We could adopt the Statutory Cities formula of four Councilmembers. We could, but I wouldn't suggest it. The diversity of opinion six Councilmembers and a Mayor provide insures the public that absolute cliques do not form. Certainly, you could carry this to a ridiculous extreme. If six are good, aren't twelve better? No. There are budgetary restraints, of course, and a number of other arguments against such an expanded Council. Seven is a nice, comfortable number and I would suggest we not fool with that.

[b] If that's the case, what do we do. Well, we could split the city into six equal wards. It would reduce the cost and area for campaigning, would give each citizen an easier and more identifiable Councilmember and might be the way to go. However, there might be other options.

[c] How about retaining the Council in its present manner and making the two sectional councilmen more responsible for the way city government operates. If the Mayor were to assume more duties, and I think he should, how about each of the two sectional councilmembers heading, as an assigned task. For example, what if the Council decided to appoint one of the sectional councilmembers as Chairman of the Planning Commission and the other one as Chairman of the HRA. I think that might give the Council a better handle on what those two vital Commissions are doing. It might also have avoided some of the problems we've recently had. This is not intended as criticism of either Chairman. it is just that we have to identify some areas of responsibility for those two sectional councilmembers if we are to keep them. Another option might be to name the two sectional Councilmembers Vice Mayors. That is done in a number of communities, although for the life of me, I don't know what a Vice Mayor does.

not really responsible to either the council or the voters. We have a great city Manager in Jack, and my confidence in him is unyielding. But Jack won't be City Manager forever and the abuses that could exist under this section could lead to problems that should only be solved at the ballot box. Other than a change in the form of government, or the insistence of future city councils on a contract with any new manager, the charter appears moot on redress of Council grievances, and therefore the citizen's grievances, of a Manager's activities in hiring and employment practices. I would much rather see some kind of mandated review of employee activities through a council committee or some other kind of review of managerial practices which is not contained in our present charter. I share the concern of the framers of the charter that the city council ought not be influencing these practices on a daily basis, but the accountability provided in our charter is sadly lacking. I think a shirtsleeves session on this provision is really necessary.

Chap. 3 None of us really favors it, but I suspect the Open Meeting law ought to reflected in our charter since it is state law. When I say, none of us really favors it, I don't mean the intention, but rather the interpretations that have been handed down since it became law.

Chap. 5. I have some problems with initiative and referendum, and perhaps that could be debated as well when we are considering charter change. I firmly believe people are elected to office to utilize their own best judgement, and the Council has been defeated twice on this provision in the past decade. Study of an issue means nothing if the citizens have the right to rule by reaction. That, more often than not, is what initiative and referendum turns out to be. It is a large argument, and although I favor maximum citizen intervention in the lawmaking procedure, I think this is a poor way to attain that intervention.

Sec. 6.01. <u>THE CITY MANAGER.</u> The charter, as it is written, prohibits the city council from hiring a manager with a contract. It says the City Manager "shall be appointed for an indefinite period," and leaves the city council and the citizens without recourse unless the City Manager commits some heinous crime. I do not like this provision. I want to reiterate, I think I would vote Jack City Manager for life, but this charter has to reflect the reality that Jack won't be City Manager forever. The City Council has to remain the voice of the citizens, and once that voice has been stilled by this charter provision, there is little or no recourse for the Council or citizens when a City Manager operates in a manner contrary to their wishes. If the Council or Charter Commission deems it necessary to change the form of government, of course, this concern would be erased.

Sec. 6.04. <u>SUBORDINATE OFFICERS.</u> City officials such as the Treasurer, City Clerk, Police Chief, Park Superintendent and so forth are only responsible to the manager under this section. I think they should only be appointed with the consent of the Council and that their activities should be reviewed on an annual basis

CITIES, METROPOLITAN AREAS

Organization

CHAPTER 410

CLASSIFICATION; CHARTERS

410.01 Cities, classes.
410.015 Definitions relating to cities.
410.03 Existing charters preserved.
410.04 Home rule charters; patrol limits.
410.05 Charter commission.
410.06 Compensation; expenses.
410.07 Determination of desirability; framing charter.
410.09 Regulation of franchises.
410.10 Submission of charter.
410.11 Adoption; notice, effective date.
410.12 Amendments.
410.121 Sale of intoxicating liquor or wine; favorable vote.
410.14 Alternative proposals.
410.15 Succession; subsisting rights.
410.16 Forms of government incorporated in charter.
410.18 Distribution of administrative powers.
410.19 Powers of mayor and council.
410.20 Recall and removal of officers; ordinances.
410.21 Application of general election laws.
410.24 New or revised charter.
410.30 Abandonment of home rule charters by cities; assumption of statutory city status.

NOTE: For special laws relating to specific cities, see Table 1, Vol. 4.

410.01 CITIES, CLASSES.

Cities are hereby divided, for legislative purposes, into classes as follows:

First class -- Those having more than 100,000 inhabitants provided that once a city is defined to be of the first class, it shall not be reclassified unless its population decreases by 25 percent from the census figures which last qualified the city for inclusion in the class;

Second class -- Those having more than 20,000 and not more than 100,000 inhabitants:

Third class -- Those having more than 10,000 and not more than 20,000 inhabitants, and

Fourth class -- Those having not more than 10,000 inhabitants.

Changes in classification resulting from any future national census shall take effect upon the filing of certified copies of the census in the office of the secretary of state as provided in section 600.18. Meanwhile the council or other governing body shall take measures for the election of proper officials and for dividing the city into wards, if necessary, and otherwise prepare for the coming change.

History: *RL s 746; 1951 c 348 s 1; 1959 c 510 s 1; 1978 c 489 s 1 (1265)*

410.015 DEFINITIONS RELATING TO CITIES.

The term "statutory city" means any city which has not adopted a home rule charter pursuant to the constitution and laws; the words "home rule charter city" mean any city which has adopted such a charter. In any law adopted after July 1, 1976, the word "city" when used without further description extending the application of the term to home rule charter cities means statutory cities only.

History: *1976 c 44 s 19; 1976 c 155 s 3*

410.02 [Repealed, 1949 c 114 s 1]

410.03 EXISTING CHARTERS PRESERVED.

Until otherwise provided in accordance with this chapter, all cities existing at the time of the taking effect of the Revised Laws 1905 shall continue to be governed by the laws then applicable thereto.

History: *RL s 747 (1267)*

410.04 HOME RULE CHARTERS: PATROL LIMITS.

Any city in the state may frame a city charter for its own government in the manner hereinafter prescribed; provided, that in such cities having patrol limits established by charter, such limits shall not be altered unless the charter proposing such alteration be adopted by a three-fourths majority.

History: *RL s 748; 1907 c 375 s 1; 1973 c 123 art 5 s 7 (1268)*

410.05 CHARTER COMMISSION.

Subdivision 1. **Appointment.** When the district court of the judicial district in which a city is situated, deems it for the best interest of the city so to do, the court, acting through its chief judge, may appoint a charter commission to frame and amend a charter. Upon presentation of a petition requesting such action, signed by at least ten percent of the number of voters of the city, as shown by the returns of the last regular city election, or upon resolution of the governing body of the city requesting such action, the court shall appoint a charter commission. The commission shall be composed of not less than seven nor more than 15 members, each of whom shall be a qualified voter of the city. The size of the commission shall be determined within the above limits by the court, except that where the commission is appointed pursuant to a petition of the voters or resolution of the governing body of the city, the size of the commission shall be as specified in such petition or resolution. Any city may by charter provision fix the size of the charter commission at a figure which shall not be less than seven nor more than 15 members, and such charter provision shall prevail over any inconsistent provisions of this subdivision. No person shall be disqualified from serving on a charter commission by reason of his holding any other elective or appointive office other than judicial.

Subd. 2. **Commission members: terms, vacancies.** Charter commission members shall hold office for the term of four years, and until their successors are appointed and qualify, except that of members initially appointed after July 1, 1967, eight shall be appointed for two year terms and seven for four year terms. No person may be appointed to more than two successive terms as a commission member. Vacancies in the commission shall be filled by appointment of the chief judge for the unexpired terms. Upon the expiration of each term, the chief judge shall appoint new commission members. If the chief judge fails to appoint new commission members within 30 days then thereafter the governing body of the city shall, appoint new commission members, unless within the 30 day period the chief judge indicates in writing to the governing body his intention to appoint new members, in which case he shall have an additional 60 days within which to make the appointment. Appointments shall be made by order filed with the clerk of the district court. An appointee who neglects to file with the clerk within 30 days a written acceptance and oath of office shall be deemed to have declined the appointment and his place shall be filled as though he had resigned. The charter commission, within 30 days after the initial appointment of the commission, shall make rules, including quorum requirements, with reference to its operations and procedures. The commission shall submit to the chief judge of the district court, on or before December 31 of each year, an annual report outlining its activities and accomplishments for the preceding calendar year. The commission shall forward a copy of the report to the clerk of the city. Any member may be removed at any time from office, by written order of the district court, the reason for such removal being stated in the order. When any member has failed to perform the duties of his office and has failed to attend four consecutive meetings without being excused by the commission, the secretary of the charter commission shall file a certificate with the court setting forth those facts and the district court shall thereupon make its order of removal and the chief judge shall fill the vacancy created thereby.

Subd. 3. **Commission appointments; nominees.** A city council, a charter commission, or the petitioners requesting the appointment of a charter commission may submit to the court the names of eligible nominees which the district court may consider in making appointments to the charter commission.

Subd. 4. **Commission meetings.** The charter commission shall meet at least once during each calendar year, and upon presentation of a petition signed by at least ten percent of the number of voters of the municipality, as shown by the returns of the last annual municipal election, or upon resolution approved by a majority of the governing body of the city requesting the commission to convene, the commission shall meet to consider the proposals set forth in such petition or resolution.

History: *RL s 749; 1909 c 423; 1913 c 535 s 1; 1949 c 210 s 1; 1959 c 305 s 5; 1961 c 608 s 1; Ex1967 c 33 s 1; 1971 c 208 s 1-3; 1973 c 123 art 5 s 7; 1976 c 44 s 20; 1979 c 330 s 3 (1269)*

410.06 COMPENSATION; EXPENSES.

The members of such commission shall receive no compensation, but the commission may employ an attorney and other personnel to assist in framing such charter, and any amendment or revision thereof, and the reasonable compensation and the cost of printing such charter, or any amendment or revision thereof, when so directed by the commission, shall be paid by such city. The amount of reasonable and necessary charter commission expenses that shall be so paid by the city shall not exceed in any one year the sum of $10,000 for a first class city and $1,500 for any other city; but the council may authorize such additional charter commission expenses as it deems necessary. Other statutory and charter provisions requiring budgeting of, or limiting, expenditures do not apply to charter commission expenses. The council may levy a tax in excess of statutory or charter tax limitations to pay such expenses.

History: *RL s 750; 1907 c 216 s 1; 1947 c 406 s 1; 1959 c 305 s 5; 1961 c 608 s 2; 1973 c 123 art 5 s 7 (1270)*

410.07 DETERMINATION OF DESIRABILITY; FRAMING CHARTER.

As soon as practicable after such appointment, the charter commission shall deliver to the clerk of the city either (1) its report determining that a home rule charter for the city is not necessary or desirable, or (2) the draft of a proposed charter, in either case signed by at least a majority of its members. Such draft shall fix the corporate name and the boundaries of the proposed city, and provide for a mayor, and for a council to be elected by the people. Subject to the limitations in this chapter provided, it may provide for any scheme of municipal government not inconsistent with the constitution, and may provide for the establishment and administration of all departments of a city government, and for the regulation of all local municipal functions, as fully as the legislature might have done before home rule charters for cities were authorized by constitutional amendment in 1896. It may omit provisions in reference to any department contained in special or general laws then operative in the city, and provide that such special or general laws, or such parts thereof as are specified, shall continue and be in force therein, including any such special or general law authorizing the city to incur indebtedness or issue its bonds for municipal purposes. It may prescribe methods of procedure in respect to the operation of the government thereby created, and the duties thereunder of all courts and officers of the district and county in which the city is situated, which duties such courts and officers shall perform. By such charter the city may be authorized to acquire, by gift, devise,

purchase, or condemnation, any property, within or without its boundaries, needed for the full discharge of any public function which it is permitted to exercise.

History: *RL s 751; 1921 c 120; 1921 c 343; 1959 c 305 s 1; 1961 c 608 s 3; 1971 c 71 s 4; 1973 c 123 art 5 s 7 (1271)*

410.08 [Repealed. 1953 c 278 s 1]

410.09 REGULATION OF FRANCHISES.

Such proposed charter may provide for regulating and controlling the exercise of privileges and franchises in or upon the streets and other public places of the city, whether granted by the city, by the legislature, or by any other authority; but no perpetual franchise or privilege shall ever be created, nor shall any exclusive franchise or privilege be granted, unless the proposed grant be first submitted to the voters of the city, and be approved by a majority of those voting thereon, nor in such case for a period of more than 25 years.

History: *RL s 753; 1973 c 123 art 5 s 7 (1283)*

410.10 SUBMISSION OF CHARTER.

Subdivision 1. Upon delivery of such draft, the council or other governing body of the city shall cause the proposed charter to be submitted at the next general election thereafter occurring in the city within six months after the delivery of such draft, and if there is no general city election occurring in the city within six months after the delivery of such draft, then the council or other governing body of the city shall cause the proposed charter to be submitted at a special election to be held within 90 days after the delivery of such draft. The council or other governing body may call a special election for that purpose only at any time. If the election is held at the same time with the general election, the voting places and election officers shall be the same for both elections. At any time before the council has fixed the date of the election upon the proposed charter, the charter commission may recall it for further action; and the council may authorize recall of the charter by the commission at any later date prior to the first publication of the proposed charter.

Subd. 2. The notice of election shall contain the complete charter and shall be published once a week for two successive weeks in the official newspaper of the city, or if there be none, in a legal newspaper of general circulation in the city. In every city of the first class, the publication shall be made in a newspaper having an aggregate regular paid circulation of at least 25,000 copies. The governing body may in addition thereto publish the notice in any other legal newspaper published in the city.

Subd. 3. The ballot shall bear the printed words, "Shall the proposed new charter be adopted? Yes.... No....," with a square after each of the last two words, in which the voter may place a cross to express his choice. If any part of such charter be submitted in the alternative, the ballot shall be so printed as to permit the voter to indicate his preference in any instance by inserting a cross in like manner.

Subd. 4. If any charter so submitted be rejected the charter commission may propose others from time to time until one is adopted.

History: *RL s 754; 1909 c 214 s 1; 1959 c 305 s 5; 1961 c 608 s 4; 1973 c 123 art 5 s 7 (1284)*

410.11 ADOPTION; NOTICE, EFFECTIVE DATE.

If 51 percent of the votes cast on the proposition are in favor of the proposed charter, it shall be considered adopted; and, if any provisions thereof are

submitted in the alternative, those ratified by a majority of the votes cast thereon shall prevail. If the charter is adopted, the city clerk shall file with the secretary of state, the county recorder of the county in which the city lies, and in his own office a copy of the charter accompanied by his certificate attesting to the accuracy of the copy and giving the date of the election and the vote by which the charter was adopted. The charter shall take effect 30 days after the election, or at such other time as is fixed in the charter, and shall then supersede all other charter provisions relating to such city. Thereupon the courts shall take judicial notice of the new charter and, upon the election of officers thereunder, the officials of the former corporation shall deliver to them the records, money and other public property in their control.

History: *RL s 755; 1959 c 305 s 2; 1969 c 1027 s 1; 1973 c 123 art 5 s 7; 1976 c 181 s 2 (1285)*

410.12 AMENDMENTS.

Subdivision 1. Proposals. The charter commission may propose amendments to such charter and shall do so upon the petition of voters equal in number to five percent of the total votes cast at the last previous state general election in the city. If the city has a system of permanent registration of voters, only registered voters are eligible to sign the petition. All petitions circulated with respect to a charter amendment shall be uniform in character and shall have attached thereto the text of the proposed amendment in full; except that in the case of a proposed amendment containing more than 1,000 words, a true and correct copy of the same may be filed with the city clerk, and the petition shall then contain a summary of not less than 50 nor more than 300 words setting forth in substance the nature of the proposed amendment. Such summary shall contain a statement of the objects and purposes of the amendment proposed and an outline of any proposed new scheme or frame work of government and shall be sufficient to inform the signers of the petition as to what change in government is sought to be accomplished by the amendment. The summary, together with a copy of the proposed amendment, shall first be submitted to the charter commission for its approval as to form and substance. The commission shall within ten days after such submission to it, return the same to the proposers of the amendment with such modifications in statement as it may deem necessary in order that the summary may fairly comply with the requirements above set forth.

Subd. 1a. Alternative methods of charter amendment. A home rule charter may be amended only by following one of the alternative methods of amendment provided in subdivisions 1 to 7.

Subd. 2. Petitions. The signatures to such petition need not all be appended to one paper, but to each separate petition there shall be attached an affidavit of the circulator thereof as provided by this section. Each signer of any such petition paper shall sign his name in ink or indelible pencil and shall indicate after his name his place of residence by street and number, or other description sufficient to identify the place. There shall appear on each petition the names and addresses of five electors of the city, and on each paper the names and addresses of the same five electors, who, as a committee of the petitioners, shall be regarded as responsible for the circulation and filing of the petition. The affidavit attached to each petition shall be as follows:

State of .....)
) ss.
County of .....)

..... being duly sworn, deposes and says that he, and he only, personally circulated the foregoing paper, that all the signatures appended thereto were made in his presence, and that he believes them to be the genuine signatures of the persons whose names they purport to be.

Signed .....
(Signature of Circul
Subscribed and swo
this ..... day of .....
Notary Public (or o
authorized to admi

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ance with existing law.

Subd. 3. May be
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petition shall not prej

Subd. 4. Election
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Subd. 5. Amendm
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may extend the time f
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shall promptly notify
charter commission's
manner as provided in
the substitute amendm
shall become effective
sion 4. If so approved
Nothing in this subd
charter amendments i

Signed .....
(Signature of Circulator)
Subscribed and sworn to before me
this ..... day of ..... 19 ....
Notary Public (or other officer)
authorized to administer oaths

The foregoing affidavit shall be strictly construed and any affiant convicted of swearing falsely as regards any particular thereof shall be punishable in accordance with existing law.

Subd. 3. **May be assembled as one petition.** All petition papers for a proposed amendment shall be assembled and filed with the charter commission as one instrument. Within ten days after such petition is transmitted to the city council, the city clerk shall determine whether each paper of the petition is properly attested and whether the petition is signed by a sufficient number of voters. The city clerk shall declare any petition paper entirely invalid which is not attested by the circulator thereof as required in this section. Upon completing his examination of the petition, the city clerk shall certify the result of his examination to the council. If he shall certify that the petition is insufficient he shall set forth in his certificate the particulars in which it is defective and shall at once notify the committee of the petitioners of his findings. A petition may be amended at any time within ten days after the making of a certificate of insufficiency by the city clerk, by filing a supplementary petition upon additional papers signed and filed as provided in case of an original petition. The city clerk shall within five days after such amendment is filed, make examination of the amended petition, and if his certificate shall show the petition still to be insufficient, he shall file it in his office and notify the committee of the petitioners of his findings and no further action shall be had on such insufficient petition. The finding of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

Subd. 4. **Election.** Amendments shall be submitted to the qualified voters at a general or special election and published as in the case of the original charter. The form of the ballot shall be fixed by the governing body. The statement of the question on the ballot shall be sufficient to identify the amendment clearly and to distinguish the question from every other question on the ballot at the same time. If 51 percent of the votes cast on any amendment are in favor of its adoption, copies of the amendment and certificates shall be filed, as in the case of the original charter and the amendment shall take effect in 30 days from the date of the election or at such other time as is fixed in the amendment.

Subd. 5. **Amendments proposed by council.** The council of any city having a home rule charter may propose charter amendments to the voters by ordinance. Any ordinance proposing such an amendment shall be submitted to the charter commission. Within 60 days thereafter, the charter commission shall review the proposed amendment but before the expiration of such period the commission may extend the time for review for an additional 90 days by filing with the city clerk its resolution determining that an additional time for review is needed. After reviewing the proposed amendment, the charter commission shall approve or reject the proposed amendment or suggest a substitute amendment. The commission shall promptly notify the council of the action taken. On notification of the charter commission's action, the council may submit to the people, in the same manner as provided in subdivision 4, the amendment originally proposed by it or the substitute amendment proposed by the charter commission. The amendment shall become effective only when approved by the voters as provided in subdivision 4. If so approved it shall be filed in the same manner as other amendments. Nothing in this subdivision precludes the charter commission from proposing charter amendments in the manner provided by subdivision 1.

Subd. 6. **Amendments, cities of the fourth class.** The council of a city of the fourth class having a home rule charter may propose charter amendments by ordinance without submission to the charter commission. Such ordinance, if enacted, shall be adopted by at least a four-fifths vote of all its members after a public hearing upon two weeks' published notice containing the text of the proposed amendment and shall be approved by the mayor and published as in the case of other ordinances. The council shall submit the proposed amendment to the people in the manner provided in subdivision 4, but not sooner than three months after the passage of the ordinance. The amendment becomes effective only when approved by the voters as provided in subdivision 4. If so approved, it shall be filed in the same manner as other amendments.

Subd. 7. **Amendment by ordinance.** Upon recommendation of the charter commission the city council may enact a charter amendment by ordinance. Such an ordinance, if enacted, shall be adopted by the council by an affirmative vote of all its members after a public hearing upon two weeks' published notice containing the text of the proposed amendment and shall be approved by the mayor and published as in the case of other ordinances. An ordinance amending a city charter shall not become effective until 90 days after passage and publication or at such later date as is fixed in the ordinance. Within 60 days after passage and publication of such an ordinance, a petition requesting a referendum on the ordinance may be filed with the city clerk. Such petition shall be signed by qualified voters equal in number to two percent of the total number of votes cast in the city at the last state general election or 2,000, whichever is less. If the city has a system of permanent registration of voters, only registered voters are eligible to sign the petition. If the requisite petition is filed within the prescribed period, the ordinance shall not become effective until it is approved by the voters as in the case of charter amendments submitted by the charter commission, the council, or by petition of the voters, except that the council may submit the ordinance at any general or special election held at least 60 days after submission of the petition, or it may reconsider its action in adopting the ordinance. As far as practicable the requirements of subdivisions 1 to 3 apply to petitions submitted under this section, to an ordinance amending a charter, and to the filing of such ordinance when approved by the voters.

History: *RL s 756; 1907 c 199 s 1; 1911 c 343 s 1; 1939 c 292 s 1; 1943 c 227 s 1; 1949 c 122 s 1; 1959 c 305 s 3,4; 1961 c 608 s 5,6; 1969 c 1027 s 3; 1973 c 503 s 1-4 (1286)*

410.121 SALE OF INTOXICATING LIQUOR OR WINE; FAVORABLE VOTE.

If the charter which is to be amended or replaced contains provisions which prohibit the sale of intoxicating liquor or wine in certain areas, such provisions shall not be amended or removed unless 55 percent of the votes cast on the proposition shall be in favor thereof.

History: *1969 c 1027 s 2*

410.13 [Repealed, 1959 c 305 s 6]

410.14 ALTERNATIVE PROPOSALS.

In submitting a charter or an amendment to the voters any alternative section or article may be presented and voted on separately, without prejudice to other articles or sections of the charter or any amendments thereto.

History: *RL s 757 (1288)*

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410.15 SUCCESSION; SUBSISTING RIGHTS.

The new city so organized shall be in all respects the legal successor of the former corporation, and no charter so adopted, nor any amendment thereof, shall prejudice any subsisting right, lien, or demand against the city superseded, or affect any pending action or proceeding to enforce the same. All rights, penalties, and forfeitures accrued or accruing to such former corporation, all property vested therein or held in trust therefor, all taxes and assessments levied in its behalf, and all its privileges and immunities not inconsistent with the new charter, shall pass to its successor. All ordinances, resolutions, and bylaws in force at the adoption of such new charter, and not in conflict with its provisions, shall continue in force until duly altered or repealed.

History: *RL s 758; 1973 c 123 art 5 s 7 (1289)*

410.16 FORMS OF GOVERNMENT INCORPORATED IN CHARTER.

The charter commission may incorporate as part of the proposed charter for any city the commission, mayor-council, council-manager form of city government or any other form not inconsistent with constitution or statute, and may provide that all elective city officers, including mayor and members of the council, shall be elected at large or otherwise.

History: *1909 c 170 s 1; 1959 c 305 s 5; 1961 c 608 s 7 (1290)*

410.17 [Repealed, 1973 c 503 s 6]

410.18 DISTRIBUTION OF ADMINISTRATIVE POWERS.

Such charter commission may also provide that the administrative powers, authority, and duties in any such city shall be distributed into and among departments and may provide that the council may determine the powers and duties to be performed by and assign them to the appropriate department and determine who shall be the head of each department and prescribe the powers and duties of all officers and employees thereof, and may assign particular officers or employees to perform duties in two or more departments, and make such other rules and regulations as may be necessary or proper for the efficient and economical conduct of the business of the city.

History: *1909 c 170 s 3; 1959 c 305 s 5 (1292)*

410.19 POWERS OF MAYOR AND COUNCIL.

The charter commission may incorporate in such charter provisions defining the powers and duties of the mayor and each member of the council, and may provide that each member of the council shall perform such administrative duties as may be designated in such charter.

History: *1909 c 170 s 4; 1959 c 305 s 5 (1293)*

410.20 RECALL AND REMOVAL OF OFFICERS; ORDINANCES.

Such commission may also provide for the recall of any elective municipal officer and for his removal by vote of the electors of such city, and may also provide for submitting ordinances to the council by petition of the electors of such city and for the repeal of ordinances in like manner; and may also provide that no ordinance passed by the council, except an emergency ordinance, shall take effect within a certain time after its passage, and that if, during such time, a petition be made by a certain percentage of the electors of the city protesting against the passage of such ordinance until the same be voted on at an election held for such purpose, and then such ordinance to take effect or not as determined by such vote.

History: *1909 c 170 s 5; 1959 c 305 s 5 (1294)*

410.21 APPLICATION OF GENERAL ELECTION LAWS.

The provisions of any charter of any such city adopted pursuant to this chapter shall be valid and shall control as to nominations, primary elections, and elections for municipal offices, notwithstanding that such charter provisions may be inconsistent with any general law relating thereto, and such general laws shall apply only in so far as consistent with such charter.

History: *1909 c 170 s 6 (1295)*

410.22 [Repealed, 1973 c 503 s 6]

410.23 [Repealed, 1959 c 305 s 6]

410.24 NEW OR REVISED CHARTER.

Any city having a home rule charter may submit and adopt a new or revised charter in the manner provided by law for the original adoption of such home rule charter.

History: *1909 c 236 s 2; 1961 c 608 s 8 (1298)*

410.25 [Repealed, 1959 c 305 s 6]

410.26 [Repealed, 1961 c 608 s 10]

410.27 [Repealed, 1973 c 503 s 6]

410.30 ABANDONMENT OF HOME RULE CHARTERS BY CITIES; ASSUMPTION OF STATUTORY CITY STATUS.

Any city of any class having a home rule charter may abandon such charter and become a statutory city. A proposal to abandon the charter shall be presented, adopted, and become effective in the same manner as a charter amendment, and all statutory provisions relating to home rule charter amendments shall apply to a proposal to abandon a charter. Such proposal shall include a schedule containing all necessary provisions for transition to a statutory city form of government, including such provisions with reference to terms of incumbent officers as are deemed appropriate to place the municipality on the regular statutory city election schedule as soon as practicable. The proposal may provide in effect for continuance of specified provisions of the home rule charter for an interim period and shall specify the standard plan or the optional plan under which the municipality is to operate as a statutory city.

History: *1965 c 561 s 1; 1973 c 123 art 5 s 7; 1973 c 503 s 5*

410.31 [Repealed, 1973 c 503 s 6]

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league of minnesota cities
183 university avenue east, st. paul, mn 55101

information

for municipal officials

100a.8
Revised: March, 1974

SOURCES OF ASSISTANCE TO CHARTER COMMISSIONS

Contents

1. The furnishing of charter information.
2. Consultation with charter commissions.
3. Review of charter draft.
4. Library loan of Minnesota and other home rule charters.
5. National Municipal League.

SOURCES OF ASSISTANCE TO CHARTER COMMISSIONS

1. The furnishing of charter information. The following memoranda on charters and forms of city government are available at the League offices. One copy of each will be furnished to a charter commission gratis with additional copies available at nominal cost. Other memoranda or materials on specific problems are also available.

Advantages of a Home Rule Charter	100A.1
A Model Charter for Minnesota Cities	100A.5
Principles and Problems of Charter Making	100A.7
Sources of Assistance to Charter Commissions (this memo)	100A.8
Home Rule Charter Commission: Procedure	100C.1
Charter and Election Data for Minnesota Municipalities	390e.1
The Council-Manager and Strong Mayor-Council Plans of Government in Minnesota	390e.4
Forms of Government of Home Rule Charter Cites in Minnesota	390e.5
Four General Types of Municipal Government Structure	390e.7
Pros and Cons of the Council-Manager Plan	390e.8

2. Consultation with charter commissions. Assistance of members of the League staff is available at the League office or in the field. If a charter commission desires to arrange a conference in its city, a member of the League staff will be glad to attend and explain the various forms of government, and to discuss general problems of charter drafting and particular problems faced by the commission. Before such a visit will be arranged, the council should join in the invitation. No charge will be made for time spent on such a visit but reimbursement is expected for actual travel expenses.

3. Review of charter draft. The League attorney will, without charge, go over a final completed draft of a charter and prepare his comments and suggestions in typewritten form for the benefit of the commission. Similar supplementary memoranda on subsequent drafts or on any portion of such drafts may be secured.

4. Library loan of Minnesota and other home rule charters. The League library collection includes all the existing home rule charters in Minnesota. Most of these are available to charter commissions on library loan. The League collection includes most of the recent charters in sufficient numbers of copies so that borrowed copies may be kept until the commission's work is finished.

5. National Municipal League. The National Municipal League, Pforzheimer Building, 47 East 68 Street, New York, NY 10021, has prepared a model charter for cities more elaborate than the Minnesota model drafted by Professor Anderson. This charter, too, is based on the council-manager plan with a number of alternative provisions. Also available from the National Municipal League is a pamphlet "A Guide for Charter Commissions" (48 pages, 1968) which has had very favorable reception by new commissions. Upon request the NML will send one free sample copy of the charter and the guide to the chairman or secretary of each charter commission. Additional copies of the charter may be obtained for $2.50 and of the guide for $1.50 each. Each request or order should include $.50 for postage and handling.

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LeFevere
Lefler
Kennedy
O'Brien &
Drawz

A Professional
Association

2000 First Bank Place West
Minneapolis
Minnesota 55402

Telephone 612-333-0543

Clayton L. LeFevere
Herbert P. Lefler
J. Dennis O'Brien
John E. Drawz
David J. Kennedy
John B. Dean
Glenn E. Purdue
Richard J. Schieffer
Charles L. LeFevere
Herbert P. Lefler III
Jeffrey J. Strand
Mary J. Bjorklund
John G. Kressel
Dayle Nolan
Cindy L. Lavorato
Michael A. Nash
Brian F. Rice
Lorraine S. Clugg
James J. Thomson, Jr.
James M. Strommen
Mary C. Nielsen

April 19, 1984

Mr. John T. Irving
City Manager
City of Crystal
4141 Douglas Drive North
Crystal, Minnesota 55422

RE: Charter Changes

Dear Jack,

The City Council has asked that I advise them in a general way about the procedure for City Charter amendments. The Council will be discussing the matter at a special meeting on Tuesday, April 24.

As I mentioned to the Council, I think the best information on the subject is contained in the League of Minnesota Cities publication: "Home Rule Charter Commission Procedure," and "A Model Charter for Minnesota Cities," and I understand you have supplied copies to the Council. I should add that the LMC has a wide variety of other materials dealing with various substantive charter matters, such as forms of municipal government, elections, finance, ward-at large systems and data on various forms of charter government in effect in Minnesota, together with extensive commentaries on most of the city charters adopted since 1948 (including, I suspect, comments on the present Crystal Charter). I'd like the Council to know, too, that I have had extensive experience in drafting and commenting on charters, as well as working with and interpreting actual city charter provisions of many cities and as a charter commission member in Bloomington.

I think most of the Council's preliminary questions will be answered by a review of the two publications they have. But there are a few basic points I'd like to set out before the meeting:

1. The basic law governing city charters is Minnesota Statutes, Chapter 410. It reads quite

well for a statute, and you may wish to make copies available to the Council.

2. There are a number of procedures set out in Chapter 410 for charter amendment, but all of them involve a charter commission, an independent body whose sole function is to prepare, initiate or review charter amendments (and original charters).

3. All procedures for amending a charter involve the charter commission in some capacity. (There is an exception for fourth class cities--below 10,000--not applicable to Crystal.)

4. All procedures for amending a charter involve the voters in some way, either directly or indirectly.

5. The only way a charter provision can be changed or made ineffective is by the procedure in Chapter 410 or by an act of the legislature.

6. A charter provision may not permit what a state law prohibits nor prohibit what a state law permits; nor can a city charter deal with a subject that has been pre-empted (either expressly by legislation or in the view of the courts) by the state.

7. A charter provision on a subject of purely municipal concern (a term that has been given meaning--more and more limited--by the courts over the past 90 years) has the same status as an act of the legislature. This idea underlies our concept of "house rule" in Minnesota.

I think what these general principles show is that a city charter is a document of fundamental law, not unlike state and federal constitutions or corporate articles, which may not be changed without adherence to substantial procedural safeguards which involve the citizens of the city in some degree.

I should mention another point. The appointment of a charter commission is somewhat clouded by the wording of Section 410.05. While original appointments are made by the chief judge of the district court (on voter petition or council resolution), vacancies may be filled by the city council if the court fails to act to fill the vacancy; and the charter commission members hold office

until their successors are appointed and qualify. Thus, technically, Crystal still has a charter commission, but I understand that it has not been active since the present charter was adopted. In my judgment, the problem would best be approached by the City's notifying the court that vacancies exist, and if the court declines to make the appointments within the 30 day period specified by the statute, the Council could proceed to do so. By the way, there is no guidance in the statute as to who should be appointed (other than that a member must be a qualified voter and may not be a judge). Normally, the court will appoint from a list of names submitted by the petitioners or the city council.

Our final point. A charter commission may initiate charter amendments on its own, and must do so on a proper petition of voters, without council review or approval. The Council must place the matter on the ballot if properly presented to it. The approval requirement in all cases where an amendment is voted on is 51 percent of those voting.

I'll be happy to elaborate on any of these points.

Very truly yours,

David J. Kennedy

DJK:jdn

league of minnesota cities
300 hanover building, 480 cedar st., saint paul, minn. 55101

information

for municipal officials

100a.7
Revised, January, 1977

PRINCIPLES AND PROBLEMS OF CHARTER MAKING

(A staff revision of Chapter V of Professor William Anderson's "City Charter Making in Minnesota," published in 1922 by Bureau for Research in Government of University of Minnesota - now out of print.)

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The Essentials of a Good Charter

97. **Simplicity and brevity.** A home rule charter in Minnesota is a legal document which recognizes an existing city as a municipal corporation and organizes and empowers the governmental authorities to administer its local affairs. It is in a sense the local constitution, and as such it affects directly the welfare of the thousands or tens of thousands, perhaps even hundreds of thousands of people, who come under its provisions. In a democratic country, where the people are supposed to manage their own affairs, it is essential that they be able to understand and to control their government and at the same time spend the greater part of their time in their private vocations. Therefore, the first essentials of a good municipal charter are simplicity, brevity, understandability. It should be written in clear, concise English. It should be brief enough to be read in a few hours time. The various provisions should be simple and plain, not capable of two or more interpretations.

One-time Mayor Mathews of Boston, who wrote a book on municipal charters, puts the truth in this way: "The more intricate and uncertain the provisions of the law, the greater the opportunities for a corrupt use of them; and the citizen who has not made a special study of these complications is at a great disadvantage as compared with the municipal politician who is ignorant perhaps of every other subject, but a master of this."[1] Yet despite the need of simplicity and brevity, some municipal charters in Minnesota in the home rule cities are longer and more complicated than the Constitution of the United States, and some of them are longer than the state constitution or the charter of the United Nations.

98. **Details should be omitted.** The federal constitution is short and flexible because it deals with nothing but the fundamentals. Older municipal charters are usually long because they contain a great many provisions which are not fundamental at all. We think we can foresee the needs of the city for years to come, and therefore we load the charter with details saying just what shall be done in each particular case. Then the conditions change and the charter provisions no longer fit. Most charter amendments are necessitated by just such details being inserted in the charter when the subject matter should be left to be regulated by ordinances. One city in this state adopted a home rule charter one year and adopted twenty-seven amendments to it the next year. Minneapolis adopted a long, complicated charter in November, 1920, and at the election in June, 1921, the voters were asked to pass upon six amendments to the charter proposed by the same charter commission, and even these were but a few of the many that were needed. Ordinances passed by the council can be easily changed, but controversial or major charter amendments generally can be adopted only by a vote of the people after a campaign of publicity. On the other hand, few amendments have been necessary in cities with more recent charters dealing only in fundamentals. Elections take much time and cost much money, especially in the larger cities. Frequently, proposed amendments are defeated. The lesson to be learned from this is, "Put only the fundamentals into the charter." Most Minnesota charters adopted since 1930 follow this principle. Almost all of these have been patterned after the model charter originally prepared by the original author of this monograph and revised and circulated by the League of Minnesota Cities.

99. **A broad, general grant of powers.** Another essential of a good charter is a comprehensive grant of powers to the city in general terms. Cities are organized to promote the welfare of the people, and where the people are in complete control of their affairs, there is no reason to fear to entrust the city government with a wide range of powers. If desired, the initiative, referendum, and, as restricted by the Minnesota Supreme Court, the recall (see section 117) may be adopted as additional checks to prevent the abuse of powers. When the legislature enacted charters for our cities before the turn of the century, it enumerated the powers of each city at great length in the charter. This was the traditional method of procedure and because it was so common to do this the courts developed the view that the legislature had provided for everything which it wished the city to do. Hence, the courts did not permit cities to exercise any powers unless they were expressly granted in the charters, or very clearly implied, or absolutely necessary to the city's operations as a municipal corporation. But now that cities are permitted to make and to change their own charters, it must be admitted that these rules need to be materially changed. The legislature could formerly have empowered cities to exercise all necessary municipal powers, but it simply never thought to do so since it was so easy to add new powers, whenever the need arose, by a mere act of legislation. It is not so easy to change a home rule charter, and it would, therefore, be better policy to grant the city all necessary powers to begin with, and thus avoid the necessity of frequent amendment. That the city has the power to do this when adopting a home rule charter is now settled; for a

[1] Mathews, *Municipal Charters*, p.5.

home rule charter may provide "for the regulation of all local functions, as fully as the legislature might have done" before home rule charters for cities were authorized.[2]

A number of Minnesota cities, beginning apparently with Duluth in 1912-13, have, therefore, left out of their charters the old-fashioned long and detailed enumerations of municipal powers which once constituted so much of the entire charter, and have substituted brief, broad, general statements which confer all municipal power upon the corporation. More than 60 Minnesota cities besides Duluth have done the same thing in one form or another. Cincinnati, in the home rule state of Ohio, goes to the extreme in this matter, for its home rule charter says simply: "The city shall have all powers of local self-government and home rule and all other powers possible for a city to have under the constitution of the state of Ohio."[3] Ortonville and Chatfield, among others, have included a similar provision in their charters.

100. A simple, responsive municipal organization. A good city charter should provide for a simple, workable, responsive organization of the city government. It should be simple, so that all citizens and officials may understand it. It should be designed not to check and retard the municipal business, but to promote it, to eliminate red tape, and to make the government more efficient by a reduction in the number of working parts. It should be responsive at all times to the forces of public opinion and to the control of the electorate. Especially in large cities, and as far as possible in small places, it should encourage and reward expertness and efficiency in the administration, and should discourage the untrained citizen who tries to get himself by political influence into places which he is not qualified to fill. Even small cities, while they may be forced by their slender resources to the use of volunteer citizen service, may well study their budgets to see whether it would not be a saving in the long run to hire a few or even only one full-time trained and disinterested municipal official for administrative work. A growing number of small cities have done this.

The Essentials of a Good Municipal Organization

101. The citizens are responsible for good government. American cities have experimented for so many years with different forms of municipal government that they are coming to learn, often by sad experiences, some of the fundamentals of good municipal organization. Slowly but surely there is growing up a public opinion which is united upon the code of principles soon to be explained. But it must be said that even an ideal form of government will never work well without the aid of an alert, intelligent, interested body of citizens. There is no such thing as an automatic government, any more than there is such a thing as a self-enforcing law. The chief stumbling block today as always on the highway to good government is the apathetic, the indifferent citizen. A good form of government is important just as good tools are important to the workman; in such a way, a good charter, instead of hampering the government and encouraging inefficiency, will give good officials supported by an intelligent electorate an opportunity to increase the efficiency of the government. Important as it is, however, a well-organized government is not a panacea for all municipal ills. Eternal vigilance is the price of liberty and of good government. In the long run people will get just as bad a government, or just as good a government, as they deserve.

102. Principles of popular control over government. (1) The elective officers of the city should be few and important. The voters will then be able to cast their ballots more intelligently, and since the elective offices will have more importance than formerly, perhaps abler men can be induced to run for them. In no case should the voters be asked to elect unimportant administrative officers. This may be called the "short ballot" principle.

(2) Election of the council at large will in the long run ensure the election of abler councilmen, will establish majority rule, and will put the interests of the city as a whole above those of any part. Something can be said for electing part but not all of the council by the ward system in large cities, but almost nothing can be said for a ward system in small places. If neither an at-large or a ward system seems satisfactory, proportional representation may be worthy of being considered.[4]

(3) The initiative, referendum, and recall, once considered radical and still often criticized on grounds of political theory, have been commonly included in recent charters and they sometimes

[2] M.S. 410.07. See also *Park v City of Duluth* (1916), 134 Minn. 296, 159 N.W. 627; State ex rel. *Zion v City of Duluth* (1916), 134 Minn. 355, 159 N.W. 792. The current home rule provisions are found in Article XI of the Constitution as revised in 1958.

[3] See sec. 1.02 of the model charter for a specimen provision.

[4] See sec. 116, below.

prove to be effective checks upon the city government. To be workable, these provisions must not require a large percentage of the voters to sign the petition. The voters should and will learn not to use these powers too often. Their value is in their existence as much as in their use.[5]

(4) Elections should be on non-partisan ballots, as provided by state law except in Minneapolis and St. Paul and should not be held at the same time as the state and national elections. Nominations in the larger cities should be made at non-partisan primaries, in smaller places by petition or mere filing. The plan of making the first election final for all who receive clear majorities at that time is a common-sense method and well worth considering.

103. **Principles of legislative organization.** (1) There should be but a single body to legislate and to determine policies for the city, and it should be elective by the voters. As John Stuart Mill has put it, "in each local circumscription there should be but one elected body for all local business, not different bodies for different parts of it."[6] Moreover, it confuses matters, and scatters responsibility entirely too much, to have a number of boards exercising legislative and financial power alongside of the council. "Put all your eggs into one basket,—and then watch that basket."

(2) The single legislative body (council) should be fairly small, probably not over fifteen even for the largest cities in the state, and from that on down to five or seven members for small places. Small bodies do not need a large number of committees to diffuse both power and responsibility. Small councils are also more practical and business-like, less given to long speeches, and more speedy if less formal in procedure. A few of the ablest men in the city can do better work than a large number of men of small capacity.

(3) Members of the council should hold office for definite and fairly long terms. Four years is not too long a term, and every good councilman should be rewarded by at least one re-election. Experience is an invaluable asset in all public business. Freedom from politics is also important; a councilor who has to run for re-election every year or two has less time for his public duties. If the voters may recall their officers, there is little danger either in long official terms or in vesting the members with great power.

While some persons favor an election plan under which all councilmen may be replaced at once if the voters are so disposed, it seems more desirable to provide a system of overlapping terms to assure having some experienced councilmen at all times. With four-year terms, this plan also avoids too long an interval between city elections.

(4) This single small council should have complete control over the entire government. It should be held responsible for everything. It should enact all local ordinances. It should control the administration, but should not itself attempt to administer the city's affairs. "There is a radical distinction between controlling the business of government and actually doing it," says John Stuart Mill. "The business of the elective body is not to do the work, but to see that it is properly done, and that nothing necessary is left undone."[7] This the council can best do through the power to appoint and dismiss a single chief administrator or several chief officials, and through annual budgets prepared and proposed by the officials but passed by the council itself.

104. **Principles of administrative organization.** (1) Responsibility for administration should be centralized, if possible, and as much as possible, in one person. Efficiency is not obtainable where administrative work is divided up among a number of equal and independent department heads.

(2) The chief administrative officer should be appointed by, and be under the control of, the council, and his appointment should be based solely upon his ability and fitness. The alternative scheme of having him (in this case the mayor) elected by the voters is also worthy of consideration; but it will not always be sure to select a trained, able administrator, though this may sometimes result.

(3) Politics should be separated from administration as much as possible. Not until this is done, not until city officials who do administrative work are selected without regard to politics upon the basis solely of their training and ability, will city administration ever be fully satisfactory.

(4) The chief administrator should choose his principal subordinates solely on the basis of training and fitness, and should have power to remove them at will. Of course, an elective mayor, if he is the chief administrator, will almost always have to pay some political pledges in making his appoint-

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[5] See sec. 117.

[6] Mill, *Representative Government*, Ch. 15.

[7] Mill, *Representative Government*, Chs. 5, 15.

ments, and thus he will sacrifice good administration to politics. A chief administrator chosen without regard to political considerations will not need to do this.

(5) All administrative officers should have indefinite terms of office, but be subject to removal at any time by the appointing authority for reasons to be stated by him. A city engineer, for example, should not have a tenure of only a year or two, for as he grows better acquainted with the city his value to it increases, and also his work will be better if he does not have to seek reappointment at short intervals. The chief administrator himself should have an indefinite term, but be removable at any time by the council.

(6) Official salaries should be honorable and adequate, worthy of the work to be performed, but they should not be fixed in the charter.

The General Plan of the City Government

105. Weak mayor-council plan. The greater number of cities in Minnesota are governed under the plan which is first to be described.[8] It is unnecessary to name all the cities in the state which have this scheme of things but it may be well to note that Ada, Alexandria, Arlington, and Biwabik, among the smaller cities, have this plan of organization and that Minneapolis also has it to a certain extent. This plan prevailed in practically all the cities chartered by the legislature before 1892 and exists in all but a few of the statutory cities. Under this plan as embodied in home rule charters in Minnesota the mayor is little more than the nominal head of the city. He often has charge of the police department, he is usually given the veto power, in some cases he sits as a member of the council, and he is given certain ministerial powers. The council is the real governing body of the city. It makes all the ordinances, levies the taxes, passes the annual budget, appoints nearly all of the heads of departments, and actually conducts the administration of the city. In addition to the mayor and the council the people often elect a treasurer and sometimes a clerk. There may also be one or more boards as for example a board of health, a library board, a park board, and a board of water and light commissioners.

It is sometimes argued that placing only the police department under the mayor has the advantage of separating the police question from all others in the municipal campaign. The mayor is primarily a police officer and runs on a platform of strict law enforcement or "wide open town." The disadvantages of this plan clearly are that it keeps the police question always in politics, since the mayor has very little else upon which to base his candidacy. The city council, not having charge of the police, feels little responsibility for that department and very often fails to appropriate enough money for it. The voters are usually deluded into thinking that the office of mayor is a very important one and they permit most of their attention at the time of election to be distracted by the mayoralty campaign. As a matter of fact, when the mayor gets into office they find that he can do little for them. Among the different departments under the council there is little cooperation since in this plan the council does not appoint a single manager for municipal affairs but rather appoints a clerk, an engineer, a fire chief, a building inspector, a street commissioner, a board of health, and perhaps other separate and independent officers. Legislative and administrative functions are not separated. The council not only raises the money but spends it as well.

106. Strong mayor or federal plan. Among the larger cities in the country, the tendency in recent years has been towards what is called the strong mayor or federal plan of city government.[9] The plan is equally applicable to small cities. Thus we find that the cities of Cannon Falls, Duluth, Northfield, St. Cloud and St. Paul among others in this state have this plan which separates the legislative from the administrative powers of the city, and centralizes the administrative work in the mayor. This is, of course, similar to the plan of the federal government. Under this scheme of things the mayor is in reality the executive head of the city. The office of mayor becomes an important one and it is hoped that abler men will be attracted to it as they see the possibilities of public service in it. The mayor is empowered to appoint, and to direct the work of, all or practically all of the department heads. He is given the power to prepare and to submit to the council the annual budget. He also has the veto power. The council, on the other hand, is restricted to legislation. It may not interfere with the administration though it may control the administration to some extent through ordinances and through the passage of the annual budget.

[8] See the diagram of this plan in the League memorandum "Four General Types of Government Structure In Use In American Cities," 390e.7.

[9] See the diagram of this plan in League memorandum on "Four General Types of Government Structure In Use In American Cities," 390e.7.

Some of the advantages of this plan have already been stated. The mayor's office becomes what people expect it to be, an important one. Administration is centralized. Legislative and administrative functions are to some extent separated. As a matter of fact, however, this separation is not as complete as is usually said. The mayor retains his power to recommend and to veto legislation. Through his great power of control over administration and over the public business, he may practically dominate the legislative body. It is true also that if the council attracts any men of ability there are likely to be serious clashes between the mayor and the council. The public business may be obstructed while the council and the mayor are squabbling over their relative powers. In the long run, however, since the council does not control administration, and since the ordinance-making function is not a very important one, the council will not attract the ablest and best men in the city under this plan. The mayor's office has been made stronger really at the expense of the council. There is also another disadvantage and that is that problems of administration instead of general municipal policies will become the issues in the campaign. The mayor will run for re-election on the ground that he has given a good administration. Someone will run against him who charges that the administration has been poor. If this second party wins, as he is likely to do in more than half of the cases, he will feel it his duty to dismiss some or all of the department heads appointed by his recent opponent. A new set of city officials will then start to learn at the expense of the city, how to run their departments, and they will no sooner have begun to learn than they may be removed because a new person has been elected mayor. In other words the administration is kept in politics instead of being removed from politics, and in the long run political administration is inefficient administration. This tendency will not be so noticeable in small cities as in large, and it may be overcome by a long process of public education to the need of expert administration, but the danger is always there.

107. **The commission plan.** The commission plan of government really had its beginning in 1901 at Galveston, Texas.[10] About 1910 it was the most-talked-of form of city government in the country, and it achieved considerable popularity before its popularity waned and many cities abandoned the plan. There are now only 220 commission plan cities in the United States. It was used for many years in St. Paul and Duluth but now is found in Minnesota only in Faribault, Hutchinson, and Pipestone. No Minnesota city has adopted the plan since 1914.

The essential idea of the commission plan is that executive and legislative responsibilities are fused in a single body usually called the city commission. The commission plan is founded upon the short ballot idea. It eliminates the ward system entirely. The people elect three, five, or seven persons on a non-partisan ticket from the city at large. These men are the council, or commission of the city. As one body they enact the ordinances, levy the taxes, pass the annual budget, and determine all the policies of the city. As individuals they each take charge of one of the three or five or seven departments into which the city administration is divided. Sometimes, however, one member who is designated the mayor does not have control over any particular department but has a general power of supervision over all the others. There is thus no separation of powers in this scheme of government; the same group of men raise the money and spend it, and make all the ordinances for the city.

The advantages of the commission plan are as follows: (1) It greatly simplifies the work of the voter, for he is called upon to elect only the members of the council or commission. (2) Responsibility is concentrated somewhat better under this plan than under more complicated and older forms. There is a "higher visibility" for seeing all the working parts of the government. (3) There is some increase in administrative efficiency due to reducing the number of city departments to three, five or seven. (4) Election at large serves to bring somewhat better men into office than are obtained under the ward system of electing the council. But there are serious disadvantages to the plan, too. (1) Men elected because of their popularity or because of the policies for which they stand may prove entirely unfit to administer a great department. (2) As administrators their careers are short, which results in making the city departments a constant training school for city administrators. (3) The city's administration is not sufficiently centralized; there is still some division of responsibility. There is likely to be pulling and hauling between the departments for appropriations, and since three men can dominate a commission of five, one or two departments are very likely to be slighted in the making of appropriations. (4) In general, politics and administration are not separated but fused into one. The same men who make the policies administer the departments. The men who levy the taxes also spend the money. But when all the advantages and disadvantages have been stated, it is still safe to say that the commission form was a great improvement over the weak mayor-council governments it commonly replaced.

[10] See the diagram of this plan in the League memorandum "Four General Types of Government Structure in Use in American Cities," 390e.7.

108. The council-manager plan. The council-manager plan of city administration was given its start in the United States when in 1908 the city council of Staunton, Virginia, abolished administration by council committees and employed a "general manager" for its business. The plan was first embodied in a city charter by Sumter, South Carolina, in 1912, and in 1913 both Dayton and Springfield, Ohio, followed suit.[11] Since 1914, it has spread with even greater rapidity than did the commission plan at the time of its greatest popularity. Nationally, over 2,300 cities operate under the plan and it now predominates in the cities between 25,000 and 250,000. A quarter of Minnesota's home rule cities use the council-manager plan and it is in operation in more than a dozen statutory cities as well.

The foundation stones upon which the manager plan is built are the short ballot, the unification of powers, the concentration of responsibility, the separation of politics from administration, and the use of non-partisan trained experts in the administration. The voters are given the advantage of the short ballot, for they are called upon to elect only the city council. In this council all the powers of the city government are vested, so that it and it alone can be held responsible for the entire city government. Just as the council can be held responsible for the entire city government, so can it in turn hold its chief servant, the manager, responsible for the administration of affairs. The council is elected by political methods through popular election, but it is required to select its chief administrator without regard to political considerations, and being a political body the council is forbidden by the charter to meddle with details of administration, though it may remove the manager himself at any time. Thus the function of determining all policies and of controlling the administration is vested in the council exclusively, but the actual work of administration is done by men removed from politics and without any control over policies. As the manager is selected for his administrative ability, so he in turn is supposed to select all his assistants upon the basis of their fitness alone, and it is to his advantage to do so.

The mere description of this plan indicates the nature of the arguments commonly put forward in support of it. Almost everything that can be said in favor of either the federal plan or the commission plan can also be said in favor of this one. It centralizes responsibility and unifies the powers of government as much as or more than either of these two plans, and in addition it separates politics from administration.

The usual arguments against this plan are as follows:

First, that it is autocratic, that it vests too much power in one man. In fact, however, the manager is not given as much power in this plan as is the mayor in the federal plan, and besides, the manager is kept constantly under the control of the council which may dismiss him at any time. In fact the manager cannot be an autocrat, for he is only the chief servant of the council to do what it commands without any control over its policies.

Second, it is also said that the plan is undemocratic because it may give an important local position to an outsider, which seems to be a slur on local talent and a denial of the fitness of every man to fill any public position. This argument is based on the feeling that public office is a reward rather than a trust, and that local residents should be entitled to all local offices. In fact, the council may select a local resident as manager if it so desires, but when it does so it is running the risk of getting a man interested in local politics, thus defeating its own purpose of getting an impartial trained administrator. The local range of choice is narrowly limited and there may not be any local resident fully qualified by training and experience for the position of manager.

Third, it is said that a manager chosen from outside the city will not know local needs and conditions. This is true, but in fact he scarcely needs to. It is for the council to say what is to be done, to decide all questions of policy, and it is for the manager to know principles of municipal administration so as to carry out the council's wishes most effectively. He will soon come to know his city.

Fourth, it is alleged that there are no such expert and trained city administrators as the manager plan requires. This was once true but it is scarcely true any longer, and the statement conceals a larger truth. Through graduate training programs in universities supplemented by on-the-job training as administrative assistants in managers' offices and other posts providing managerial experience, there has been provided enough competent managerial

[11] See the diagram of this plan in the League memorandum "Four General Types of Government Structure in Use in American Cities." 390e.7. See also "The Pros and Cons of the Council-Manager Plan," 390e.8.

talent so that even the smallest cities with the council-manager plan should have no difficulty in getting qualified applicants when a vacancy in the position occurs. Actually, the city manager movement has called into public service a large number of persons of a class to which the older forms of city government never made the slightest appeal. The average person who wants to be a councilman or mayor under a council and mayor or a federal plan of city government, or a commissioner in a commission plan, has little or no training in administration, and on the other hand in every large city and in many small ones there are men who never will run for elective office who have both the ability and the training fitting them for city managership. Mayors and councilmen elected by the people are the ones best fitted to determine municipal policies, to enact local ordinances, and to order public works, but we need to call out the other type of ability to do the actual work of administration in the most workmanlike and businesslike way. The manager plan does this.

Fifth, it is also said that there is nothing to guarantee that the council will appoint a manager without regard to politics, nor to assure the people that the manager will not appoint politicians to office at the behest of the council. The first point here is absolutely true. The manager plan is not automatic. It is neither fool-proof nor politician-proof. If the people elect a council which is willing to sacrifice efficiency and the public good to purely political ends, there is nothing to protect the city against this sort of thing. The government will probably become just as bad as the voters deserve. A manager appointed without regard to politics, however, is not likely to fill the offices under him with incompetents. The manager has a reputation to make if he expects to succeed in his profession. He cannot afford to put unfit men into office, since it will endanger the success of his administration.

109. **Conclusions as to these forms.** During the two centuries since the Revolutionary War the people of the United States have made more experiments in the organization of city governments than any other people in the world. Our cities passed from a simple uniform plan of organization into a variety of complex schemes in which there were more elective officers, boards, and departments than could then be found in any other cities in the world. Always the thought was that these changes would give the voters more control. In fact there was too much machinery, too much complexity, too much loss of energy, in the operation of our city governments. Only the bosses and party managers knew how to operate them. When finally the people aroused themselves to see what was wrong, there began a return to simplicity in the forms of municipal government. The commission plan and the council-manager plan have found favor in hundreds of cities because they have made popular control over city government more effective. Indeed, speaking broadly, it may be said that the nineteenth century settled the principle that the people, acting as voters, must have full control over their city and other governments. It is the task of the twentieth century to make democracy efficient, — to find forms of government under which popular control will be a reality and through which the people can get expert, efficient service to the full value of every dollar expended. The council-manager plan is the latest, the simplest, and seems to be the most promising plan for combining democratic control of policies with expert administration.

Special Problems of Organization

110. **The school system: independent, or a branch of the city government?** This has become largely an academic question in Minnesota. Either under general laws or under special laws of long standing, school affairs are handled in special school districts under elective boards of education rather than being integrated in whole or in part into city government, as in some cities elsewhere in the country. The areas and boundaries of school districts do not usually correspond exactly with those of the city, but even in the few instances where the boundaries of city and school districts coincide, it has become universal practice to separate the schools from city government. At one time the education function in St. Paul was handled by a separate department under the city's commission plan charter, a plan sanctioned by the Minnesota Supreme Court,[12] but schools in that city are now handled by a special school district. In only a very few cases is there even a partial financial control by the cities over the schools.

111. **The problem of separate boards.** Almost every mayor and council city in Minnesota has certain boards and commissions. Armory boards, which handle state rather than municipal affairs, are provided for by statute and it is almost certainly outside of the power of cities to change them. Health boards are also provided for by general laws, but

[12] *State ex rel Smith v City of St Paul*, 128 Minn. 82 150 N.W. 389 (1914).

since local health is a municipal affair there seems little reason why the council in each city could not itself be and perform the duties of this board. The same is true with reference to library boards and park boards, which cities may, but are not required to, create. Indeed, so far as power to do so is concerned, there is little reason why the charter should not vest in the council all the powers of all the boards which have been named except the armory boards. The same may be said of boards of public works, water and light commissions, and all the other administrative bodies which our legislatures and our home rule cities have seen fit to set up in our cities. Instead of centralizing responsibility, such bodies almost always diffuse it. They do not generally draw more expert and able men into public service. Frequently, it is hard to get good attendance at their meetings, with the result that the work often devolves upon one or two members. They complicate the machinery of the government. They always detract from the importance of the city council. If their powers are purely administrative, their work could usually be better done by one man. If they have power to determine policies and to raise and spend money, conflicts with other city authorities are almost sure to result, and the city will develop unevenly along different lines. Libraries may lag, while parks forge ahead. Indeed, it is becoming generally accepted that separate boards are of little genuine utility in city administration. Temporary commissions for investigating certain problems, such as public markets, municipal ownership, and so on, and city planning commissions to prepare plans for the city's future growth and development are often of the greatest utility, as are certain quasi-judicial and legislative boards like zoning boards and civil service commissions. The city council should have power to create temporary commissions, but ordinarily their powers should end when they have presented a final report to the council. It is also appropriate to authorize or require advisory boards, even on a permanent basis.

112. **The problem of separate elective officers.** What has been said above about separate boards applies in part to the subject of this paragraph. Separate elective officers are not unusual in those Minnesota cities which have the council and mayor form. Some of these offices have been created for the purpose of having one to watch another. They have been made elective because the people have felt that in this way direct responsibility could be enforced. As a matter of fact it is doubtful whether direct election to such offices as treasurer, engineer, and so on, has ever justified itself. Popular election is not the best way to get men with training for administrative positions. The more elective officers there are, the longer is the ballot, and the more divided is responsibility for administration. In small cities the office of treasurer has little reason for existence. The county treasurer collects most of the taxes, the funds are deposited in banks, and the function of keeping the books and making out order-checks could easily be handled by the clerk or some other official. The offices of clerk and treasurer have been combined in a number of charter cities in recent years. In places which have small annual budgets and which need to practice rigid economy, the object should be to reduce the number of paid officers to a minimum by combining similar functions into one office.

113. **Differences between large and small cities.** When a charter commission comes to the point of drafting a charter for the city it should seriously consider the size of the city for which the government is designed. A large city needs a great deal of machinery not required in a small place. This fact is recognized in many of the general laws of the state. For example, while a city primary election system may be needed in a large city, it is not necessary in the smallest places. Large cities will need a considerable number of voting precincts. They may in some cases desire and need a larger city council and perhaps even feel the need of district representation in the council. Having more money to spend they are in a better position than the small cities to employ expert officials to head the different departments. Hence large cities may require a formal merit system for selecting officials. Large cities may need a few more departments of administration than small places. Thus we could go on enumerating one difference after another between the less populous communities of the state and the larger cities. However, while recognizing the differences in the needs of large and small cities, one should add that most of these differences can be reflected in ordinances adopted by the council and do not require differences in charter provisions.

Problems of Popular Control Over City Government

114. **Nominating methods: primaries and petitions.** In small cities, as has been said above, the problem of nominations is not so difficult as in large. The state law authorizes primaries (nonpartisan, except in Minneapolis and St. Paul) as a means of nomination to elective office in cities, but any charter may prohibit or provide for a primary: the city is not restricted to the statutory provisions. The primary system is reasonably satisfactory, it is understood by the people, and it might well be continued unless the charter commission finds argu-

ments for a different system, such as a two-election plan or proportional representation, more persuasive. Under the two-election plan the first is not a primary because any candidate who receives more than half the votes cast for a particular position is declared elected at that time. The plan of having two elections appears to have two merits. First, it should bring out more voters at the first election than usually attend a primary. Second, it may frequently save the city money in conducting the second election, and in rare cases may entirely obviate the necessity of a second election. For smaller cities the system of nomination by petition without holding a primary election may have merit in limiting candidates to those who have substantial support. In small cities a fairly high percentage of voters may be required to sign a nomination, but in no case over ten percent. In larger places the percentage requirement should be made smaller, say from three to five percent in cities of over 5,000 population. Substantial petition requirements are rare in Minnesota, however. What is needed in any city to assure that successful candidates have majority voter support will depend on local election experience; in many cities, especially small cities, the problem is in attracting enough candidates, not too many.

115. Preferential voting. When the question of elections is under discussion it is very common to have the system of preferential voting proposed or at least brought up for discussion. Preferential voting is a scheme by which a voter may designate not only a first but a second and a third choice, or even more, among the candidates for a particular office. The essential idea is to bring about true majority elections, where there are three or more candidates for an office. The various methods by which this is done need not be described here. It is sufficient to say that this system was used in the state elections in 1912 under a law of that year and immediately discarded by the next legislature. The city of Duluth tried the plan about the same time under its 1912 charter. The election of a municipal judge by this method was contested, the case going finally to the Supreme Court which decided that preferential voting is contrary to our state constitution and therefore unlawful in this state.[13] However desirable preferential voting may be, therefore, no city should attempt to provide for it until our constitution has been changed.

116. Proportional representation. Proportional representation in the council for all parties, groups, and factions in the city may have its appeal to charter commission members who are conscious of the weaknesses of the more traditional methods of electing councilmen. The "Hare system" of proportional representation, or something similar to it, has been very widely adopted in European countries as well as elsewhere throughout the world not only for municipal elections but also for the choice of members of the legislature or parliament. The central idea in this plan is to make the council or legislature a truly representative and deliberative body by giving to every political group representation according to its numbers. Thus if there were 1,000 voters in the community with ten councilmen to be chosen, as far as possible every 100 voters who could agree on a candidate unanimously should be allowed to elect him. Neither under the ward system nor through our present methods of election at large are groups given proportional representation. The dominant group in most cases gets more than it deserves, but sometimes a minority group can actually elect a majority of the city council. Thus the majority may be unduly free to work its will, or it may be entirely defeated. Under the Hare system of proportional representation it is justly claimed that parties and groups get what they deserve and no more

In order to carry out the plan of proportional representation at least four or five representatives or councilmen must be elected from a district, or in other words a city council or commission of five would have to be elected at large. The voter would then mark his ballot with the figure 1 after the candidate of his first choice, 2 after his second choice, and so on to as many choices as he cares to exercise. A system of counting and distribution of votes is then followed which results in the counting of every vote for some candidate of the voter's choice but no vote can be counted for more than one candidate. The counting process is not complicated, but it would take too long to explain it here. One difficulty in using this scheme in any city where it is not used generally for all elections is that the voter gets confused and marks crosses, as he is accustomed to do, instead of figures. This spoils his ballot. The number of spoiled ballots is sometimes very high. Furthermore, the counting of ballots is a long and cumbersome process and ordinary voting machines cannot be used for voting and tabulating. Another possible objection in Minnesota is that the scheme may be unconstitutional. Preferential voting was declared illegal both in Michigan and in Minnesota; and the Michigan court also held proportional representation invalid. At one time, however, New York City adopted proportional re-

[13] *Brown v. Smallwood*, 130 Minn. 492, 153 N.W. 953 (1915).

presentation and the highest court of New York upheld the constitutionality of that scheme.[14] While the attorney general of Minnesota once ruled that proportional representation was invalid in this state, the favorable opinion of one of the best-reputed courts in the country seems to increase the chances that proportional representation would be held valid in this state.

If a city would like to include proportional representation in its charter, but fears a decision of unconstitutionality, it can avoid the consequences by including alternative sections for a more conventional method of election, such an alternative to be operative only in the event of a court decision that the proportional representation system is invalid. Proportional representation does have decided merits; the fact is that under this plan every vote is counted on : and only once, and votes come nearer to having equal value under this scheme than under any other yet devised.[15] The system was used for a few years in Hopkins but was abandoned. It has not been a popular system with the voters and is now used very little in cities in this country.

117. The initiative, referendum, and recall. In another place we have summarized Minnesota home rule charter provisions for the initiative, referendum, and recall. It is not necessary here to go into the arguments for and against these instruments of popular control. If they are to be made effective the number of voters required to sign the petition in each case should be kept reasonably low—customarily higher, however, for recall than for the initiative and referendum. At the beginning this may have the result of encouraging the voters to use them too freely, but in the long run a democratic people learns self-control even while practicing complete control over its officers.

Although the recall, like the initiative and referendum, has been included in most recent charters in Minnesota, its usefulness has been seriously circumscribed by a decision of the Minnesota Supreme Court holding that recall was a removal from office and therefore a constitutional provision (Art. XIII, Sec. 2) is applicable which limits recall elections to those cases where there is malfeasance or misfeasance in office. So viewed, recall seems impractical since the council cannot be compelled to call a recall unless the grounds stated do constitute malfeasance or nonfeasance, usually not something which can be tested by the election process

Problems of Administration

118. The administrative provisions of the charter. Much consideration has been given in recent years by concerned citizens and scholars to such facets of public administration as efficiency, responsibility, responsiveness, and standards of conduct. Many graduate schools have been established to do research in public administration and public policy development and administration. With the rapid and continuing increase in the cost of government, we have come to see the necessity for getting a dollar's worth of real service for every dollar spent. This raises the questions of budget-making, of the civil service, of proper financial procedure, of adequate accounting and reporting, of methods of contracting and of doing work directly by city labor, of the internal organization of departments, and many other important matters. What provision should the charter make upon these subjects? Generally speaking these matters should not be dealt with at length in the charter but should be entrusted to the council for it to regulate by ordinance. Only the fundamental provisions needed to protect the city should be inserted in the charter, and these should be worked out with the greatest care. The knowledge of municipal administration is still developing and changing. Every year cities learn something new and find it wise to change their administrative procedure. It would be unfortunate to embody in a charter, which is hard to amend, a whole series of detailed administrative provisions which may soon be out of date and unworkable.

119. The administrative departments. For the larger cities of the state it may be feasible to designate in the charter the number, the names, and the principal functions of the chief departments of the

[14] *Johnson v. City of New York*, 274 N.Y. 411 (1937). This decision is perhaps of greater significance in Minnesota than the Michigan case since the constitutional language involved is exactly the same as that found in the Minnesota constitution.

[15] For further information upon this subject, see Hallett, *Proportional Representation: The Key to Democracy*, 1937, 177 pp.

city. For smaller cities - and many would say the larger ones as well - the wiser policy seems to be to leave this matter to the council, and this is particularly true in cities which adopt this council-manager plan. If the council itself cannot appoint the heads of departments, there is little danger that it will create too many departments and offices. Furthermore, in small cities the aim should be to combine functions as much as possible into a few important offices, but just what combinations can be most conveniently made will not be known until something has been learned about the qualifications of those who are to fill the positions. From time to time, with changes in the official personnel, it should be possible to transfer duties from one office to another and make new combinations. Cities which adopt a commission form of government are, of course, more rigidly bound, and for them it would seem to be wiser policy to name the departments in the charter and to designate in general language the functions of each.

120. The merit system. For the three largest cities there is no question as to the continuing need for charter provisions establishing and providing for the enforcement of the merit system. Throughout the country, however, there has been a trend toward making the city personnel agency a service arm of the executive rather than a watchdog to prevent evasions of the merit principle. This emphasis is at least as appropriate for small as for larger cities. In smaller cities of the state the number of full-time city employees is usually not large enough to require the elaborate machinery of the civil service commission and civil service rules. There should, however, be a just standardization of salaries and so far as possible there should be some sort of competitive test for the filling of each vacancy in the city's service. In small cities with the council-manager plan of government, the council might itself standardize positions and salaries. It is not necessary to provide for these matters in the charter; they may be left to council action.[16]

Problems of Taxation and Finance

121. Tax and debt limitations. For various reasons the model charter contains neither a tax nor a debt limit for the city but merely allows taxes to be levied and debt incurred within the limits established by law. Statutory limits on the per capita increases that may be made in property taxes each year and older and occasionally lower limits on the amount of taxes that may be levied per capita are so restrictive that any charter provision for a lower limit (a higher limit is legally impossible) seems generally undesirable. While the statutory limit on net debt (6 and 2/3 percent of the assessed value) may be reduced by charter, many find it unwise to fix a lower limit in the charter and rely instead exclusively on the statute. The only way to keep down taxes in the long run is to keep down expenses. Generally speaking, this cannot be accomplished by merely putting a provision in the charter or in the statutes. It can be accomplished to some extent by the constant pressure of interested citizens through taxpayers' and voters' associations. A good budget system, with adequate publicity, backed by alert citizens, will succeed probably better than anything else. A municipal organization in which the officers themselves have some incentive to attain efficiency will also be of much influence in keeping down taxes.

Miscellaneous Problems

122. Local improvements and special assessments. The model charter contains very few provisions on local improvements and special assessments. In this respect it departs from the precedents set by many older city charters in Minnesota, but is consistent with recent charter practice. While there can be no doubt as to the importance of these subjects, it must be admitted that there are few branches of municipal administration in which there is greater need for such flexibility as is found in the statutory local improvement code, which applies outside first-class cities unless a charter adopted after 1953 provides otherwise. (See M.S.A. 429.01-429.111.) Certain fundamental provisions may properly appear in the charter, particularly such as are designed to protect the property owner and taxpayer, but beyond these the charter should not go.

123. Franchises and public utilities. The model charter provisions upon these subjects are so drafted as not to hamper the council and the voters in case they desire municipal ownership, and at the same time to give them ample control over the local utilities in case they are left in private hands. Provisions on the regulation of rates of private utilities doing business in the city are no longer of much charter concern since gas and electric companies as well as telephone companies are subject to exclusive state regulation of rates.

[16] Cities may take advantage of the enabling statutes to establish separate civil service commissions for their police or fire departments or a single civil service system to cover all departments.

124. Municipal courts. Only the legislature may establish courts in this state. A home rule charter may neither establish nor dis-establish any court. It is possible that a statutory city having a justice of the peace may continue that officer in its home rule charter and provide for his election but it may not modify his statutory powers and jurisdiction. The county court system, universal except for a county-wide municipal court system in Hennepin and Ramsey Counties, is not a municipal institution and is therefore not an appropriate matter for regulation by city charter.

125. The council and the administration. Many readers of the model charter will be impressed by the brevity of many of the administrative provisions. In fact, a large number of sections originally included were subsequently eliminated from the charter entirely. They were in most cases mere details. They could be just as well dealt with by ordinances. The people in the United States must learn again to trust their city councils. If need be, they must elect better men to these bodies, but they will never encourage the best fitted to seek council positions until they give the councils something important to do. The soundest and most constructive movements in the reform of city government today are not those which aim to make the mayor all-powerful but rather those whose objective is to strengthen the council, the representative body, as the dominant force in municipal affairs. The model charter is based upon this principle.

Revised:
OCP:de
1-11-77

CHARTER

of the

CITY OF FARIBAULT, MINNESOTA*

Charter

Ch. 1. Name, Boundaries, Powers, and General Provisions, §§ 1.01—1.03
Ch. 2. Form of Government, §§ 2.01—2.09
Ch. 3. Council Procedure, §§ 3.01—3.11
Ch. 4. Nominations and Elections, §§ 4.01—4.04
Ch. 5. Initiative and Referendum, §§ 5.01—5.06
Ch. 6. Administration of City Affairs, §§ 6.01—6.05
Ch. 7. Taxation and Finances, §§ 7.01—7.16
Ch. 8. Public Improvements and Special Assessments, §§ 8.01—8.03
Ch. 9. Eminent Domain, § 9.01
Ch. 10. Franchises, §§ 10.01—10.05
Ch. 11. Public Ownership and Operation of Utilities, §§ 11.01—11.04
Ch. 12. General Provisions, §§ 12.01—12.12

CHAPTER 1. NAME, BOUNDARIES, POWERS, AND GENERAL PROVISIONS

§ 1.01. Name and boundaries.
§ 1.02. Powers of the city.
§ 1.03. Charter a public act.

Section 1.01. Name and boundaries.

The City of Faribault, in the County of Rice and State of Minnesota, shall, upon the taking effect of this charter, continue to be a municipal corporation, under the name and style of the City of Faribault, with the same boundaries as now are or hereafter may be established.

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*Editor's note—The current charter of the city was adopted at an election held November 4, 1975. It appears herein as from time to time amended. Amendments have been worked into their proper places, and amended or repealed provisions deleted. The dates of amendments are cited in parentheses following the sections or subdivisions thereof amended, the date used being the date of the election at which it was approved. In addition, a brief description of the amendment appears in a note following each amended section. The absence of a citation at the end of a section or subdivision thereof indicates that the provision is as originally adopted in 1975 and has not been amended. Words appearing in [brackets] have been added for clarity.

State law references—Home rule charters for local governments, Minn. Const. art. XII, §§ 4, 5; home rule charters for cities, M.S. § 410.04 et seq.

Section 1.02. Powers of the city.

The City shall have all powers which it may now or hereafter be possible for a municipal corporation in this state to exercise in harmony with the Constitutions of this State and of the United States. It is the intention of this charter that every power which the people of the City of Faribault might lawfully confer upon themselves, as a municipal corporation, by specific enumeration in this charter shall be deemed to have been so conferred by the provisions of this section. This charter shall be construed liberally in favor of the City, and the specific mention of particular powers in the charter shall not be construed as limiting in any way the generality of the power herein sought to be conferred.

Section 1.03. Charter a public act.

This charter shall be a public act and need not be pleaded or proved in any case.

CHAPTER 2. FORM OF GOVERNMENT

§ 2.01. Form of government.
§ 2.02. Boards and commissions.
§ 2.03. Council composition and election.
§ 2.04. Incompatible offices.
§ 2.05. Vacancies.
§ 2.06. The mayor.
§ 2.07. Salaries.
§ 2.08. Investigation of city affairs.
§ 2.09. Interferences with administration.

Section 2.01. Form of government.

The form of government established by this charter is the "Council-Administrator Plan". The council shall exercise the legislative power of the City and determine all matters of policy. The city administrator shall be the head of the administrative branch of the city government and shall be responsible to the council for the proper administration of all affairs relating to the city.

State law reference—Forms of government incorporated in charter, M.S. § 410.16.

Section 2.02. Boards and commissions.

There shall be no separate administrative board of health, library board, or any other administrative board or commission except for the administration of a function jointly with another political subdivision. The council shall itself be and perform the duties and exercise the powers of such boards and commissions provided for by

statute. The council may, however, establish boards or commissions to advise the council with respect to any municipal function or activity, to investigate any subject of interest to the City, or to perform quasi judicial functions.

State law reference—Similar provisions as to statutory cities, M.S. § 412.621, subd. 1.

Section 2.03. Council composition and election.

The council shall be composed of a mayor and six councilmen who shall be qualified electors and who shall be elected at large. Each councilman shall serve for a term of four years and until his successor is elected and qualifies except that at the first election held after the adoption of this charter four candidates shall be elected. The three candidates having the highest number of votes shall serve for a term of four years and the fourth candidate shall serve a term of two years together with the two councilmen elected to office at the last election prior to the adoption of this charter. The mayor shall serve for a term of four years and until his successor is elected and qualifies.

Section 2.04. Incompatible offices.

No member of the council shall be appointed city administrator, nor shall any member hold any paid municipal office or employment under the City; and until one year after the expiration of his term as mayor or councilman no former member shall be appointed to any paid appointive office or employment under the City which was created or the compensation for which was increased during his term as councilman.

Section 2.05. Vacancies.

A vacancy in the council shall be deemed to exist in case of the failure of any person elected thereto to qualify on or before the date of the second regular meeting of the new council, or by reason of the death, resignation, removal from office, removal from the city, continuous absence from the city for more than three months, or conviction of a felony of any such person whether before or after his qualification, or by reason of the failure of any councilman without good cause to perform any of the duties of the membership in the council for a period of three months. In each case the council shall by resolution declare such vacancy to exist and shall forthwith appoint an eligible person to fill the same until the next regular municipal election, when the office shall be filled for the unexpired term.

Section 2.06. The mayor.

The mayor shall preside at meetings of the council and shall have a vote as a member. The council shall choose from its members a president pro tem who shall hold office at the pleasure of the council. He shall serve as president in the mayor's absence and as mayor in case of the mayor's disability or absence from the city. The mayor shall be recognized as head of the city government for all ceremonial purposes, by the

CHAPTER 3. COUNCIL PROCEDURE

§ 3.01. Council meetings.
§ 3.02. Secretary of the council.
§ 3.03. Rules of procedure and quorum.
§ 3.04. Ordinances, resolutions, and motions.
§ 3.05. Procedure on ordinances.
§ 3.06. Emergency ordinances.
§ 3.07. Procedure on resolutions.
§ 3.08. Signing and publication of ordinances and resolutions.
§ 3.09. When ordinances and resolutions take effect.
§ 3.10. Amendment and repeal of ordinances and resolutions.
§ 3.11. Revision and codification of ordinances.

Section 3.01. Council meetings.

The council shall meet regularly at least twice each month at such times and places as the council may designate by rule. The mayor or any three members of the council may call special meetings of the council upon at least twelve hours' notice to each member. To the extent provided by law, all meetings of the council and its committees shall be public and any citizen shall have access to the minutes and records of the council at all reasonable times.

State law reference—Minnesota open meeting law, M.S. § 471.705.

Section 3.02. Secretary of the council.

The city council shall appoint a secretary who shall keep a journal of official actions and perform such other duties as this charter or the council may require. The council may designate any other city official or employee except the city administrator or a member of the council to act as secretary of the council.

Section 3.03. Rules of procedure and quorum.

The council shall determine its own rules and order of business. A majority of all members shall constitute a quorum, but a smaller number may adjourn from time to time. The council may by rule provide a means by which a minority may compel the attendance of absent members.

Section 3.04. Ordinances, resolutions, and motions.

Except as otherwise provided in this charter, all legislation shall be by ordinance. The votes of council members on any action taken shall be recorded in accordance with statute. Except as otherwise provided in this charter, an affirmative vote of a majority of all the members of the council shall be required for the adoption of all ordinances and resolutions.

Section 3.05. Procedure on ordinances.

Every proposed ordinance shall be presented in writing. No ordinance shall contain more than one subject which shall be clearly expressed in its title. The enacting clause shall be, "The City of Faribault ordains". Every proposed ordinance, except an emergency ordinance shall receive two separate readings, one at each of two regular sessions, previous to its passage. However, the second reading may occur at the same session as the one in which the enactment occurs.

Section 3.06. Emergency ordinances.

An emergency ordinance is an ordinance necessary for the immediate preservation of the public peace, health, morals, safety, or welfare in which the emergency is defined declared in a preamble and the ordinance is adopted by a vote of at least five members of the council.

Section 3.07. Procedure on resolutions.

Every resolution shall be presented in writing and read in full before adoption, unless the reading is dispensed with by unanimous consent.

Section 3.08. Signing and publication of ordinances and resolutions.

Every ordinance or resolution passed by the council shall be signed by the mayor, attested by the city administrator and filed and preserved by him. Every ordinance shall be published at least once in the official newspaper. To the extent and in the manner provided by law an ordinance may incorporate by reference a statute, state administrative rule or regulation of Minnesota, a code, or ordinance or part thereof without publishing the material referred to in full.

State law reference—Adoption of statutes, rules, codes, etc., by reference, M.S. § 471.62.

Section 3.09. When ordinances and resolutions take effect.

Every resolution and emergency ordinance shall take effect immediately upon its passage or at such later date as it specifies. Every other ordinance shall take effect 30 days after publication or at such later date as it specifies. Every ordinance and resolution adopted by the voters of the City shall take effect immediately upon its adoption or at such later date as it specifies.

Section 3.10. Amendment and repeal of ordinances and resolutions.

Every ordinance or resolution repealing all or part of a previous ordinance or resolution shall give the number, if any, and the title of the ordinance or resolution to be repealed in whole or in part. No ordinance or resolution shall be amended by reference to the title alone, but such an amending ordinance or resolution shall set forth in full each section or subdivision to be amended and shall indicate by appropriate type or symbols matter to be omitted or added.

Section 3.11. Revision and codification of ordinances.

The City may revise, rearrange, and codify its ordinances with such additions and deletions as may be deemed necessary. The ordinance code may be published in book, pamphlet, or continuously revised loose-leaf form and copies shall be made available by the council at the office of the city administrator for general distribution to the public free or for a reasonable charge. Publication in such a code shall be sufficient of any ordinance provision not previously published if a notice that copies of the codification are available at the office of the city administrator is published in the official newspaper once per week for at least two successive weeks.

State law reference—Codification, publication, etc., of charter, ordinances, resolutions, rules, etc., M.S. §§ 415.02, 415.021; see also, M.S. § 599.13.

CHAPTER 4. NOMINATIONS AND ELECTIONS

§ 4.01. The regular municipal election.
§ 4.02. Special election.
§ 4.03. Filing for office.
§ 4.04. Procedure at elections.

Section 4.01. The regular municipal election.

A regular municipal election shall be held on the first Tuesday after the first Monday in November of each even-numbered year commencing in 1976 at such place or places as the city council may designate. The city administrator shall give at least two weeks' published notice of the time and place of holding such election and of the officers to be elected, but irregularities in giving such notice shall not invalidate the election.

Section 4.02. Special election.

The council may by resolution order a special election and provide all means for holding it. The administrator shall give at least two weeks' published notice of a special election. The procedure at such election shall conform as nearly as possible to that prescribed for other City elections.

Section 4.03. Filing for office.

No earlier than 6 weeks or later than 4 weeks before the municipal election, any voter of the City qualified under the State Constitution for elective office may, by filing an affidavit and paying a proper fee for filing to the city administrator to have his name placed on the municipal primary election ballot or, if there is no primary election, on the municipal election ballot.

Section 4.04. Procedure at elections.

Subject to this charter and applicable state laws, the council may by ordinance further regulate the conduct of municipal elections. Except as otherwise provided by this charter and supplementary ordinances, general state laws on elections shall apply to municipal elections.

State law reference—Municipal elections, M.S. Ch. 205.

CHAPTER 5. INITIATIVE AND REFERENDUM

§ 5.01. General voter authority.
§ 5.02. Petitions.
§ 5.03. Determination of sufficiency.
§ 5.04. Disposition of insufficient petition.
§ 5.05. Initiative.
§ 5.06. Referendum.

Section 5.01. General voter authority.

The voters of the City shall have the right, in accordance with this charter, to propose ordinances to be submitted to a vote by processes known respectively as the initiative and referendum.

Section 5.02. Petitions.

An initiative or referendum shall be initiated by a petition signed by registered voters of the City equal in number to 20 percent of those who voted for mayor in the last preceding City election. Each petition shall be sponsored by a committee of five voters whose names and addresses shall appear on the petition. A petition may consist of one or more papers, but each paper circulated separately shall contain at its head or attached to it the statement required by Section 5.05 or 5.06, as the case may be. Each signer shall sign his name and give his street address. Each separate page of the petition shall have appended to it a certificate, verified by oath, that each signature is the genuine signature of the person whose name it purports to be. The person making the certificate shall be a resident of the City. Any person whose name appears on a petition may withdraw his name by a statement in writing filed with the city administrator before the administrator advises the council of the sufficiency of the petition.

Section 5.03. Determination of sufficiency.

Immediately upon receipt of the petition, the city administrator shall examine the petition as to its sufficiency and report to the council within 20 days. Upon receiving the report, the council shall determine by resolution the sufficiency of the petition.

Section 5.04. Disposition of insufficient petition.

If the council determines that the petition is insufficient or irregular, the city administrator shall deliver a copy of the petition, together with a written statement of its defects, to the sponsoring committee. The committee shall have 30 days in which to file additional signature papers and to correct the petition in all other particulars. If at the end of that period the council finds that the petition is still insufficient or irregular, the city administrator shall file the petition in his office and notify the sponsoring committee. The final finding that the petition is insufficient or irregular shall not prejudice the filing of a new petition for the same purpose nor shall it prevent the council from referring the ordinance to the voters at the next regular or special election at its option.

Section 5.05. Initiative.

Any ordinance, except an ordinance relating to the budget or capital program, the appropriation of money, the levy of taxes, or the salaries of the City officers or employees, may be proposed by a petition which shall state at the head of each page or attached thereto the exact text of the proposed ordinance. If the council passes the proposed ordinance with amendments and a majority of the sponsoring committee do not disapprove the amended form by a statement filed with the city administrator within 10 days of its passage by the council, the ordinance need not be submitted to the voters. If the council fails to enact the ordinance in acceptable form within 60 days after the final determination of sufficiency of the petition, the ordinance shall be placed on the ballot at the next election occurring in the City. If no election is to occur within 120 days after the filing of the petition, the council shall call a special election on the ordinance to be held within such period. If a majority of those voting on the ordinance vote in its favor, it shall become effective 30 days after adoption unless the ordinance specifies a later effective date.

Section 5.06. Referendum.

Any ordinance subject to the initiative may be subjected to referendum by a petition which shall state, at the head of each page or on an attached paper, a description of the ordinance. Any ordinance upon which a petition is filed, other than an emergency ordinance, shall be suspended in its operation as soon as the petition is found sufficient. If the ordinance is not thereafter entirely repealed, it shall be placed on the ballot at the next election or at a special election called for that purpose, as the council determines. If a majority of the electors voting thereon votes against the ordinance, it shall be considered repealed upon certification of the election results. If a petition is filed against an emergency ordinance, the ordinance shall remain in effect but shall be repealed if a majority of the voters voting on the ordinance vote against it.

CHAPTER 6. ADMINISTRATION OF CITY AFFAIRS

§ 6.01. The city administrator.
§ 6.02. Powers and duties of the city administrator.
Subdiv. 1. Responsible for administration.
Subdiv. 2. Enforcement.
Subdiv. 3. Personnel.
Subdiv. 4. Supervisory control.
Subdiv. 5. Council meetings.
Subdiv. 6. Recommendations to council.
Subdiv. 7. Fiscal responsibilities.
Subdiv. 8. Reports.
Subdiv. 9. Other duties.
§ 6.03. Administrative organization.
§ 6.04. Subordinate officers.
§ 6.05. Purchases and contracts.

Section 6.01. The city administrator.

The city administrator shall be the chief administrative officer of the City. He shall be chosen by the council solely on the basis of his training, experience, executive, and administrative qualifications. He need not be a resident of the City at the time of his appointment but may reside outside the City while in office only with the approval of the council. The city administrator shall be appointed for an indefinite term and may be removed at any time by an affirmative vote of a majority of the council; but after he has served as administrator for one year, he may demand written charges and a public hearing on the charges before the council prior to the date when his final removal takes effect. After the hearing, if one is demanded, the council shall have unlimited discretion either to reinstate the administrator or make his removal final. Pending the hearing and removal, the council may suspend the administrator from office. With the approval of the council, the administrator may designate some properly qualified person to perform the duties of the administrator during his absence or disability or while the office is vacant.

Section 6.02. Powers and duties of the city administrator.

Subdivision 1. [*Responsible for administration.*] The city administrator shall be responsible to the council for the administration of the City's affairs. He shall have the powers and duties set forth in the following subdivisions:

Subdivision 2. [*Enforcement.*] He shall see that this charter and the laws, ordinances, and resolutions of the City are enforced.

Subdivision 3. [*Personnel.*] The Council shall have the power to appoint, suspend or remove departmental administrators established by ordinance. Except as provided above, the administrator shall have the power to suspend, remove or discharge employees only upon obtaining the prior approval of the Council at any regular or

special meeting called for that purpose. Hiring, suspension or discharge of civil service employees shall be in accordance with applicable statutes. (Petition of voters, § 1, 11-2-76)

Subdivision 4. [*Supervisory control.*] Subject to the approval of the Council, the City Administrator shall exercise control over all departments and divisions of the city administration created by this Charter or by the Council. (Petition of voters, § 2, 11-2-76)

Subdivision 5. [*Council meetings.*] He shall attend all meetings of the council and may take part in discussion but not vote; but the council may, in its discretion, exclude him from any meeting at which his removal is considered.

Subdivision 6. [*Recommendations to council.*] He shall recommend to the council for adoption such measures as he deems necessary for the welfare of the people and the efficient administration of the City's affairs.

Subdivision 7. [*Fiscal responsiblities.*] He shall keep the council fully advised on the financial condition and needs of the City, and he shall prepare and submit to the council the annual budget and capital program.

Subdivision 8. [*Reports.*] He shall submit to the council and make available to the public a complete report on the finances and administrative activities of the City at the end of each fiscal year.

Subdivision 9. [*Other duties.*] He shall perform such other duties as are prescribed by charter or may be required by the council.

Editor's note—Section 6.02 was amended at the general election of November 2, 1976, when the voters of the city ratified the above amended subdivisions 3 and 4 thereof as proposed in sections 1 and 2, respectively, of a petition of city voters. Prior to being so amended, subdivisions 3 and 4 of section 6.02 read as follows respectively:

> "*Subdivision 3.* He shall appoint, suspend or remove upon the basis of merit or fitness alone all employees of the City except that he will receive council approval to either appoint, suspend or remove departmental administrators established by ordinance."
>
> "*Subdivision 4.* He shall exercise control over all departments and divisions of the City administration created by this charter or by the council."

State law reference—Similar provisions as to city manager in Optional Plan B statutory city, M.S. § 412.651.

Section 6.03. Administrative organization.

The council may by ordinance establish city departments, offices, and agencies and prescribe their functions.

Section 6.04. Subordinate officers.

There shall be officers subordinate to the city administrator as the council may establish by ordinance. The council may, by ordinance, abolish offices which have been created by ordinance and it may combine the duties of various offices as it may see fit.

Section 6.05. Purchases and contracts.

The city administrator shall be the chief purchasing agent of the City. All city purchases and contracts shall be made or let by the city administrator when the amount involved does not exceed $1,000.00. All other purchases shall be made and all other contracts let by the council after the recommendation of the city administrator has first been obtained. Contracts shall be made in compliance with the uniform contracting law, and whenever competitive bids are required, the contract shall be let to the lowest responsible bidder. All contracts, bonds, and instruments of any kind to which the City is a party shall be signed by the mayor and the city administrator on behalf of the City and shall be executed in the name of the City. The council may by ordinance adopt further regulations for the making of bids and the letter of contracts.

State law reference—Uniform municipal contracting law, M.S. § 471.345.

CHAPTER 7. TAXATION AND FINANCES

§ 7.01. Council to control finances.
§ 7.02. Fiscal year.
§ 7.03. System of taxation.
§ 7.04. Submission of budget.
§ 7.05. Capital improvement program.
§ 7.06. Council action on budget.
§ 7.07. Enforcement of the budget.
§ 7.08. Alterations in the budget.
§ 7.09. Funds.
§ 7.10. City indebtedness.
§ 7.11. Tax anticipation certificates.
§ 7.12. Emergency debt certificates.
§ 7.13. Industrial and commercial promotion and development—Generally.
§ 7.14. Same—Financing incidental public utilities; general obligation bonds.
§ 7.15. Same—Surplus property.
§ 7.16. Same—Construction of charter provisions.

Section 7.01. Council to control finances.

The council shall have full authority over the financial affairs of the City. It shall provide for the collection of all revenues and other assets, the auditing and settlement of accounts, and the safekeeping and disbursement of public moneys.

State law reference—Similar provisions as to statutory cities, M.S. § 412.241.

Section 7.02. Fiscal year.

The fiscal year of the City shall be the calendar year.

State law reference—Similar provisions, M.S. § 471.696.

Section 7.03. System of taxation.

Subject to the State Constitution, and except as forbidden by it or by state law, the council shall have full power to provide by ordinance for a system of local taxation. This authority includes the power by ordinance to assess, levy, and collect taxes on all subjects or objects of taxation except as limited or prohibited by the State Constitution, by this charter or by laws imposing restrictions upon the City irrespective of charter provisions.

Section 7.04. Submission of budget.

Annually the city administrator shall submit to the council his recommended budget in accordance with a budget calendar to be established by ordinance.

The budget shall provide a complete financial plan for all City funds and activities for the ensuing fiscal year and, except as required by law or charter, shall be in such form as the administrator deems desirable or the council may require. It shall include a summary and show in detail all estimated income and all proposed expenditures, including debt service and comparative figures for the current fiscal year, actual and estimated, and the preceding fiscal year. In addition to showing proposed expenditures for current operations it shall show proposed capital expenditures to be made during the year and the proposed method of financing each such capital expenditure. For each utility operated by the City, the budget shall show anticipated net surplus or deficit and the proposed method of its disposition. The total proposed operating budget to be provided from the property tax shall not exceed the amounts authorized by law and this charter. Consistent with these provisions, the budget shall contain such information and be in the form prescribed by ordinance and by law.

Section 7.05. Capital improvement program.

The administrator shall prepare and submit to the council a recommended five-year capital improvement program. The capital improvement program shall include a list of all capital improvements proposed to be undertaken during the next five fiscal years, with appropriate supporting information as to the necessity for such improvements; cost estimates, method of financing and recommended time schedules for each such improvement; and the estimated annual cost of operating and maintaining the facilities to be constructed or acquired. The information shall be revised and extended each year for capital improvements still pending or in process. The council shall hold a public hearing on the capital improvement program and adopt it with or without amendment.

Section 7.06. Council action on budget.

Council meetings for the adoption of a budget for ensuing year shall be conducted so as to give interested citizens a reasonable opportunity to be heard. The council may revise the proposed budget but no amendment to the budget shall increase the authorized expenditures to an amount greater than the estimated income. The council

shall adopt the budget by a resolution which shall set forth the total for each budgeted fund and each department with such segregation as to objects and purposes of expenditures as the council deems necessary for purposes of budget control. The council shall also adopt a resolution levying the amount of taxes provided in the budget and the administrator shall certify the tax resolution to the County Auditor in accordance with State Statutes. Adoption of the budget resolution shall constitute appropriations at the beginning of the fiscal year of the sums fixed in the resolution for the several purposes named.

Section 7.07. Enforcement of the budget.

The city administrator shall enforce strictly the provisions of the budget. He shall not authorize any payment or the incurring of any obligation by the City unless an appropriation has been made in the budget resolution and there is a sufficient unexpended balance left after deducting the total past expenditures and encumbrances against the appropriation. No officer or employee of the City shall place any order or make any purchase except for a purpose and to the amount authorized in the budget resolution. No check shall be issued or transfer made to any account other than one owned by the City until the claim to which it relates has been supported by an itemized bill, payroll, or timesheet, or other document approved and signed by the responsible City officer who vouches for its corrections [correctness] and reasonableness.

Section 7.08. Alterations in the budget.

After the budget resolution has been adopted, the council shall not increase the amounts fixed in the resolution beyond the estimated receipts except to the extent that actual receipts exceed the estimate. At any time the council may, by resolution approved by a majority of its members, reduce the sums appropriated for the purpose by the budget resolution or authorize the transfer of sums from unencumbered balances of appropriations in the budget resolution to other purposes.

Section 7.09. Funds.

There shall be maintained by the City treasury a general fund and such other funds as may be required by statute, ordinance, or resolution. The council may, by ordinance or resolution, make inter-fund loans, except from trust and agency funds, as it may deem necessary and appropriate.

Section 7.10. City indebtedness.

Except as provided in Sections 7.11 through 7.16, no obligations shall be issued to pay current expenses, but the council may by resolution approved by five (5) of its members issue obligations without approval of the voters; however, the city may not issue such obligations for at least 30 days after the last publication in the official newspaper of a council resolution determining so to do; and, if before the end of that time a petition asking for an election on the proposition signed by registered voters

equal to 5 per cent of the number of voters at the last regular city mayoral election is filed with the administrator, the city may not issue such obligations until the proposition has been approved by a majority of the votes cast on the question at a regular or special election.

Section 7.11. Tax anticipation certificates.

At any time after January 1 the council may issue certificates of indebtedness in anticipation of the collection of state and federal aids and collection of taxes levied the previous year for any fund and not yet collected. The total amount of certificates issued against any fund for any year, together with interest thereon until maturity, shall not exceed the total state or federal aids or current taxes for the fund uncollected at the time of issuance. Such certificates shall be issued on such terms and conditions as the council may determine, but they shall become due not later than April 1 of the year following their issuance. The proceeds of the fund against which anticipation certificates are issued and the full faith and credit of the city shall be irrevocably pledged for the redemption of the certificates.

Section 7.12. Emergency debt certificates.

If in any year the receipts from taxes or other sources shall from some unforeseen cause become insufficient for the ordinary expenses of the city, or if any calamity or other public emergency necessitates the making of extraordinary expenditures, the council may by ordinance issue on such terms and in such manner as the council determines emergency debt certificates to run not to exceed three years. A tax sufficient to pay principal and interest on such certificates with the margin required by law shall be levied as required by law. The ordinance authorizing an issue of such emergency debt certificates shall state the nature of the emergency and be approved by at least five members of the council. It may be passed as an emergency ordinance.

Section 7.13. Industrial and commercial promotion and development[—Generally].

In addition to the powers otherwise granted by Minnesota laws and this charter, the City of Faribault shall have the power to acquire by purchase, gift, or devise, and develop, on such terms as the city council may in its sole discretion from time to time, all necessary right, title and interest in and to land, including air rights, and any buildings and equipment thereon, necessary or desirable for the purpose of promoting industry, and providing employment and in order to promote, attract, encourage and develop economically sound industry and commerce through governmental action for the purpose of preventing so far as possible, the emergence of blight and marginal lands of chronic unemployment.

State law reference—Minnesota municipal industrial development act, M.S. Ch. 474.

Section 7.14. [Same—Financing incidental public utilities; general obligation bonds.]

If the acquisition and development of lands acquired pursuant to Section 7.13 is paid for from the proceeds of general obligation bonds, the development of such lands may include provisions for utility services, including water, sanitary sewers, storm sewers or other drainage facilities, and incidental to the use of such lands for the foregoing purposes, but except with respect to such facilities may not include provision for the construction of structures or buildings on the premises or the furnishing or equipment thereof. If acquisition and development are paid for from the proceeds of general obligation bonds, such bonds shall be authorized by ordinance and issued, sold and accounted for in the manner and upon the terms, conditions, and provisions prescribed by Chapter 475 Minnesota Statutes and acts amendatory thereof and supplemental thereto.

State law reference—Public indebtedness, M.S. Ch. 475.

Section 7.15. [Same—Surplus property.]

Notwithstanding any other provision of this charter to the contrary, any properties acquired or owned by the City and not required for municipal purposes may be sold or leased without approval of the electorate to achieve the purposes set forth in Section 7.13 above on such terms and conditions as the city council in its sole discretion shall determine. When such property is sold or leased to non-governmental corporations or agencies, it shall not be exempt from taxation.

Section 7.16. [Same—Construction of charter provisions].

Nothing contained herein shall be construed to restrict the power and authority of the City to develop, lease, and sell property acquired pursuant to this charter in accordance with the further provisions of Chapter 474, Minnesota Statutes, as amended or supplemented, or such other laws as may from time to time be adopted, or to restrict in any way the powers granted to the City under Chapter 474, Minnesota Statutes, and acts amendatory and supplemental thereto or such other laws as may from time to time be adopted.

CHAPTER 8. PUBLIC IMPROVEMENTS AND SPECIAL ASSESSMENTS*

§ 8.01. Power to make improvements and levy assessments.
§ 8.02. Assessments for services.
§ 8.03. Local improvement procedure.

Section 8.01. Power to make improvements and levy assessments.

The City may make any type of public improvement not forbidden by law and levy special assessments to pay all or any part of the cost of such improvements as are of a local character. The total assessments for any local improvement may not exceed the cost of the improvement, including all costs and expenses connected therewith, with interest. No assessment shall exceed the benefits to the property.

Section 8.02. Assessments for services.

The council may provide by ordinance that the cost of City services to streets, sidewalks, or other public or private property may be assessed against property benefited and collected in the same manner as special assessments.

Section 8.03. Local improvement procedure.

When the City undertakes any local improvement to which the state local improvement code applies, it shall comply with the provisions of that law. The council may by ordinance prescribe the procedure to be followed in making any other local improvement and levying assessments therefor.

State law reference—Local improvements and special assessments, M.S. Ch. 429.

CHAPTER 9. EMINENT DOMAIN†

§ 9.01. Acquisition of property.

Section 9.01. Acquisition of property.

The City may acquire, by purchase, gift, condemnation, or otherwise, any property, either within or without its boundaries, that may be needed by the City for any public purpose. In acquiring property by exercising the power of eminent domain, the City shall proceed according to Minnesota Statutes, Chapter 117 or other applicable law.

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*State law reference—Local improvements and special assessments, M.S. Ch. 429.

†State law reference—Right of eminent domain of all cities, M.S. § 465.01.

CHAPTER 10. FRANCHISES*

§ 10.01. Franchises required.
§ 10.02. Term.
§ 10.03. Public hearing.
§ 10.04. Power of regulation reserved.
§ 10.05. Renewals or extensions.

Section 10.01. Franchises required.

Except as otherwise provided by law, no person, firm, or corporation shall place or maintain any permanent or semi-permanent fixtures in, over, upon, or under any street or public place for the purpose of operating a public utility or for any other purpose, without a franchise therefore [therefor] from the City. A franchise shall be granted only by ordinance, which shall not be an emergency ordinance. Every ordinance granting a franchise shall contain all the terms and conditions of the franchise. The grantee shall bear the costs of publication of the franchise ordinance and shall make a sufficient deposit with the administrator to guarantee publication before the ordinance is passed.

Section 10.02. Term.

No exclusive or perpetual franchise shall ever be granted. No franchise for a term exceeding twenty years shall be effective until approved by a majority of the electors voting thereon.

Section 10.03. Public hearing.

Before any franchise ordinance is adopted or any rates, fares, or prices to be charged by a public utility are fixed by the council, the council shall hold a public hearing on the matter. Notice of such hearing shall be published at least once in the official newspaper not less than ten days prior to the date of the hearing.

Section 10.04. Power of regulation reserved.

Subject to any applicable law the council may by ordinance reasonably regulate and control the exercise of any franchise, including the maximum rates, fares, or prices to be charged by the grantee. No franchise value shall be included in the valuation of the grantee's property in regulating utility rates, fares, or prices under any applicable law, ordinance, or regulation or in proceedings for municipal acquisition of the grantee's property by purchase or eminent domain.

*State law reference—Regulation of franchises in city charters, M.S. § 410.09.

Section 10.05. Renewals or extensions.

Every renewal or modification of a franchise, including an existing franchise, shall be subject to the same limitations and shall be granted in the same manner as a new franchise.

CHAPTER 11. PUBLIC OWNERSHIP AND OPERATION OF UTILITIES*

§ 11.01. Acquisition and operation of utilities.
§ 11.02. Regulations and rates.
§ 11.03. Lease of plant.
§ 11.04. Sale of public utility.

Section 11.01. Acquisition and operation of utilities.

The City may own and operate any water, gas, light, power, heat, telephone, transportation or other public utility for supplying its own needs for utility service or for supplying utility service to private consumers or other governmental agencies. It may construct all facilities reasonably needed for that purpose and may acquire any existing utility properties so needed. The City shall not acquire or construct any public utility unless the proposition to acquire or construct it has been incorporated in an ordinance and adopted by the council and approved by a majority of the electors voting on the proposition at a general or special election.

Section 11.02. Regulations and rates.

The council may by ordinance fix rates, fares, and prices for any municipal utility, prescribe the time and manner of payment for such service, make such other regulations as may be necessary, and prescribe penalties for violation of such regulations.

Section 11.03. Lease of plant.

The council may by ordinance contract with any person, firm, or corporation for the operation of any municipal utility for a term not to exceed ten years. Such ordinance shall not be an emergency ordinance.

Section 11.04. Sale of public utility.

No public utility owned by the City shall be sold or otherwise disposed of by the City unless the full terms of the proposition of sale or other disposition are embodied in an ordinance approved by a majority of the voters voting thereon at a general or special election. Any sale, lease or abandonment of a water works or light plant shall be subject, in addition, to the requirements of state law.

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*State law references—Powers of statutory cities as to public utilities, M.S. § 412.321 et seq.; ownership by cities of the first class of public utilities, M.S. Ch. 452.

CHAPTER 12. GENERAL PROVISIONS

§ 12.01. Official publication.
§ 12.02. Oath of office.
§ 12.03. Official bonds.
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§ 12.05. Sale of real property.
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§ 12.07. City to succeed to rights and obligations of former city.
§ 12.08. Existing ordinances continued.
§ 12.09. Pending condemnations, improvements, and assessments.
§ 12.10. Ordinances to make charter effective.
§ 12.11. Present officers continued.
§ 12.12. [Effective dates.]

Section 12.01. Official publication.

The council shall annually at its first meeting of the year designate a legal newspaper of general circulation in the City as its official newspaper in which shall be published ordinances and other matters required by law to be so published as well as such other matters as the council may deem it in the public interest to have published in this manner.

State law reference—Similar provisions as to statutory cities, M.S. § 412.831.

Section 12.02. Oath of office.

Every elected or appointed officer of the City shall, before entering upon the duties of his office, take and subscribe an oath of office in substantially the following form: "I do solemnly swear (or affirm) to support the constitution of the United States and of this State and to discharge faithfully the duties devolving upon me as . . . (title of office) of the City of Faribault to the best of my judgment and ability."

State law reference—Oaths of office, M.S. § 358.05 et seq.

Section 12.03. Official bonds.

The city administrator and such other officers or employees of the City as may be specified by ordinance shall each, before entering upon the duties of his respective office of employment, give a corporate surety bond to the City as security for the faithful performance of his official duties and the safekeeping of the public funds. Such bonds shall be in such form and amount as the council determines and may be either individual or blanket bonds in the discretion of the council. They shall be approved by the city council and filed with the city administrator. The provisions of state laws relating to official bonds not inconsistent with this charter shall be complied with. The premiums on such bonds shall be paid by the City.

State law reference—Official bonds, M.S. § 574.20 et seq.

Section 12.04. Official interest in contracts.

Except as otherwise permitted by law, no officer of the City who is authorized to take part in any manner in any contract with the City shall voluntarily have a personal financial interest in or personally benefit from such contract.

State law reference—Similar provisions, M.C. § 471.87.

Section 12.05. Sale of real property.

No real property of the City shall be disposed of except by ordinance. The net cash proceeds of any sale of the property shall be used to retire any outstanding indebtedness incurred by the city in the acquisition or improvement of the property. Any remaining net proceeds shall be used to finance other improvements in the capital improvement budget or to retire any other bonded indebtedness.

Section 12.06. Vacation of streets.

The council may by ordinance approved by at least five members of the council vacate any street or alley or other public ways therein within the City. Such vacation may be made only after published notice and an opportunity for affected property owners and public to be heard, and upon such further terms and by such procedure as the council by ordinance may prescribe. A notice of completion of such proceedings shall be filed with the proper County officers in accordance with law.

State law reference—Vacation of public ways, M.S. § 160.29.

Section 12.07. City to succeed to rights and obligations of former City.

The City shall succeed to all the property, rights, and privileges, and shall be subject to all legal obligations of the City under the former charter.

Section 12.08. Existing ordinances continued.

All ordinances and regulations of the City in force when this charter takes effect and not inconsistent with this charter are continued in full force and effect until amended or repealed.

Section 12.09. Pending condemnations, improvements, and assessments.

Any condemnation, improvement, or assessment proceeding in progress when this charter takes effect shall be continued and completed under the laws under which such proceedings were begun. All assessments made by the City prior to the time when this charter takes effect shall be collected as if this charter had not been adopted.

Section 12.10. Ordinances to make charter effective.

The council shall by ordinance, resolution, or other appropriate action take such steps as may be necessary to make effective the provisions of this charter.

Section 12.11. Present officers continued.

The present officers of the City shall continue to govern the City under the laws and charter previously in effect until the officers provided for by this charter have been elected and qualify. They shall make such financial and other provisions for the next succeeding fiscal year as will serve to carry on the government until a government has been set up under this charter, and they shall make provision for the election of the first city council as provided in Chapter 4 of this charter.

Section 12.12. [Effective dates.]

Chapter 4 becomes effective 30 days following adoption of this charter. The remainder of this charter becomes effective on January first of the year following its adoption.

Editor's note—The charter was adopted at the election of November 4, 1975.

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OF THE

CITY OF MINNETONKA, MINNESOTA

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HOME RULE CHARTER
OF THE
CITY OF MINNETONKA, MINNESOTA

CHAPTER I

Name, Boundaries, Powers, and General Provisions

Section 1.01. Name and Boundaries. The Village of Minnetonka, in the County of Hennepin, and State of Minnesota, shall, upon the taking effect of this charter, continue to be a municipal corporation under the name and style of the City of Minnetonka, with the same boundaries as now are or hereafter may be established.

Section 1.02. Powers of the City. The city shall have all powers which it may now or hereafter be possible for a municipal corporation in this state to exercise in harmony with the constitutions of this state and of the United States. It is the intention of this charter that every power which the people of the City of Minnetonka might lawfully confer upon themselves, as a municipal corporation, by specific enumeration in this charter shall be deemed to have been so conferred by the provisions of this section. This charter shall be construed liberally in favor of the city, and the specific mention of particular powers in the charter shall not be construed as limiting in any way the generality of the power herein sought to be conferred.

Section 1.03. Charter a Public Act. This charter shall be a public act and need not be pleaded or proved in any case. It shall take effect thirty days from and after its adoption by the voters.

CHAPTER 2

Form of Government

Section 2.01. Form of Government. The form of government established by this charter is the "Council-Manager Plan". The Council shall exercise the legislative power of the city and determine all matters of policy. The City Manager shall be the head of the administrative branch of the city government and shall be responsible to the Council for the proper

administration of all affairs relating to the city.

Section 2.02. Boards and Commissions. There shall be no separate administrative board of health, library board, park board, or any other administrative board or commission, except for existing civil service commissions and boards and except for the administration of a function jointly with another political subdivision. The Council shall itself be and perform the duties and exercise the powers of such boards and commissions. The Council may, however, establish boards or commissions to advise the Council with respect to any municipal function or activity, to investigate any subject of interest to the city, or to perform quasi-judicial functions.

Section 2.03. Elective Officers.

a. The council shall consist of a mayor and six councilmen who shall be qualified electors. The mayor shall serve for a term of two years, or until a successor is elected and qualifies. Except as provided Sections 2.03 c, 2.05, and 12.08 b, each councilman shall serve for a term of four years or until a successor is elected and qualifies. All terms shall commence on the first business day of January next following the date of the officer's election.

b. In all elections occurring prior to the primary and regular municipal elections to be held in 1973, the mayor and all councilmen shall run and be elected at large. Commencing with the 1973 elections, the mayor and two councilmen-at-large shall be elected at large and four councilmen shall be elected by and from the residents of wards described as follows:

i. Ward #1 - All that part of the City of Minnetonka lying easterly and southerly of the following described boundary:

Commencing at the intersection of Townline Road, which is also the southern boundary of the City of Minnetonka, with Boulder Creek Drive; thence northerly and westerly along Boulder Creek Drive to its intersection with Whited Avenue; thence northerly along Whited Avenue to its intersection with Excelsior Boulevard, also known as C.S.A.H. No. 3; thence easterly along Excelsior Boulevard to its intersection with Highland Road; thence northerly along Highland Road to its intersection with Highland Trail; thence easterly on Highland Trail to its intersection with Williston Road; thence northerly on Williston Road to its intersection

with State Trunk Highway No. 7; thence easterly on State Trunk Highway No. 7 to its intersection with Interstate Highway No. 494; thence northerly along I-494 to its intersection with Minnetonka Boulevard, also known as C.S.A.H. No. 5; thence easterly along Minnetonka Boulevard to its intersection with Shady Oak Road, also known as C.S.A.H. No. 61; thence southerly and easterly on Shady Oak Road to its intersection with West Park Road in the City of Hopkins, which is also the boundary between the City of Minnetonka and the City of Hopkins, and there terminating.

ii. Ward #2 - All that portion of the City of Minnetonka lying easterly of the following described boundary:

Commencing at the intersection of Shady Oak Road, also known as C.S.A.H. No. 61, and West Park Road, in the City of Hopkins, which also is the common boundary between the City of Minnetonka and the City of Hopkins; thence northerly and westerly on Shady Oak Road to its intersection with Minnetonka Boulevard, also known as C.S.A.H. No. 5; thence westerly on Minnetonka Boulevard to its intersection with Interstate Highway No. 494; thence northerly along I-494 to the north boundary of the City of Minnetonka and there terminating.

iii. Ward #3 - All that portion of the City of Minnetonka lying westerly and northerly of the following described boundary:

Commencing at the intersection of Interstate Highway No. 494 and the north boundary of the City of Minnetonka; thence southerly along I-494 to its intersection with State Trunk Highway No. 7; thence westerly along Trunk Highway No. 7 to its intersection with State Trunk Highway No. 101; thence northerly along State Trunk Highway No. 101 to its intersection with the abandoned right-of-way of the Chicago and Northwestern Transportation Company; thence westerly along the abandoned right-of-way to the westerly boundary of the City of Minnetonka and there terminating.

iv. Ward #4 - All that portion of the City of

Minnetonka lying westerly and southerly of the following described boundary:

Commencing at the intersection of the westerly boundary of the City of Minnetonka and the abandoned right-of-way of the Chicago and Northwestern Transportation Company; thence easterly along the abandoned right-of-way to its intersection with State Trunk Highway No. 101; thence southerly along Trunk Highway No. 101 to its intersection with State Trunk Highway No. 7; thence easterly along Trunk Highway No. 7 to its intersection with Williston Road; thence southerly on Williston Road to its intersection with Highland Trail; thence westerly along Highland Trail to its intersection with Highland Road; thence southerly along Highland Road to its intersection with Excelsior Boulevard, also known as C.S.A.H. No. 3; thence westerly along Excelsior Boulevard to its intersection with Whited Avenue; thence southerly along Whited Avenue to its intersection with Boulder Creek Drive; thence easterly and southerly on Boulder Creek Drive to its intersection with Townline Road, which is also the boundary between the City of Minnetonka and the City of Eden Prairie and there terminating. (Amended 5/24/82)

c. The terms of the mayor and all councilmen in office at the time of the 1973 elections shall terminate the first business day of January 1974. The positions of mayor and councilmen for terms to commence the first business day of January, 1974, shall be filled at the 1973 elections. At the 1973 elections ward councilmen from Wards 1 and 2 shall be elected for two year terms, and ward councilmen from Wards 3 and 4 shall be elected for four year terms. The candidate for councilman-at-large in the 1973 elections receiving the most votes at the regulat municipal election shall be elected for a four year term The candidate for councilman-at-large receiving the next most votes shall be elected for a two year term. Except for councilmen elected to fill unexpired terms, as provided in Section 2.05 hereof, all councilmen elected at elections subsequent to 1973, shall serve for four year terms. At each election occurring after 1973, there shall be elected a mayor, one councilman-at-large, two ward councilmen, and such councilmen, if any, who are required to be elected to fill vacancies as provided by Section 2.05 hereof.

d. If any Federal or State census discloses that the wards established herein are not equal in population, the council shall by ordinance redistrict the city into four compact, contiguous wards equal in population. (Amended 2/17/70)

Section 2.04. Incompatible Offices. No member of the Council shall be appointed City Manager, nor shall any member hold any other paid municipal office or employment under the city; and until one year after the expiration of his term as Mayor or Councilman no former member shall be appointed to any paid non-elective appointive office or employment under the city. This section does not prohibit the appointment of a Councilman to fill a vacancy in the office of Mayor.

Section 2.05. Vacancies in the Council. A vacancy in the Council shall be deemed to exist in case of the failure of any person elected thereto to qualify on or before the date of the second regular meeting of the new Council, or by reason of the death, resignation, removal from office, removal from the city, removal from the ward from which he was elected, continuous absence from the city for more than three months, or conviction of a felony of any such person whether before or after his qualification or by reason of the failure of any Councilman without good cause to perform any of the duties of membership in the Council for a period of three months. In each such case the Council shall by resolution declare such vacancy to exist and shall forthwith appoint an eligible person to fill the same until the next regular municipal election, when the office shall be filled for the unexpired term. If the Council shall be unable to agree on an appointee to fill the vacancy within 30 days, the Mayor, or President Pro Tem if the vacancy is in the office of Mayor, shall appoint a person to fill such vacancy. (Amended 2/17/70)

Section 2.06. The Mayor. The Mayor shall be the presiding officer of the Council, except that the Council shall choose from its members a President Pro Tem who shall hold office at the pleasure of the Council and shall serve as President in the Mayor's absence and as Mayor in case of the Mayor's disability or absence from the city. The Mayor shall have a vote as a member of the Council. He shall exercise all powers and perform all duties conferred and imposed upon him by this charter, the ordinances of the city, and the laws of the state. He shall be recognized as the official head of the city for all ceremonial purposes, by the courts for the purpose of serving civil process, and by the Governor for the purpose of martial law. He shall study the operations of the city government and shall report to the Council any neglect, derelection of duty, or waste on the part of any officer or department

of the city. In time of public danger or emergency he may, with the consent of the Council, take command of the police, maintain order and enforce the law.

Section 2.07. Salaries. The Mayor and members of the Council shall receive such salaries as are currently being paid under the law. When authorized by the Council, its members may be reimbursed for their reasonable expenses incurred in connection with the city's business. The City Manager and all subordinate officers and employees of the city shall receive such compensation as may be fixed by the Council.

Section 2.08. Investigation of City Affairs. The Council and the City Manager, or either of them, and any officer or officers formally authorized by them, or either of them, shall have power to make investigations into the city's affairs, to subpoena witnesses, administer oaths, and compel the production of books and papers. The Council shall provide for an audit of the city's accounts at least once a year by the state department in charge of such work or by a certified public accountant. The Council may at any time provide for an examination or audit of the accounts of any officer or department of the city government and it may cause to be made any survey or research study of any subject of municipal concern.

Section 2.09. Interferences with Administration. The Council may by ordinance establish the merit system in all or part of the city administration, but neither the Council nor any of its members shall dictate the appointment of any person to office or employment by the City Manager, or in any manner interfere with the City Manager or prevent him from exercising his own judgment in the appointment of officers and employees in the administrative service. Except for the purpose of inquiry the Council and its members shall deal with and control the administrative service solely through the City Manager, and neither the Council nor any member thereof shall give orders to any of the subordinates of the City Manager, either publicly or privately.

CHAPTER 3

Procedure of Council

Section 3.01. Council Meetings. On the first Monday after January 1 following a regular municipal election, the Council shall meet at the usual place and time for the holding of council meetings. At this time the newly elected members of the Council shall assume their duties. Thereafter the Council

shall meet at such times each month as may be prescribed by ordinance or resolution. The Mayor or any three members of the council may call special meetings of the council upon at least twelve hours' written notice to each member of the council. Such notice shall be delivered personally to each member or shall be left at his usual place of residence with some responsible person. All meetings of the Council shall be public, and any citizen shall have access to the minutes and records thereof at all reasonable times.

Section 3.02. Secretary of Council. The City Clerk shall act as Secretary of the Council. He shall keep a journal of Council proceedings and such other records and perform such other duties as this charter or the Council may require. The Council shall choose such other officers and employees as may be necessary to serve at its meetings. The Council may designate any other official or employee of the city (except the City Manager or a member of the Council) to act as Secretary of the Council.

Section 3.03. Rules of Procedure and Quorum. The Council shall determine its own rules and order of business. A majority of all members elected shall constitute a quorum to do business, but a smaller number may adjourn from time to time. The Council may by ordinance provide a means by which a minority may compel the attendance of absent members.

Section 3.04. Ordinances, Resolutions and Motions. Except as in this charter otherwise provided, all legislation shall be by ordinance. The aye and no vote on ordinances, resolutions, and motions shall be recorded unless the vote is unanimous. An affirmative vote of a majority of all the members of the Council shall be required for the passage of all ordinances except as otherwise provided in this charter or as required by state law.

Section 3.05. Procedure on Ordinances. The enacting clause of all ordinances shall be in the words, "The City of Minnetonka does ordain". Every ordinance shall be presented in writing. No ordinance except an emergency ordinance shall be passed at the meeting at which it is introduced and at least seven days shall elapse between its introduction and final passage.

Section 3.06. Emergency Ordinances. An emergency ordinance is an ordinance necessary for the immediate preservation of the public peace, health, morals, safety or welfare in which the emergency is defined and declared in a preamble thereto, and is adopted by a vote of at least five members of the Council. No prosecution shall be based upon the provisions of any emergency ordinance until 24 hours after the ordinance

has been filed with the City Clerk and posted in three conspicuous places or until the ordinance has been published, unless the person charged with violation had actual notice of the passage of the ordinance prior to the act or omission complained of. Every emergency ordinance shall automatically stand repealed as of the sixty-first (61st) day following the date on which it was adopted, but this shall not prevent reenactment of the ordinance in the manner specified in this section if the emergency still exists.

Section 3.07. Procedure on Resolutions. Every resolution shall be presented in writing and read in full before a vote is taken thereon, unless the reading of a resolution is dispensed with by unanimous consent. All administrative business may be transacted by motion.

Section 3.08. Signing and Publication of Ordinances and Resolutions. Every ordinance or resolution passed by the Council shall be signed by the Mayor or by two other members, attested to by the City Clerk and filed and preserved by him. Every ordinance shall be published at least once in the official newspaper.

Section 3.09. When Ordinances and Resolutions Take Effect. A resolution and an emergency ordinance shall take effect immediately upon its passage or at such later date as is fixed in it. Every other ordinance shall take effect 30 days after publication or at such later date as is fixed therein. Every ordinance and resolution adopted by the voters of the city shall take effect immediately upon its adoption, or at such later time as is fixed therein.

Section 3.10. Amendment and Repeal of Ordinances. Every ordinance repealing a previous ordinance or section or subdivision thereof shall give the number, if any, and the title of the ordinance to be repealed in whole or in part. No ordinance or section or subdivision thereof shall be amended by reference to the title alone, but such an amending ordinance shall set forth in full each section or subdivision to be amended.

Section 3.11. Revision and Codification of Ordinances. The city shall within five years from the adoption of this charter, and at intervals thereafter of not more than five years, revise, rearrange and codify its ordinances with such additions and deletions as may be deemed necessary by the Council. Such ordinance code shall be published in a book, pamphlet or continuously revised loose-leaf form and copies shall be made available by the Council at the office of the City Clerk for general distribution to the public free or at a reasonable charge. Publication in such a code shall be a sufficient publication of any ordinance provision not previously published

if a notice that copies of the codification are available at the office of the City Clerk is published in the official newspaper for at least two successive weeks.

CHAPTER 4

Nominations and Elections

Section 4.01. The Regular Municipal Election. A regular municipal election shall be held on the first Tuesday after the first Monday in November of each odd-numbered year commencing in 1971 at such place or places as the City Council may designate. The City Clerk shall give at least two weeks' previous notice of the time and place of holding such election and of the officers to be elected by posting in at least one public place in each voting precinct and by publication at least once in the official newspaper, but failure to give such notice shall not invalidate such election.

Section 4.02. Primary Elections. On Tuesday, four (4) weeks in advance of the regular municipal election provided for in Section 4.01 of this charter, there shall be a primary election for the selection of nominees for each office to be filled. If no more than twice the number of candidates to be elected file for a particular office, there shall be no primary for that office, and all persons filing shall be declared nominees. In all primaries except that for Councilman-at-large in 1973, the two persons receiving the most and the next most votes for Mayor, Councilman-at-large, and within each ward for ward councilman, shall be the sole nominees for such offices at the regular municipal election. In the primary for Councilman-at-large in 1973, the four persons receiving the most votes for Councilman-at-large shall be the sole nominees for those offices at the regular municipal election. (Amended 2/17/70)

Section 4.03. Candidates Filing. Any person eligible and desiring to have his name placed on the official ballot as a candidate for an office to be voted for at the regular municipal election shall file his affidavit of candidacy with the City Clerk not more than ten (10) weeks nor less than eight (8) weeks prior to the regular municipal election.

Section 4.04. Special Elections. The Council may by resolution order a special election and provide all means for holding it. At least three weeks' published notice of a special election shall be given in the official newspaper. The procedure

at such election shall conform as nearly as possible to that prescribed for other municipal elections.

Section 4.05. Procedure at Elections. Subject to the provisions of this charter and applicable state laws, the Council may by ordinance further regulate the conduct of municipal elections. Except as otherwise provided in this charter or in ordinance adopted pursuant thereto, the general laws of the State of Minnesota pertaining to elections shall apply to calling and conducting all municipal elections.

CHAPTER 5

Initiative and Referendum

Section 5.01. Powers Reserved by the People. The people of the City of Minnetonka reserve to themselves the power, in accordance with the provisions of this charter, to initiate and adopt any ordinance, (except an ordinance appropriating money or authorizing the levy of taxes), and to require such an ordinance when passed by the Council to be referred to the electors for approval or disapproval. These powers shall be called the initiative and the referendum respectively.

Section 5.02. Expenditures by Petitioners. No member of any initiative or referendum committee, no circulator of a signature paper, and no signer of any such paper, or any other person, shall accept or offer any reward, pecuniary or otherwise, for service rendered in connection with the circulation thereof, but this shall not prevent the committee from paying for legal advice and from incurring an expense for stationery, copying, printing, and notaries' fees. Any violation of the provisions of this section is a misdemeanor.

Section 5.03. Further Regulations. The Council may provide by ordinance such further regulations for the initiative and referendum, not inconsistent with this charter, as it deems necessary.

Initiative

Section 5.04. Initiation of Measures. Any five electors may form themselves into a committee for the initiation of any ordinance except as provided in Section 5.01. Before circulating any petition they shall file a verified copy of their proposed ordinance with the City Clerk together with their

names and addresses as members of such committee. They shall also attach a verified copy of the proposed ordinance to each of the signature papers herein described, together with their names and addresses as sponsors therefor.

Section 5.05. Form of Petition and of Signature Papers. The petition for the adoption of any ordinance shall consist of the ordinance, together with all the signature papers and affidavits thereto attached. Such petition shall not be complete unless signed by a number of voters equal to at least ten percent of the total number of votes cast at the last state general election. All the signatures need not be on one signature paper, but the circulator of every such paper shall make an affidavit that each signature appended to the paper is the genuine signature of the person whose name it purports to be. Each signature paper shall be in substantially the following form:

Initiative Petition

proposing an ordinance to _____(stating the purpose of the ordinance), a copy of which ordinance is hereto attached. This ordinance is sponsored by the following committee of electors:

	Name	Address
1.	_____	_____
2.	_____	_____
3.	_____	_____
4.	_____	_____
5.	_____	_____

The undersigned electors, understanding the terms and the nature of the ordinance hereto attached, petition the Council for its adoption, or, in lieu thereof, for its submission to the electors for their approval.

1.	_____	_____
2.	_____	_____
3.	_____	_____

At the end of the list of signatures shall be appended the affidavit of the circulator mentioned below.

Section 5.06. Filing of Petitions and Action Thereon. All the signature papers shall be filed in the office of the City Clerk as one instrument. Within five days after the filing of the petition, the City Clerk shall ascertain by examination the number of electors whose signatures are appended thereto and whether this number is at least ten percent of the total number of electors who cast their votes at the last preceding state general election. If he finds the petition insufficient or irregular, he shall at once notify one or more of the committee of sponsors of that fact, certifying the reasons for his finding. The committee shall then be given 30 days in which to file additional signature papers and to correct the petition in all other particulars. If at the end of that period the petition is found to be still insufficient or irregular, the Clerk shall file it in his office and shall notify each member of the committee of that fact. The final finding of the insufficiency or irregularity of a petition shall not prejudice the filing of a new petition for the same purpose, nor shall it prevent the Council from referring the ordinance to the electors at the next regular or any special election at its option.

Section 5.07. Action of Council on Petition. When the petition is found to be sufficient, the City Clerk shall so certify to the Council at its next meeting, stating the number of petitioners and the percentage of the total number of voters which they constitute, and the Council shall at once read the ordinance and refer it to an appropriate committee, which may be a committee of the whole. The Committee or Council shall thereupon provide for public hearings upon the ordinance, after the holding of which the ordinance shall be finally acted upon by the Council not later than 65 days after the date upon which it was submitted to the Council by the City Clerk. If the Council fails to pass the proposed ordinance, or passes it in a form different from that set forth in the petition and unsatisfactory to the petitioners, the proposed ordinance shall be submitted by the Council to the vote of the electors at the next regular municipal election; but if the number of signers of the petition is equal to at least 20% of the total number of voters voting at the last state general election, the Council shall call a special election upon the measure. Such special election shall be held not less than 30 nor more than 45 days from date of final action on the ordinance by the Council or after the expiration of 65 days from the date of submission to the Council when there has been no final action; but if a regular election is to occur within three months,

the Council may submit the ordinance at that election. If the Council passes the proposed ordinance with amendments and at least 4/5 of the committee of petitioners do not express their dissatisfaction with such amended form by a statement filed with the City Clerk within 10 days of the passage thereof by the Council, the ordinance need not be submitted to the electors.

Section 5.08. Initiative Ballots. The ballots used when voting upon any such proposed ordinance shall state the substance of the ordinance and shall give the voters the opportunity to vote either "yes" or "no" on the question of adoption. If a majority of the electors voting on any such ordinance vote in favor of it, it shall thereupon become an ordinance of the city. Any number of proposed ordinances may be voted upon at the same election but the voter shall be allowed to vote for or against each separately. In case of inconsistency between two initiated ordinances approved at one election, the one approved by the higher percentage of electors voting on the question shall prevail to the extent of the inconsistency.

Section 5.09. Initiation of Charter Amendments. Nothing in this charter shall be construed as in any way affecting the right of the electors under the constitution and statutes of Minnesota to propose amendments to this charter.

Referendum

Section 5.10. The Referendum. If prior to the date when an ordinance takes effect a petition signed by qualified electors of the city equal in number to 20 percent of the total vote at the last state general election is filed with the City Clerk requesting that any such ordinance be repealed or be submitted to a vote of the electors, the ordinance shall thereby be prevented from going into operation. The Council shall thereupon reconsider the ordinance at its next regular meeting, and either repeal it or by aye and no vote re-affirm its adherence to the ordinance as passed. In the latter case the Council shall immediately order a special election to be held thereon, or submit the ordinance at the next regular municipal election, pending which the ordinance shall remain suspended. If a majority of the electors voting thereon is opposed to the ordinance, it shall not become effective; but if a majority of the electors voting thereon favors the ordinance, it shall go into effect immediately or on the date therein specified.

Section 5.11. Referendum Petitions. The requirements laid down in Sections 5.04 and 5.05 above as to the formation of committees for the initiation of ordinances and as to the form

of petitions and signature papers shall apply to the referendum as far as possible, but with such verbal changes as may be necessary. A referendum petition shall read as follows:

Referendum Petition

proposing the repeal of an ordinance to (stating the purpose of the ordinance), a copy of which ordinance is hereto attached. The proposed repeal is sponsored by the following committee of electors:

	Name	Address
1.	_____	_____
2.	_____	_____
3.	_____	_____
4.	_____	_____
5.	_____	_____

The undersigned petitioners, understanding the nature of the ordinance hereto attached and believing it to be detrimental to the welfare of the city, petition the Council for its submission to a vote of the electors for their approval or disapproval.

	Name	Address
1.	_____	_____
2.	_____	_____
3.	_____	_____

Section 5.12. Referendum Ballots. The ballots used in any referendum election shall conform to the rules laid down in Section 5.08 of this charter for initiative ballots.

CHAPTER 6

Administration of City Affairs

Section 6.01. The City Manager. The City Manager shall be the chief administrative officer of the city. He shall be chosen by the Council solely on the basis of his training, experience and administrative qualifications. The choice shall not be limited to inhabitants of the city or state but he shall be a citizen of the United States. The City Manager shall be appointed for an indefinite period and shall be removable by the Council at any time; but after he has served as Manager for one year he may within fifteen (15) days after his removal or suspension pending removal demand written charges and a public hearing on the charges before the Council prior to the date when his final removal takes effect but pending and during the public hearing the Council may suspend him from office. During suspension pending removal or after removal and pending the public hearing the Manager shall be paid his regular salary. Such public hearing shall take place within thirty (30) days after the demand for the same and the written charges shall be furnished him by the Council at least ten (10) days before the public hearing. After such hearing, if one is demanded, the Council shall have unlimited discretion either to reinstate the Manager or make his removal final and the Manager shall have no right to appeal and no right to further pay. The Council shall designate some properly qualified person to perform the duties of the Manager during his suspension, absence or disability or while the office of Manager is vacant.

Section 6.02. Powers and Duties of the City Manager.

Subd. 1. Subject to the provisions of this charter and any council regulations consistent therewith, the City Manager shall control and direct the administration of the city's affairs. He shall have the powers and duties set forth in the following subdivisions:

Subd. 2. He shall see that this charter and the laws, ordinances and resolutions of the city are enforced.

Subd. 3. He shall appoint upon the basis of merit and fitness and may suspend or remove upon the basis of merit and fitness, and upon the provisions of all applicable ordinances, all officers and employees of the city, except the city attorney whose appointment and removal shall be subject to Council approval. Removal

of department heads shall be made final only upon majority vote of the Council.

Subd. 4. He shall exercise control over all departments and divisions of the city administration created by this charter or by the Council.

Subd. 5. He shall attend all meetings of the Council, with the right to take part in the discussion but not to vote; but the Council may in its discretion exclude him from any meeting at which his removal is considered.

Subd. 6. He shall recommend to the Council for adoption such measures as he may deem necessary for the welfare of the people and the efficient administration of the city's affairs.

Subd. 7. He shall keep the Council fully advised as to the financial condition and needs of the city, and he shall, with the assistance of the department heads, prepare the annual budget and submit it to the Council.

Subd. 8. He shall prepare and submit to the Council for adoption a proposed administrative code incorporating the details of administrative procedure, and from time to time he shall suggest amendments to such code.

Subd. 9. He shall perform such other duties as may be prescribed by this charter or by law or required of him by ordinances or resolutions adopted by the Council.

Section 6.03. Departments of Administration. The Council may create such departments, divisions, and bureaus for the administration of the city's affairs as may seem necessary, and from time to time alter their powers and organization. It shall, in conjunction with the City Manager, prepare a complete administrative code for the city and enact it in the form of an ordinance, which may be amended from time to time by ordinances.

Section 6.04. Subordinate Officers. There shall be a City Clerk and such other officers subordinate to the City Manager as the Council may create by ordinance. The Council may by ordinance abolish offices which have been created by ordinance, and it may combine the duties of various offices as it may see fit.

Section 6.05. Purchases and Contracts. The City Manager

shall be the chief purchasing agent of the city and he may make or let contracts for the purchase of merchandise, materials or equipment or any kind of construction work when the amount of such contract does not exceed One Thousand Five Hundred Dollars ($1,500.00). If such contract exceeds the stated amount but is less than Five Thousand Dollars ($5,000.00), or such higher amount as provided by state law for cities of the second class, the same may be made or let by the City Manager after first obtaining the approval of the City Council. All other purchases shall be made and all other contracts let by the Council after the recommendation of the City Manager has first been obtained. All contracts, bonds, and instruments of any kind to which the city is a party shall be signed by the Mayor and the City Manager on behalf of the city and shall be executed in the name of the city.

Section 6.06. Contracts; How Let. Every contract for the purchase of merchandise, materials or equipment, or for any kind of construction work where the amount involved is more than Five Thousand Dollars ($5,000.00), or such higher amount as is provided by state law for cities of the second class, shall be let only by the Council upon the recommendation of the City Manager to the lowest responsible bidder. Unless the Council shall by emergency ordinance otherwise provide, the City Manager shall advertise for bids by at least one week's published notice in the official legal newspaper of the city on all such contracts exceeding $5,000.00. The Council may, however, reject any and all bids. Nothing contained in this section shall prevent the Council from contracting by a 5/7ths vote for the doing of work with patented processes, or from the purchasing of patented appliances by the same majority. Subject to the provisions of this charter, the Council may by ordinance adopt further regulations for the making of bids and the letting of contracts.

CHAPTER 7

Taxation and Finances

Section 7.01. Council to Control Finances. The Council shall have full authority over the financial affairs of the city; and shall provide for the collection of all revenues and other assets, the auditing and settlement of accounts, and the safekeeping and disbursement of public moneys, and in the exercise of a sound discretion shall make appropriations for the payment of all liabilities and expenses.

Section 7.02. Fiscal Years. The fiscal year of the city shall be the calendar year.

Section 7.03. System of Taxation. Subject to the state constitution, and except as forbidden by it or by state legislation, the Council shall have full power to provide by ordinance for a system of local taxation. In the taxation of real and personal property as such, the city shall conform as fully as possible to the general state law as to the assessment of such property and the collection of such taxes.

Section 7.04. Board of Equalization. The board of equalization shall consist of the members of the Council. To assist the board of equalization the City Manager shall appoint two advisors who shall be residents of the city and who shall serve one year terms, the appointments shall be subject to approval by the Council. The two advisors shall be experienced in real estate matters and shall receive such compensation as the Council may determine. The board of equalization shall equalize assessments of property for taxation purposes according to law. All action by the board of equalization shall require a majority of all its members. As soon as any real estate has been re-assessed, the affected property owner shall be notified by the Assessor of the amount of change and the reasons therefor.

Section 7.05. Preparation of the Annual Budget. The City Manager shall prepare the estimates for the annual budget. The budget shall be by funds and shall include all the funds of the city, except the funds made up of proceeds of bond issues, utility funds, and special assessment funds, and may include any of such funds at the discretion of the Council. The estimates of expenditures for each fund budgeted shall be arranged for each department or division of the city under the following heads:

(1) ordinary expenses (for operation, maintenance and repairs); (2) payment of principal and interest on bonds and other fixed charges; (3) capital outlays (for new construction, new equipment, and all improvements of a lasting character). Ordinary expenses shall be subdivided into: (a) salaries and wages, with a list of all salaried offices and positions, including the salary allowance and the number of persons holding each; (b) other expenses, with sufficient detail to be readily understood. All increases and decreases shall be clearly shown. In parallel columns shall be added the amounts granted and the amounts expended under similar heads for the past two completed fiscal years and the current fiscal year, actual to date and estimated for the balance of the year. In addition to the estimates of expenditures, the budget shall include for each

budgeted fund a statement of the revenues which have accrued for the past two completed fiscal years with the amount collected and the uncollected balances together with the same information, based in so far as necessary on estimates, for the current fiscal year. The statement of revenues for each year shall specify the following items: sums derived from (a) taxation, (b) fees, (c) fines, (d) interest, (e) miscellaneous, not included in the foregoing, (f) sales and rentals, (g) earnings of public utilities and other public service enterprises, (h) special assessments, and (i) sales of bonds and other obligations. Such estimates shall be printed or typewritten and there shall be sufficient copies for each member of the Council, for the City Manager, for the City Clerk and three, at least, to be available at the City Hall for public inspection. The estimates shall be submitted to the Council at its first regular meeting in September and shall be made public. The City Manager shall submit with the estimates, such explanatory statement or statements as the Council may require.

Section 7.06. Passage of the Budget. The budget shall be the principal item of business at the first regular monthly meeting of the Council in September and the Council shall hold adjourned meetings from time to time until all the estimates have been considered. The meetings shall be so conducted as to give interested citizens a reasonable opportunity to be heard. The budget estimates shall be read in full and the City Manager shall explain the various items thereof as fully as may be deemed necessary by the Council. The annual budget finally agreed upon shall set forth in detail the complete financial plan of the city for the ensuing fiscal year for the funds budgeted and shall be signed by a majority of the Council for the purpose of identification when adopted. It shall indicate the sums to be raised and from what sources and the sums to be spent and for what purposes according to Section 7.05. The total sum appropriated shall be less than the total estimated revenue by a safe margin. The Council shall adopt the budget not later than October 10th by a majority of the Council adopting a resolution which shall set forth the total for each budgeted fund and each department with such segregation as to objects and purposes of expenditures as the Council deems necessary for purpose of budget control. A majority of the Council shall also adopt a resolution levying whatever taxes it considers necessary within statutory limits for the ensuing year for each fund. The tax levy resolution shall be certified to the County Auditor in accordance with law not later than October 10. At the beginning of the fiscal year, the sums fixed in the budget resolution shall be and become appropriated for the several purposes named in the budget resolution and no other.

Section 7.07. Enforcement of the Budget. It shall be the duty of the City Manager to enforce strictly the provisions of the budget. He shall not approve any order upon the City Treasurer for any expenditure unless an appropriation has been made in the budget resolution, nor for any expenditure covered by the budget resolution unless there is a sufficient unexpended balance left after deducting the total past expenditures and the sum of all outstanding orders and incumbrances. No officer or employee of the city shall place any order or make any purchase except for a purpose and to the amount authorized in the budget resolution. Any obligation incurred by any person in the employ of the city for any purpose not authorized in the budget resolution or for any amount in excess of the amount therein authorized shall be a personal obligation upon the person incurring the expenditure.

Section 7.08. Alterations in the Budget. After the budget resolution has been adopted, the Council shall have no power to increase the amounts fixed in the budget resolution, by the insertion of new items or otherwise, beyond the estimated revenues, unless the actual receipts exceed the estimates and then not beyond the actual receipts. The Council may at any time, by resolution approved by a majority of all of its members, reduce the sums appropriated for any purpose by the budget resolution, or by a vote of five members, authorize the transfer of sums from unencumbered balances of appropriations in the budget resolution to other purposes.

Section 7.09. Emergency Appropriation in Budget. The Council may include an emergency appropriation as a part of the budget but not to exceed 10% of the total budget. A transfer from the emergency appropriation to any other appropriation shall be made only by a vote of at least five members of the Council and shall be used only for the purpose designated by the Council.

Section 7.10. Disbursements. How Made. No disbursement of city funds shall be made except by check signed by the Mayor, City Manager and treasurer and specifying the purpose for which the disbursement is made and the fund from which it is drawn. No such check shall be issued until there is money to the credit of the fund from which it is to be paid sufficient to pay it together with all outstanding encumbrances upon the fund. No such check shall be issued until the claim to which it relates has been supported by an itemized bill, payroll, or time-sheet approved and signed by the responsible city officer who vouches for its correctness and reasonableness. The City Manager shall note on each contract requiring the payment of money by the city the particular fund out of which it is to be paid. The Council may by ordinance make further regulations for the safe-keeping and disbursement of the funds of the city.

Section 7.11. Funds to be Kept. There shall be maintained in the city treasury, a classification of funds which shall provide for a general fund for the payment of such expenses of the city as the Council may deem proper, and such other funds as may be required by statute, ordinance or resolution. The Council shall have full power by ordinance or resolution to make inter-fund loans except from trust and agency funds or as otherwise prohibited by law, as may be deemed necessary and appropriate from time to time. The Council shall have full authority by ordinance or resolution to make permanent transfers between all funds which may be created, provided that such transfers are not inconsistent with the provisions of this charter or state statute.

Section 7.12. Accounts and Reports. The City Manager shall be the chief accounting officer of the city and of every branch thereof, and the Council may prescribe and enforce proper accounting methods, forms, blanks, periodic reports and other devices consistent with the law, this charter and the ordinances adopted in accordance therewith. Once each year, on or before the last day of May, the City Manager shall submit a report to the Council, covering the entire financial operation of the city for the past fiscal year.

Section 7.13. City Indebtedness. Except as provided in Sections 7.14 and 7.15, no obligations shall be issued to pay current expenses, but the Council may issue and sell obligations for any other municipal purpose in accordance with law and within the limitations prescribed by law. Except in the case of obligations for which an election is not required by this charter or by state law, no such obligations shall be issued and sold without the approval of the majority of the electors of the city voting on the question at a general or special election.

Section 7.14. Tax Anticipation Certificates. At any time after January 1 following the making of an annual tax levy, the Council may issue certificates of indebtedness in anticipation of the collection of taxes levied for any fund and not yet collected. The total amount of certificates issued against any fund for any year with interest thereon until maturity shall not exceed 90% of the total current taxes for the fund uncollected at the time of issuance. Such certificates shall be issued on such terms and conditions as the Council may determine and shall bear interest at a rate not to exceed the maximum limit provided by law, but they shall become due and payable not later than the 1st day of April of the year following their issuance. The proceeds of the tax levied for the fund against which tax anticipation certificates are issued and the full faith and credit of the city shall be irrevocably pledged for

the redemption of the certificates in the order of their issuance against the fund.

Section 7.15. Emergency Debt Certificates. If in any year the receipts from taxes or other sources should from some unforseen cause become insufficient for the ordinary expenses of the city, or if any calamity or other public emergency should subject the city to the necessity of making extraordinary expenditures, the Council may by ordinance issue and sell on such terms and in such manner as the Council determines, emergency debt certificates to run not to exceed two years and to bear interest at not more than the maximum limit provided by law. A tax sufficient to pay principal and interest on such certificates with the margin required by law shall be levied as required by law. The ordinance authorizing an issue of such emergency debt certificates shall state the nature of the emergency and be approved by at least five members of the Council. It may be passed by resolution.

Section 7.16. Certificates of Indebtedness. The Council may issue certificates of indebtedness within existing debt limits for the purpose of purchasing fire or police equipment or street construction or maintenance equipment. Such certificates shall be payable in not more than five years and shall be issued on such terms and in such manner as the Council may determine. A tax levy shall be made for the payment of the principal and interest on such certificates as in the case of bonds.

Section 7.17. Borrowing Outside the Debt Limit. The Council may also purchase equipment for street department, water or sewer utility, police or fire department use on conditional sales contracts, provided that the installment payments do not extend beyond the estimated useful life of the equipment so purchased. The Council may purchase real property through a contract for deed wherein the seller is confined to the remedy of recovery of the property in case of nonpayment of all or part of the purchase price which shall be payable over a period of not to exceed five years.

CHAPTER 8

Public Improvements and Special Assessments

Section 8.01. Power to Make Improvements and Levy Assessments. The city shall have the power to make any and every type of public improvement not forbidden by the laws of this state and

to levy special assessments to pay all or any part of the costs of such improvements as are of a local character in accordance with the laws of the State of Minnesota.

Section 8.02. Assessments for Services. The Council may provide by ordinance that the cost of snow, rubbish or weed removal, sprinkling of streets or of any other service to streets, sidewalks, or other public property, or the costs of any services to other property undertaken by the city may be assessed against the property benefited and collected in like manner as are special assessments.

Section 8.03. Local Improvements Regulations. After this charter takes effect local improvements commenced prior thereto shall be completed and assessments may be levied and securities issued for the financing thereof as prescribed by the law applicable thereto.

Section 8.04. Public Works; How Performed. Public works, including all local improvements, may be constructed, extended, repaired, and maintained either directly by day labor or by contract. Pursuant to the laws of the State of Minnesota the city shall require contractors to give bonds for the protection of the city and all persons furnishing labor and materials.

CHAPTER 9

Eminent Domain

Section 9.01. Power to Acquire Property. The city may acquire, by purchase, gift, devise, or condemnation any property, real, personal, corporeal or incorporeal, either within or without its corporate boundaries, which may be needed by the city for any public use or purpose. Easements for slopes, fills, drainages, sewers, building lines, poles, wires, pipes, and conduits for water, gas, heat, and power may be acquired by gift, devise, purchase, or condemnation in the manner provided by law.

Section 9.02. Proceedings in Acquiring Property. The necessity for the taking of any property by the city shall be determined by the Council and shall be declared by a resolution which shall describe such property as nearly as may be and state the use to which it is to be devoted. In acquiring property by exercising the power of eminent domain, the city shall proceed according to the laws of this state, except as otherwise provided in this chapter.

Section 9.03. Payment of Award. Whenever an award of damages is confirmed in any proceeding for the taking of property for public use by right of eminent domain, or whenever the court renders final judgment in any appeal from any such award and the time for abandoning such proceedings by the city has expired, the city shall, in accordance with the laws of this state, pay the amount of the award or judgment of the court, as the case may be, and if not paid, judgment therefor may be had against the city.

Section 9.04. City May Take Entire Plant. If the city condemns a public utility which is operated at the time of the commencement of the condemnation proceedings as one property or one system, it shall not be necessary in the condemnation proceedings or any of the proceedings of the Council, to describe or treat separately the different kinds of property composing such system; but all of the property, lands, articles, franchises, and rights which comprise such system may, unless otherwise ordered by the court, be treated together as one property and an award for the whole property in one lump sum may be made by the Commissioners or other body assessing the damages on condemnation. This does not prevent the city, when the plant and property are separable into distinct parts, from acquiring only such part or parts thereof as may be necessary in the public interest.

CHAPTER 10

Franchises

Section 10.01. Franchises Required. Except as otherwise provided by law, no person, firm or corporation shall place or maintain any permanent or semi-permanent fixtures in, over, upon, or under any street or public place for the purpose of operating a public utility or for any other purpose, without a franchise therefor from the city. A franchise shall be granted only by ordinance, which shall not be an emergency ordinance. Every ordinance granting a franchise shall contain all the terms and conditions of the franchise. The grantee shall bear the costs of publication of the franchise ordinance and shall make a sufficient deposit with the Clerk to guarantee publication before the ordinance is passed.

Section 10.02. Term. No exclusive or perpetual franchise shall ever be granted. No franchise for a term exceeding twenty years shall be effective until approved by a majority of the electors voting thereon.

Section 10.03. Public Hearing. Before any franchise or privilege ordinance is adopted, altered, modified, extended or renewed, the Council shall hold a public hearing upon ten (10) days published notice in the official newspaper. Additional notice of such hearing may be given in such a manner as the Council may determine.

Section 10.04. Power of Regulation Reserved. Subject to any applicable law the Council may by ordinance reasonably regulate and control the exercise of any franchise, including the maximum rates, fares, or prices to be charged by the grantee. No franchise value shall be included in the valuation of the grantee's property in regulating utility rates, fares, or prices under any applicable law, ordinance, or regulation or in proceedings for municipal acquisition of the grantee's property by purchase or eminent domain.

Section 10.05. Renewals or Extensions. Every extension, renewal or modification of any existing franchise or of any franchise granted hereafter shall be subject to the same limitations and shall be granted in the same manner as a new franchise.

CHAPTER 11

Public Ownership and Operation of Utilities

Section 11.01. Acquisition and Operation of Utilities. The city may own and operate any gas, water, heat, power, light, telephone or other public utility for supplying its own needs for utility service or for supplying utility service to private consumers or both. It may construct all facilities reasonably needed for that purpose and may acquire any existing utility properties so needed; but such acquisition action may only be taken by ordinance, which shall not be an emergency ordinance. The operation of all public utilities owned by the city shall be under the supervision of the City Manager.

Section 11.02. Rates and Finances. Upon recommendations made by the City Manager or upon its own motion, the Council may fix rates, fares and prices, for municipal utilities but such rates, fares and prices shall be just and reasonable. The Council shall endeavor to make each municipal utility financially self-sustaining and shall not use any municipal utility operation directly or indirectly as a general revenue producing agency for the city. Before any rates, fares or prices for municipal utilities shall be fixed by the Council, the Council

shall hold a public hearing on the matter in accordance with Section 11.06. The Council shall prescribe the time and the manner in which payments for all such utility services shall be made, and may make such other regulations as may be necessary, and prescribe penalties for violations of such regulations.

Section 11.03. Purchase in Bulk. The Council may, in lieu of providing for the local production of gas, electricity, water, and other utilities, purchase the same in bulk and resell them to local consumers at such rates as it may fix. Before such rates are fixed by the Council, the Council shall hold a public hearing on the matter in accordance with Section 11.06.

Section 11.04. Lease of Plant. The Council may, if the public interest will be served thereby, contract with any responsible person, co-partnership or corporation for the operation of any utility owned by the city, upon such rentals and conditions as it may deem necessary; but such contract shall be embodied in and let only by an ordinance approved by five members of the Council. Such ordinance shall not be an emergency ordinance. In no case shall such contract be for a longer term than ten years.

Section 11.05. Public Utility, How Sold. No public utility owned by the city shall be sold or otherwise disposed of by the city unless the full terms of the proposition of sale or other disposition are embodied in an ordinance approved by a majority of the electors voting thereon at a general or special election. In the case of a water works or light plant, any sale, lease, or abandonment shall be subject, in addition, to the requirements of state law.

Section 11.06. Notice of Public Hearings. Notice of public hearings required by this chapter shall be published at least once in the official newspaper at least ten (10) days prior to the date of the hearing. Additional notice of such public hearings may be given in such manner as the Council may determine.

CHAPTER 12

Miscellaneous and Transitory Provisions

Section 12.01. Official Publications. The Council shall annually designate a legal newspaper of general circulation in the

city as its official newspaper in which shall be published ordinances and other matters required by law to be so published as well as such other matters as the Council may deem it in the public interest to have published in this manner.

Section 12.02. Oath of Office. Every officer of the city shall, before entering upon the duties of his office, take and subscribe to an oath of office in substantially the following form: "I do solemnly swear (or affirm) to support the constitution of the United States and of the State of Minnesota and to discharge faithfully the duties devolving upon me as (mayor, councilman, city manager, etc.) of the City of Minnetonka to the best of my judgment and ability."

Section 12.03. City Officers not to be Interested in Contracts. Except as otherwise permitted by law, no councilman, or other officer, or employee, of the city who is authorized to take part in any manner in making any contract with the city shall voluntarily have a personal financial interest in such contract, or personally benefit financially therefrom. In order to effectuate the intent and the terms of this section, the City Council shall adopt by ordinance a code of ethics governing the activities and conduct of office of all elected officials, appointed officials, or employees of the City. (Amended May 20, 1974)

Section 12.04. Official Bonds. The City Manager, the City Clerk, the City Treasurer, and such other officers or employees of the city as may be provided for by ordinance shall each before entering upon the duties of his respective office or employment, give a corporate surety bond to the city in such form and in such amount as may be fixed by the Council as security for the faithful performance of his official duties and the safekeeping of the public funds. Such bonds may be either individual or blanket bonds in the discretion of the Council. They shall be approved by the City Council, and approved as to form by the City Attorney, and filed with the City Clerk. The provisions of the laws of the state relating to official bonds not inconsistent with this charter shall be complied with. The premiums on such bonds shall be paid by the city.

Section 12.05. Sales of Real Property. No real property of the city shall be disposed of except by ordinance. The proceeds of any sale of such property shall be used as far as possible to retire any outstanding indebtedness incurred by the city in the purchase, construction, or improvement of this or other property used for the same public purpose. If there is no such outstanding indebtedness, the Council may by resolution designate some other public use for the proceeds.

Section 12.06. Vacation of Streets. The Council may by resolution, approved by at least five (5) members of the Council, vacate any street, alley, public grounds, public way, or any part thereof, on its own motion or on petition of a majority of the owners of land abutting on the street, alley, public grounds, public way, or part thereof to be vacated. No such vacation shall be made unless it appears in the interest of the public to do so and only after a public hearing preceded by two weeks published notice. Not less than 10 days before the public hearing, notice of the proposed vacation and of the date, time and place of the hearing shall be mailed to the owner of each abutting property, failure to give said notice or any defects in the notice shall not invalidate the proceedings. Affected property owners and the public shall have an opportunity to be heard. The Council may by ordinance prescribe additional terms and procedures as they deem necessary to protect the public interest. A notice of completion of such proceedings shall be filed with the proper county officers in accordance with the law.

Section 12.07. City to Succeed to Rights and Obligations of Former Village. The city shall succeed to all the property, rights, and privileges, and shall be subject to all legal obligations of the Village of Minnetonka.

Section 12.08. Present Officers to Hold Office and Schedule of Election of New Council Members.

a.) Upon adoption of this charter, the Council shall provide for a special election to be held within 90 days of the effective date of this charter, to elect two Councilmen whose terms shall expire on December 31, 1973. Said election shall be held in accordance with the provisions of Chapter 4 of this charter and the general laws of the State of Minnesota.

b.) The terms of existing village officers shall be extended or continued in accordance with the following schedule.

1.) Mayor's term to expire December 31, 1971.

2.) The terms of Councilmen whose terms expire on or before December 31, 1971 shall be extended to December 31, 1971.

3.) The term of the Councilman elected at the regular municipal election in 1969 whose term would expire on December 31, 1972 shall be extended to December 31, 1973.

c.) The present officers of the village shall continue in their respective offices and functions until their successors are chosen and qualify, and shall continue to discharge the duties of their offices.

Section 12.09. Statutes Not Affected by Charter. All general laws and statutes of the state applicable to all cities operating under home rule charters, or applicable to cities of the same class as the City of Minnetonka operating under home rule charters, and not inconsistent with the provisions of this charter, shall apply to the City of Minnetonka, and shall be construed as supplementary to the provisions of this charter.

Section 12.10. Existing Ordinances Continued. All ordinances and regulations of the village in force when this charter takes effect, and not inconsistent with the provisions thereof, are hereby continued in full force and effect until amended or repealed.

Section 12.11. Pending Condemnations and Assessments. Any condemnation or assessment proceeding in progress when this charter takes effect shall be continued and completed under the laws under which such proceedings were begun. All assessments made by the village prior to the time when this charter takes effect shall be collected and the lien thereof enforced in the same manner as if this charter had not been adopted.

Section 12.12. Human Rights. All powers of the city shall be used to protect against any discriminatory practices within the city which abridge the privileges or immunities of any citizen because of race, color, creed, religion, ancestry, national origin or sex.

12.13. Ordinances to Make Charter Effective. The Council shall by ordinance make such regulations as may be necessary to carry out and make effective the provisions of this charter.

TITLE 1

CHARTER OF THE CITY OF COON RAPIDS

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CHARTER OF THE CITY OF COON RAPIDS

CHAPTER 1-100

NAME, BOUNDARIES, POWERS, AND GENERAL PROVISIONS

1-101 Name and Boundaries. Upon taking effect of this Charter the Village of Coon Rapids in the County of Anoka and State of Minnesota shall become a City under the name of the City of Coon Rapids, and shall continue to be a municipal corporation with boundaries the same as they now are established or as they may hereafter be established.

1-102 Powers of the City. The City shall have all powers which it may now or hereafter be possible for a municipal corporation in this State to exercise in harmony with the constitutions of this State and of the United States. It is the intention of this Charter that every power which the people of the City of Coon Rapids might lawfully confer upon themselves, as a municipal corporation, by specific enumeration in this Charter shall be deemed to have been so conferred by the provisions of this Section. This Charter shall be construed liberally in favor of the City and the specific mention of particular powers in the Charter shall not be construed as limiting in any way the generality of the power herein sought to be conferred.

1-103 Charter a Public Act. This Charter shall be a public act and need not be pleaded or proved in any case. It shall take effect ten (10) days from and after its adoption by the voters.

CHAPTER 1-200

FORM OF GOVERNMENT

1-201 Form of Government. The form of government established by this Charter is the "Council-Manager Plan." The Council shall exercise the legislative power of the City and determine all matters of policy. The City Manager shall be the head of the administrative branch of the City government and shall be responsible to the Council for the proper administration of all affairs relating to the City.

1-202 Boards and Commissions. There shall be no separate administrative board of health, library board, park board, or any other administrative board or commission, except for the administration of a function jointly with another political subdivision. The Council shall itself be and perform the duties and exercise the powers of such boards and commissions. The Council may, however, establish boards or commissions to advise the Council with respect to any municipal function or activity to investigate any subject of interest to the City or to perform quasi-judicial functions.

1-203 Elective Officers and Ward Boundaries. The Council shall consist of a Mayor and four (4) Councilmembers who shall be qualified voters. The Mayor and one (1) Councilmember shall be elected at large, and and shall be elected for two (2) years.

Three (3) Councilmembers shall be elected for terms of three (3) years each from three (3) separate wards of the City.

The Council shall, by ordinance, establish the boundaries of each ward. Ward boundaries established by ordinance at the time of the adoption of this amendment shall continue in effect until changed as herein provided.

The Councilmember elected from a ward must be a resident of such ward and his ceasing to be a resident of such ward thereof shall cause a vacancy in the office of Councilmember from such ward; provided that a change in ward boundaries during his term of office shall not disqualify him from serving out his term.

Within six (6) months following the official certification of any census conducted by the United States Government and the filing with the City Clerk of a census list of a City Census duly adopted by the Council, the Council shall, by ordinance, redetermine ward boundaries so as to make said wards as nearly equal in population as practicable. In no event shall there be a deviation of more than five percent (5%) in the population of the ward having the largest population and that ward having the smallest population.

The Council shall, by ordinance, adopt standards to be used to redetermine appropriate ward boundaries in years between the taking of a Federal decennial census. Such redetermination shall be made whenever the Council has determined that a deviation of more than five percent (5%) in the population of the wards having the largest and smallest population exists. Such determination shall be based upon the standards adopted by the Council.

The term "population" as used in this Section shall mean the population as defined by the last preceding Federal census, or the population as determined by the Council as herein provided.

1-204 Incompatible Offices. No member of the Council shall be appointed City Manager, nor shall any member hold any paid municipal office or employment under the City; and until one (1) year after expiration of his term as Mayor or Councilmember no former member shall be appointed to any paid appointive office or employment under the City.

1-205 Vacancies in the Council. A vacancy in the Council shall be deemed to exist in case of the failure of any person elected thereto to qualify on or before the date of the second regular meeting of the new Council, or by reason of death, resignation, removal from office, removal from the City, continuous absence from the City for more than three (3) months, or conviction of a felony of any such person whether before or after his qualification, or by reason of the failure of any Councilmember without good cause to perform any of the duties of membership in the Council for a period of three (3) months. In each such case the Council shall, by resolution, declare such vacancy to exist and the Council shall, by resolution, within 30 days thereafter: (a) appoint an eligible person to fill the same until the next regular municipal election when the office shall be filled for the unexpired term, or (b) order a special municipal election to fill such vacancy for the unexpired term thereof. Such election shall be held no less than 45 nor more than 60 days after the adoption of such resolution. If more than two (2) candidates file for such office, a special primary election shall be held two (2) weeks prior to the special municipal election.

1-206 The Mayor. The Mayor shall be the presiding officer of the Council, except that the Council shall choose from its members a president pro tem who shall hold office at the pleasure of the Council and shall serve as president in the Mayor's absence and as Mayor in case of the Mayor's disability or absence from the City. The Mayor shall have a vote as a member of the Council. He shall exercise all powers and perform all duties conferred and imposed upon him by this Charter, the ordinances of the City, and the laws of the State. He shall be recognized as the official head of the City for all ceremonial purposes, by the courts for the purpose of serving civil process, and by the Governor for the purposes of martial law. He shall study the operations of the City government and shall report to the Council any neglect, dereliction of duty, or waste on the part of any officer or department of the City. In time of public danger or emergency, he may, with the consent of the Council, take command of the police, maintain order, and enforce the law.

1-207 Salaries. Effective January 1, 1976, the Mayor shall receive an annual salary of $3,600, the Councilmember at Large shall receive an annual salary of $3,300, and the Ward Councilmembers shall each receive an annual salary of $3,000. The Mayor and Councilmembers, in addition to the above salaries, shall be paid their reasonable expenses incurred while traveling outside the City on the City's business.

1-208 Investigation of City Affairs. The Council and City Manager, or either of them, and any officer or officers formally authorized by them, or either of them, shall have power to make investigations into the City's affairs, to subpoena witnesses, administer oaths, and compel the production of books and papers. The Council shall provide an audit of the City's accounts at least once a year. The Council may at any time provide for an examination or audit of the accounts of any officer or department of the City government and it may cause to be made any survey or research study of any subject of municipal concern.

1-209 Interferences with Administration. The Council may, by ordinance, establish the merit system in all or part of the City administration, but neither the Council nor any of its members shall dictate the appointment of any person to office or employment by the City Manager, or in any manner interfere with the City Manager or prevent him from exercising his own judgment in the appointment of officers and employees in the administrative service. Except for the purpose of inquiry, the Council and its members shall deal with and control the administrative service solely through the City Manager, and neither the Council nor any member thereof shall give orders to any of the subordinates of the City Manager, either publicly or privately.

CHAPTER 1-300

PROCEDURE OF COUNCIL

1-301 Council Meetings. On the first business day of January following a regular municipal election, the Council shall meet at the usual place and time for the holding of Council meetings. At this time the newly elected members of the Council shall assume their duties. Thereafter the Council shall meet at such times each month as may be prescribed by ordinance or resolution. The Mayor or any three (3) members of the Council may call special meetings of the Council upon at least a 12-hour notice to each member of the Council. Such notice shall be delivered personally to each member or shall be left at his usual place of residence with some responsible person. All meetings of the Council shall be public, reasonable notice to the public should be provided, and any citizen shall have access to the minutes and records thereof at all reasonable times.

1-302 Secretary of Council. The Council shall choose and may remove a secretary of the Council. The Council may designate any official or employee of the City to act as secretary of the Council. The secretary shall keep a journal of the Council proceedings, keep such other records, and perform such other duties as may be required by the Charter or by vote of the Council. The Council shall choose such other officers and employees as may be necessary to serve at its meetings.

1-303 Rules of Procedure and Quorum. The Council shall determine its own rules and order of business by resolution on the first business day of January. A majority of all members elected shall constitute a quorum to do business, but a smaller number may adjourn from time to time.

1-304 Ordinances, Resolutions, and Motions. Except as in this Charter otherwise provided, all legislation shall be by ordinance. The aye and no vote on ordinances, resolutions, and motions shall be recorded unless the vote is unanimous. An affirmative vote of a majority of all the members of the Council shall be required for the passage of all ordinances and resolutions, except as otherwise provided in this Chapter.

1-305 Procedure on Ordinances. The enacting clause of all ordinances passed by the Council shall be in the words: "The City of Coon Rapids does ordain." Every ordinance shall be presented in writing and have one (1) public reading in full at the meeting at which it is introduced. No ordinance except an emergency ordinance shall be passed at the meeting at which it is introduced and at least 25 days shall elapse between its introduction and final passage.

1-306 Emergency Ordinances. An emergency ordinance is an ordinance necessary for the immediate preservation of the public peace, health, morals, safety, or welfare in which the emergency is defined and

declared in a preamble thereto, and is adopted by a vote of at least four (4) members of the Council. No prosecution shall be based upon the provisions of any emergency ordinance until 24 hours after the ordinance has been filed with the City Manager, posted in three (3) conspicuous places, or until the ordinance has been published, unless the person charged with violation had actual notice of the passage of the ordinance prior to the act or omission complained of.

1-307 Procedure on Resolutions. Every resolution shall be presented in writing and read in full before a vote is taken thereon, unless the reading of a resolution is dispensed with by unanimous consent.

1-308 Signing and Publication of Ordinance and Resolutions. Every ordinance or resolution passed by the Council shall be signed by the Mayor or by two (2) other members, attested by the City Clerk, and filed and preserved by him. Every ordinance shall be published at least once in the official newspaper. To the extent and in the manner provided by law an ordinance may incorporate by reference a statute of Minnesota, a State administrative rule or a regulation, a Code, or ordinance or part thereof without publishing the material referred to in full.

1-309 When Ordinances and Resolutions Take Effect. A resolution and an emergency ordinance shall take effect immediately upon its passage or at such later date as is fixed in it. Every other ordinance shall take effect 30 days after publication or at such late date as is fixed therein. Every ordinance adopted by the voters of the City shall take effect immediately upon its adoption, or at such later time as is fixed therein.

1-310 Amendment and Repeal of Ordinances and Resolutions. Every ordinance or resolution repealing a previous ordinance or resolution or section or subdivision thereof shall give the number, if any, and the title of the ordinance or resolution to be repealed in whole or in part. No ordinance or resolution or section or subdivision thereof shall be amended by reference to the title alone, but such an amending ordinance or resolution shall set forth in full each section or subdivision to be amended and shall indicate new matter by underscoring any old matter to be omitted by enclosing it in brackets. In newspaper publication, the same indications of omitted and new matter shall be used except that italics or bold-faced type may be substituted for underscoring and omitted matter may be printed in capital letters within parentheses.

1-311 Revision and Codification of Ordinances. The City may revise, rearrange, and codify its ordinances with such additions and deletions as may be deemed necessary by the Council. Such ordinance code shall be published in book, pamphlet, or continuously revised loose-leaf form and copies shall be made available by the Council at the office of the City for general distribution to the public at a reasonable charge. Publication in such a code shall be sufficient publication of an ordinance provision not previously published if a notice that copies of the codifications are available at the office of the City is published in the official newspaper for at least two (2) successive weeks.

CHAPTER 1-400

NOMINATIONS AND ELECTIONS

1-401 The Regular Municipal Election. A regular municipal election shall be held on the first Tuesday after the first Monday in November of each year at such place or places as the City Council may designate. The City Clerk or City Manager shall give at least 15 days previous notice of the time and place of holding such election and of the officers to be elected by posting in at least one (1) public place in each voting precinct and by publication at least once in the official newspaper, but failure to give such notice shall not invalidate such election. The members of the Council shall be elected at the regular municipal election.

1-402 Special Elections. The Council may, by resolution, order a special election and provide all means for holding it. At least two (2) weeks published notice of a special election shall be given in the official newspaper. The procedure at such election shall conform as nearly as possible to that prescribed for other municipal elections.

1-403 Election Officials. The Council shall, at least 25 days before each municipal election, appoint qualified voters of each election district to serve as judges and clerks of election. The Council shall determine the number of judges and clerks as it deems necessary, but that in no event shall there be less than three (3) qualified voters appointed as judges and clerks of election in each election district. The Council shall fix their compensation.

1-404 Candidates.

(1) No more than eight (8) nor less than six (6) weeks before the primary election, a candidate for a City office shall file an affidavit with the City Manager, or an application on behalf of any qualified voter of the City whom they desire to be a candidate may be made and filed by not less than five (5) voters thereof; provided that service of a copy of the application shall be made on such candidate and proof of service endorsed on the application before filing. In either case, the filing fee shall be $10.00. Such affidavit or application shall state that the candidate is a qualified voter of the City of Coon Rapids, and name the office for which he is a candidate.

(2) Any candidate may withdraw not later than 12:00 noon of the day following the last day for filing by filing a notice of withdrawal with the City Manager.

1-405 Canvass of Elections. The Council shall meet and canvass the election returns within five (5) days after any regular or special election, and shall make full declaration of the results as soon as possible, and file a statement thereof with the City Clerk. This statement shall include: (a) the total number of good ballots cast; (b) the total number of spoiled or defective ballots; (c) the vote for each candidate, with an indication of those who were elected;

(d) a true copy of the ballots used; (e) the names of the judges and clerks of election; and (f) such other information as may seem pertinent. The City Clerk shall forthwith notify all persons elected of their election.

1-406 Procedure at Election. Subject to the provisions of this Charter and applicable State law, the Council may, by ordinance, further regulate the conduct of municipal elections. Except as otherwise provided for in this Charter or in ordinances adopted pursuant thereto, the general laws of the State of Minnesota pertaining to elections shall apply to municipal elections.

1-407 Primary Election. On the first Tuesday after the second Monday of each September there shall be a primary election for the selection of two (2) nominees for each elective office at the regular municipal election, unless only two (2) nominees file for each elective office.

CHAPTER 1-500

INITIATIVE AND REFERENDUM

1-501 Powers Reserved by the People. The people of Coon Rapids reserve to themselves the power, in accordance with the provisions of this Chapter, to initiate and adopt any ordinance, except an ordinance appropriating money or authorizing the levy of taxes, or to require an ordinance when passed by the Council to be referred to the voters for approval or disapproval. These powers shall be called the initiative and the referendum, respectively.

1-502 Expenditures by Petitioners. No member of any initiative referendum committee, no circulator of a signature paper, or any other person, shall accept or offer any reward, pecuniary or otherwise, for service rendered in connection with the circulation thereof, but this shall not prevent the committee from paying for legal advice and from incurring expenses for stationery, copying, printing, and notaries' fees. Any violation of the provisions of this Section is a misdemeanor.

1-503 Further Regulations. The Council may provide, by ordinance, such further regulations for the initiative and referendum, not inconsistent with this Charter, as it deems necessary.

INITIATIVE

1-504 Initiation of Measures. Any 15 registered voters may form themselves into a committee for the initiation of any ordinance, except as provided in Section 1-501. Before circulating any petition they shall file a verified copy of their proposed ordinance with the City Clerk together with their signatures and addresses as members of such committee. They shall also attach a certified copy of the proposed ordinance to each of the signature papers herein described, together with their names and addresses as sponsors.

1-505 Form of Petition and of Signature Papers. The petition for the adoption of any ordinance shall consist of the ordinance, together with all the signature papers and affidavits thereto attached. Such petition shall not be complete unless signed by a number of registered voters equal to at least 15 percent of the total number of votes cast at the last preceding regular municipal election at which the Mayor was elected. All the signatures need not be on one signature paper, but the circulator of every such paper shall make an affidavit that each signature appended to the paper is the genuine signature of the person whose name it purports to be. Each signature paper shall be in substantially the following form:

Initiative Petition

Proposing an ordinance to _____ (stating the purpose of the ordinance), a copy of which ordinance is hereto attached. This ordinance is presented by the following committee of sponsors.

Name

1. _____

2. _____

Address

_____

_____

The undersigned registered voters, understanding the terms and the nature of the ordinance hereto attached, petition the Council for its adoption, or, in lieu thereof, for its submission to the voters for their approval.

Name

1. _____

2. _____

3. _____

Address

_____

_____

_____

At the end of the list of signatures shall be appended the affidavit of the circulator mentioned above.

1-506 Filing of Petitions and Action Thereon. All the signature papers shall be filed in the office of the City Clerk as one instrument. Within five (5) days after the filing of the petition, the City Clerk shall ascertain by examination the number of registered voters whose signatures are appended thereto and whether this number is at least 15 percent of the total number of voters who cast their votes at the last preceding regular municipal election at which the Mayor was elected. If the City Clerk finds the petition insufficient or irregular, he shall at once notify each member of the committee of sponsors of the fact, certifying the reasons for his finding. The committee shall then be given 30 days in which to file additional signature

papers and to correct the petition in all other particulars. If at the end of that period the petition is found to be still insufficient or irregular, the City Clerk shall file it in his office and shall notify each member of the committee of that fact. The final finding of the insufficiency or irregularity of a petition shall not prejudice the filing of a new petition for the same purpose, nor shall it prevent the Council from referring the ordinance to the voters at the next regular or any special election at its option.

1-507 Action of Council on Petition. When the petition is found to be sufficient the City Clerk shall so certify to the Council at its next meeting stating the number of petitioners and the percentage of the total number of voters which they constitute, and the Council shall at once read the ordinance and refer it to an appropriate committee, which may be a committee of the whole. The committee or Council shall thereupon provide for public hearing upon the ordinance, after the holding of which the ordinance shall be finally acted upon by the Council not later than 65 days after the date upon which it was submitted to the Council by the City Clerk. If the Council fails to pass the proposed ordinance, or passes it in a form different from that set forth in the petition and unsatisfactory to the committee of sponsors as herein provided, the proposed ordinance shall be submitted by the Council to the voters at the next regular municipal election; but if the number of signers of the petition is equal to at least 30 percent of the total number of voters voting at the last regular municipal election at which the Mayor was elected, the Council shall call a special election upon the measure. Such special election shall be held not less than 30 nor more than 45 days from the date of final action on the original by the Council or after the expiration of 65 days from the date of submission to the Council when there has been no final action; but if a regular election is to occur within three (3) months, the Council may submit the ordinance at that election. If the Council passes the proposed ordinance with amendments and at least four-fifths (4/5) of the committee of sponsors do not express their dissatisfaction with such amended form by a statement filed with the City Clerk within ten (10) days of the passage thereof by the Council, the ordinance need not be submitted to the voters.

1-508 Initiative Ballots. The ballots used when voting upon any such proposed ordinance shall state the substance of the ordinance and shall give the voters the opportunity to vote either "yes" or "no" on the question of adoption. If the majority of the voters voting on any such ordinance vote in favor of it, it shall thereupon become an ordinance of the City. Any further number of proposed ordinances may be voted upon at the same election, but the voter shall be allowed to vote for or against each separately. In case of inconsistency between two (2) initiated ordinances approved at one (1) election, the one approved by the higher percentage of voters voting on the question shall prevail to the extent of the inconsistency.

1-509 Initiation of Charter Amendments. Nothing in this Charter shall be construed as in any way affecting the right of the voters under the constitution and statutes of Minnesota to propose amendments to this Charter.

1-510 The Referendum. If prior to the date when an ordinance takes effect a petition signed by a number of registered voters equal to at least 15 percent of the total vote at the last regular municipal election at which the Mayor was elected, is filed with the City Clerk requesting that any such ordinance shall thereby be repealed or be submitted to a vote of the voters, the ordinance shall thereby be prevented from going into operation. The Council shall thereupon reconsider the ordinance at its next regular meeting, and either repeal it or by aye and no vote or reaffirm its adherence to the ordinance as passed. In the latter case the Council shall immediately order a special election to be held thereon, or submit the ordinance at the next regular municipal election, pending which the ordinance shall remain suspended. If a majority of the voters voting thereon is opposed to the ordinance, it shall not become effective; but if a majority of the voters voting thereon favors the ordinance, it shall go into effect immediately or on the date therein specified.

1-511 Referendum Petitions. The requirements laid down in Section 1-504 and 1-505 above as to the formation of committees for the initiation of ordinances and as to the form of petitions and signature papers shall apply to the referendum as far as possible, but with such language changes as may be necessary. A referendum petition shall read as follows:

Referendum Petition

Proposing the repeal of an ordinance to (stating the purpose of the ordinance), a copy of which ordinance is hereto attached. The proposed repeal is presented by the following committee of sponsors:

Name

1. _____
2. _____
3. _____
4. _____
5. _____

Address

_____

_____

_____

_____

_____

The undersigned registered voters, understanding the nature of the ordinance hereto attached and believing it to be detrimental to the welfare of the City, petition the Council for its submission to the voters for their approval or disapproval.

Name

1. _____

2. _____

3. _____

Address

_____

_____

_____

1-512 Referendum Ballots. The ballots used in any referendum election shall conform to the rules laid down in Section 1-508 of this Charter for initiative ballots.

CHAPTER 1-600

ADMINISTRATION OF CITY AFFAIRS

1-601 The City Manager. The City Manager shall be the chief administrative officer of the City. He shall be chosen by the Council solely on the basis of his training, experience, and administrative qualifications, and need not be a resident of the City at the time of his appointment. The City Manager shall be appointed for an indefinite period and may be removed by the Council at any time; but after he has served as Manager for one (1) year, he may demand written charges and a public hearing on the charges before Council prior to the date when his final removal takes effect. After such hearing, if one is demanded, the Council shall have unlimited discretion either to reinstate the Manager or make his removal final. Pending such hearing and removal, the Council may suspend the Manager from office. The Council may designate some properly qualified person to perform the duties of the Manager during his absence, suspension, or disability, or while the office of Manager is vacant.

1-602 Powers and Duties of the City Manager.

(1) Subject to the provisions of this Charter and any Council regulations consistent therewith, the City Manager shall control and direct the administration of the City's affairs. He shall have the powers and duties set forth in the following subdivisions.

(2) He shall see that this Charter and the laws, ordinances, and resolutions of the City are enforced.

(3) He shall appoint and remove, upon the basis of merit and fitness and subject to applicable civil service provisions, if any, the City Clerk, all heads of departments, and all subordinate officers and employees in the departments.

(4) He shall exercise control over all departments and divisions of the City administration created by this Charter or by the Council.

(5) He shall attend all meetings of the Council, with the right to take part in the discussion but not to vote; but the Council may in its discretion excuse him from any meeting.

(6) He shall recommend to the Council for adoption such measures as he may deem necessary for the welfare of the people and the efficient administration of the City's affairs.

(7) He shall keep the Council fully advised as to the financial condition and needs of the City, and he shall prepare and submit to the Council the annual budget.

(8) He shall by administrative order provide for the administrative procedures to be used for the operation of the City and he may from time to time amend such orders as he deems necessary.

(9) He shall perform such other duties as may be prescribed by this Charter or by law or required of him by ordinance or resolutions adopted by the Council.

1-603 Departments of Administration. The Council may, by ordinance, establish, alter, or amend policies of administrative procedure including authorization to the City Manager to create such departments, divisions, and bureaus for the administration of the City affairs as he may deem necessary.

1-604 Subordinate Officers. There shall be a City Clerk and such other officers subordinate to the City Manager as the Council may create by ordinance. The City Clerk shall be subject to the direction of the City Manager, shall keep the public records, and shall have other duties as the City Manager shall prescribe. He may be designated to act as a secretary of the Council and also as treasurer. The Council may, by ordinance, abolish offices which have been created by ordinance, and it may combine the duties of various offices as it may see fit.

1-605 Purchases and Contracts. The City Manager shall be the chief Purchasing Agent of the City. All City purchases and contracts shall be made or let by the City Manager when the amount of the purchase or contract does not exceed $1,500. All other purchases shall be made and all other contracts let by the Council after the recommendation of the City Manager has first been obtained. All contracts, bonds, and instruments of any kind to which the City is a party shall be signed by the Mayor and the City Manager on behalf of the City and shall be executed in the name of the City.

1-606 Contracts--How Let. In all cases of contracts for the purchase of merchandise, materials, or equipment, or for any kind of construction work undertaken by the City which requires an expenditure of more than $5,000 unless the Council shall by an emergency ordinance provide, the City Manager shall advertise for bids by at least ten (10) days published notice in the official newspaper, except that if the proposed contract will exceed $100,000, then, the City Manager shall advertise for bids by at least 21 days published notice in the official newspaper.

Contracts of this magnitude shall be let only by the Council upon recommendation of the City Manager to the lowest bidder. The Council may, however, reject any and all bids. Nothing contained in this Section shall prevent the Council from contracting by a four-fifths (4/5) vote for the doing of work with patented processes, or from the purchasing of patented appliances by the same majority. Nothing contained in this Section shall prevent the purchasing of real or personal property on the installment payment plan. Subject to the provisions of this Charter, the Council may by ordinance adopt further regulations for the making of bids, and the letting of contracts. The Council may advertise in other papers, or trade journals in addition to official newspaper.

CHAPTER 1-700

TAXATION AND FINANCES

1-701 Council to Control Finances. The Council shall have full authority over the financial affairs of the City, and shall provide for the collection of all revenues and other assets, the auditing and settlement of accounts, and the safekeeping and disbursements of public moneys, and in the exercise of a sound discretion, shall make appropriations for the payment of all liabilities and expenses.

1-702 Fiscal Years. The fiscal year of the City shall be the calendar year.

1-703 System of Taxation. Subject to the State constitution and except as forbidden by it or by State legislation, the Council shall have full power to provide by ordinance for a system of local taxation. In the taxation of real and personal property as such, the City shall conform as fully as possible to the general State law as to the assessment of such property and the collection of such taxes.

1-704 Board of Equalization. The Council shall constitute a Board of Equalization to equalize assessments of property for taxation purposes according to law.

1-705 Preparation of the Annual Budget. The City Manager shall prepare the estimates for the annual budget in accordance with generally accepted accounting procedures for municipal governments, such as those contained in Governmental Accounting, Auditing and Financial Reporting by the National Committee on Governmental Accounting, or the Industry Audit Guide published by the American Institute of Certified Public Accountants. The budget shall be by funds and shall include all the funds of the City. The estimates of revenues and expenditures for each fund budgeted, shall be arranged by department, division, or activity of the City.

In parallel columns shall be shown comparable information for the past two (2) completed fiscal years, and with respect to the current fiscal year, the budget, actual expenditures, and receipts for the first six (6) months and estimated expenditures and receipts for the balance of the year. All increases and decreases shall be clearly shown. Such estimates shall be printed or typewritten and copies shall be available to the public upon request.

The estimates shall be submitted to the Council not later than its first regular monthly meeting in September and shall be made public. The City Manager may submit with the estimates such explanatory statement or statements as he may deem necessary.

1-706 Passage of the Budget. Not later than the first regular monthly meeting of the Council in September, the Council shall establish dates for public hearings on the estimates. The meetings shall be conducted so as to give interested citizens a reasonable opportunity to be heard. The City Manager shall explain the various items

thereof as fully as may be deemed necessary by the Council. The annual budget finally agreed upon shall set forth in detail the complete financial plan of the City for the ensuing fiscal year, and shall be approved by a majority vote of the Council. The sums appropriated shall not exceed the estimated revenues for each fund. The Council shall adopt the budget by resolution not later than the first week of October. The Council shall also adopt a resolution levying whatever taxes it considers necessary within statutory limits for the ensuing year for each fund. The tax levy resolution shall be certified to the County Auditor in accordance with law not later than October 10. At the beginning of the fiscal year, the sums fixed in the budget resolution shall be and become appropriated for the several purposes named in the budget resolution and no other.

1-707 Enforcement of the Budget. It shall be the duty of the City Manager to strictly enforce the provisions of the budget. He shall only approve orders upon the City Treasury for expenditures for which an appropriation has been made in the budget resolution and for which there is a sufficient unexpended balance in the appropriated fund after deducting the total past expenditures and the sum of all outstanding orders and encumbrances against such fund. No officer or employee of the City shall place any order or make any purchase except for a purpose and to the amount authorized in the budget resolution. Any obligation incurred by any person in the employ of the City for any purpose not authorized in the budget resolution or for any amount in excess of the amount therein authorized shall be a personal obligation upon the person incurring the expenditure.

1-708 Alterations in the Budget. Upon adoption of the budget resolution the Council may increase the amounts fixed in the budget resolution only if and to the extent that the actual receipts exceed the estimated revenues. The Council may at any time, by resolution approved by a majority of its members, reduce the sums appropriated for any purpose by the budget resolution. By a vote of four (4) members, the Council may authorize the transfer of sums from unencumbered balances of appropriations in the budget resolution to other purposes.

By a resolution approved by four (4) members, the Council may authorize the expenditure of other unappropriated funds, known as fund balance; provided, however, that if the proposed expenditure for a single purpose exceeds 20 percent of the fund balance, the Council shall, prior to approving the expenditure, conduct a public hearing following published notice given at least ten (10) days prior to the hearing. The public shall be given the opportunity to be heard at the public hearing.

1-709 Contingency Appropriation in Budget. The Council may include a contingency appropriation as a part of the budget for each fund but not to exceed five percent (5%) of the budget for such fund. A transfer from the contingency appropriation to any other appropriation shall be made only by a vote of at least four (4) members of the Council, and shall be used only for the purposes designated by the Council.

1-710 Disbursements--How Made. No disbursement of the City funds, with the exception of imprest funds, shall be made except by check signed by the City Manager and Treasurer and specifying the purposes for which the disbursement is made and the fund from which it is drawn. No such check shall be issued until the claim to which it relates has been supported by an itemized bill, payroll, or timesheet approved and signed by the responsible City officer who vouches for its correctness and reasonableness. The City Manager shall note on each contract requiring the payment of money by the City the particular fund out of which it is to be paid. The Council may make further regulations for the safekeeping and disbursement of the funds of the City.

1-711 Funds to Be Kept. Subdivision 1. There shall be maintained in the City Treasury the following funds:

(1) General Fund. To account for all financial transactions not properly accounted for in any other fund. Into this fund shall be paid all money not provided herein or by statute to be paid into any other fund.

(2) General Debt Service Fund. To account for the payment of interest and principal on long-term debt other than special assessments and revenue bonds. Into this fund shall be paid all receipts from taxes or other sources for the payment of principal and interest of all obligations issued by the City, except bonds payable from assessments, special revenues, or proceeds of a municipally-owned utility. Out of this fund shall be paid the principal and interest of such obligations when due. Any surplus in such fund not needed immediately for debt service may be invested under the direction of the Council in such securities as are authorized by statute for the investment of such funds; and such investments may be liquidated at any time. To the extent required by law, a separate account in the debt service fund shall be maintained for each issue of City obligations.

(3) Capital Projects Fund. To account for the receipt and disbursement of monies used for the acquisition of capital facilities other than those financed by special assessment and enterprise funds. A separate account in the Capital Projects Fund shall be kept for each capital project.

(4) Special Assessment Fund. To account for special assessments levied to finance public improvements or services deemed to benefit the property against which the assessments are levied. There shall be paid into this fund: (1) collections of special assessments, with interest, levied against benefited property; (2) proceeds of bonds or warrants sold by the City to finance local improvements to be paid for, in whole or in part by special assessments, and the proceeds of interfund loans; (3) amounts from other City funds representing either (a) apportionments of costs against the City at large, (b) benefit assessments against City property, or (c) appropriations to maintain the integrity of the fund. There shall be paid out of this fund: (1) all expenses and costs of the improvement projects financed through the fund; (2) the redemption of all special assessments fund obligations, with interest, at or before maturity, and any interfund loans; and (3) abatements of assessments and refunds of receipts in error.

The Council shall maintain the integrity of this fund by appropriations from tax funds if necessary, and in addition may, by ordinance, create and maintain in the fund a cash reserve sufficient for working capital purposes. In order to anticipate the collection of special assessments and the municipal share of the cost of a local improvement or improvements, the Council may, by a majority vote, issue and sell obligations pledging the full faith and credit of the City, or pledging only special assessments, in such amounts and maturities as it may determine. Such obligations may be temporary obligations which mature within three years from date of issue, payable before or at the end of their term in whole or in part from the proceeds of issuance of definitive obligations. If any temporary obligations are not paid at maturity, the City may be required by the holders thereof, to issue in exchange therefor, on a par-for-par basis, definitive obligations which shall bear interest at the maximum rate permissible by law, shall mature serially in such years and amounts that they, together with other obligations payable from the special assessment fund, can be paid when due from the estimated receipts of the fund, and shall be subject to redemption and prepayment on any interest payment date. Such temporary obligations shall not be subject to the tax levy requirement set forth in Minnesota Statutes Section 475.61, or any law amendatory thereof or supplemental thereto. The aggregate amount of obligations outstanding at any time shall not exceed the sum of the following: (1) all assessments levied and uncollected; (2) cost of work in progress to be financed in whole or in part by special assessments; (3) cash on hand to pay for any obligations outstanding, and (4) the cash reserve for working capital as previously determined by ordinance. In order that the fund may be administered on a self-sustaining basis, all local improvement projects financed through it shall, upon completion, be certifed by the City Manager as to total cost, which shall thereupon be apportioned by the Council either as assessments against benefited property or as amounts due from other City funds. Amounts apportioned against other City funds shall be due when installments of special assessments levied for the same project are due, corresponding assessment rolls shall be charged interest as in the case of assessments and shall be credited to the fund, with any interest due, when collected. To the extent required by law, a tax for the City's share of the cost shall be levied before any obligations against the fund are issued and sold. When a local improvement to be financed wholly or partly from special assessment is undertaken under any applicable statute, any provision of this subdivision inconsistent with the statute shall not apply.

(5) Special Revenue Fund. To account for the proceeds of specific revenue sources (other than special assessments) or to finance specified activities as required by law or administrative regulation.

(6) Enterprise Fund. To account for the financing of services to the general public where all or most of the costs involved are paid in the form of charges by users of such services. Into the fund shall be paid all monies derived from the sale of obligations issued on account of such services and all monies derived from the sale of such services and from the sale of property used in connection with such services. There shall be paid out of this fund the cost of purchase, construction, operation, maintenance, and repair of such services including principal and interest on obligations issued for such services. A separate account in the Enterprise Fund shall be kept for each enterprise.

(7) Trust and Agency Fund. To account for assets held by the City as trustee or agent for individuals, private organizations, and other governmental units.

1-712 Accounts and Reports. The City Manager shall be the chief accounting officer of the City and of every branch thereof, and the Council may prescribe and enforce proper accounting methods, forms, blanks, and other devices consistent with the law, this Charter, and the ordinances adopted in accord therewith. He shall submit to the Council a statement each month showing the amount of money in the custody of the City Treasurer, the status of all funds, the amount spent or chargeable against each of the annual budget allowances and the balances left in each, and all the other information about the finances of the City as the Council may require. Once each year, on or before the last day of February, the City Manager shall submit a report to the Council covering the entire financial operations of the City for the past year. This report shall show: the actual receipt and expenditures, omitting duplications and stating the cash balance at the beginning of the last fiscal year and at the close; the total outlays for operating and maintenance, and the total capital outlays, the condition of each of the funds; the total receipts by sources and the total expenditures by general purposes; the total outstanding bonds and debts of the City, when due, the amount of new bonds issued and the amount redeemed, and the interest rate of each; the condition of all the annual budget allowances; an inventory of all the property owned by the City; and such further information as the City Manager deems advisable or the Council requires.

1-713 Power of Taxation. The City shall have, in addition to the powers of this Charter expressly or impliedly granted, all the powers to raise money by taxation pursuant to the laws of the State which are applicable to cities of the class of which it may be a member from time to time, provided that the amount of taxes levied against real and personal property within the City for general City purposes shall not exceed 13 1/3 mills on each dollar of the assessed valuation of the property used for homestead and rural purposes shall be determined as now provided in Minnesota Statutes, Section 273.13, Subdivision 7a.

1-714 City Indebtedness. Except as provided in Sections 1-712 and 1-713, no obligations shall be issued to pay current expenses, but the Council may issue and sell obligations for any other municipal purpose in accordance with law and within the limitations provided by law. Except in the case of obligation for which an election is required by this Charter or by State law, no such obligation shall be issued and sold without the approval of the majority of the electors of the City voting thereon at a general or special election.

1-715 Tax Anticipation Certificates. At any time after January 1 following the making of an annual taxy levy, the Council may issue certificates of indebtedness in anticipation of the collection of taxes levied for any fund not yet collected. The total amount of certificates issued against any fund for any year with interest thereon until maturity shall not exceed 60 percent of the total current taxes for

the fund uncollected at the time of issuance. Such certificates shall be issued on such terms and conditions as the Council may determine but they shall become due and payable not later than the first day of April of the year following their issuance. The proceeds of the tax levied for the fund against which tax anticipation certificates are issued and the full faith and credit of the City shall be irrevocably pledged for the redemption of the certificates in the order of their issuance against the fund.

1-716 Emergency Debt Certificates. If in any year the receipts from taxes or other sources should from unforeseen cause become insufficient for the ordinary expenses of the City, or if any calamity or other public emergency should subject the City to the necessity for making extraordinary expenditures, the Council may, by ordinance, issue and sell on such terms and in such manner as the Council determines emergency debt certificates to run not to exceed two (2) years. A tax sufficient to pay principal and interest on such certificates with the margin required by law shall be levied as required by law. The ordinance authorizing an issue of such emergency debt certificates shall state the nature of the emergency and be approved by at least four (4) members of the Council. It may be passed as an emergency ordinance.

1-717 Capital Improvement Bonds. The City Council may, by ordinance and without an election, authorize the issuance of general obligation bonds. The bonds shall be issued in accordance with the provisions of Chapter 475 of the laws of Minnesota. The net proceeds of such bonds shall be used for the acquisition of specific assets, which shall be itemized within the ordinance authorizing such issuance, but shall not be used for the acquisition of land, or automobiles, nor the construction of buildings or sidewalks, nor the purchase of one (1) major item of equipment costing less than $10,000. The term of such bonds shall be the expected life of the improvement or asset to be acquired or five (5) years, whichever shall be the lesser. Bonds of not more than $130,000 in face value shall be issued in one (1) fiscal year. At the end of any fiscal year the net debt accumulated under the provision shall not exceed fifteen hundredths of one percent (.15%) of the market value of the property within the City. The Council may each year levy a property tax in excess of any Charter or statutory limitations in an amount sufficient to pay the costs of principal and interest payable upon such bonds in the following year.

CHAPTER 1-800

PUBLIC IMPROVEMENTS AND SPECIAL ASSESSMENTS

1-801 Power to Make Improvements and Levy Assessments. The City shall have the power to make any and every type of public improvement not forbidden by the laws of this State and to levy special assessments to pay all or any part of the cost of such improvements as are of local character. The amounts assessed to benefited property to pay for such local improvements may equal the cost of the improvement, including all costs and expenses connected therewith, with interest, until paid, but shall in no case exceed the benefits to the property.

1-802 Assessments for Services. The Council may provide, by ordinance, that the cost of sprinkling, snow, or rubbish removal, or of any other service to streets, sidewalks, or other public property, or the costs of any services to other public property, or the property undertaken by the City, may be assessed against the property benefited and collected in like manner as are special assessments.

1-803 Local Improvements Regulations. After this Charter takes effect, local improvements commenced prior thereto shall be completed and assessments may be levied and securities issued for the financing thereof as prescribed by law (or provisions) applicable thereto. The Council may prepare and adopt a comprehensive ordinance prescribing the procedure which shall be followed thereafter in making all local improvements and levying assessments therefor. Such ordinance shall supersede all other provisions of the law on the same subject and may be amended only by an affirmative vote of at least four (4) members of the Council. In the absence of such ordinance all local improvements may be made and assessments levied therefor as prescribed by any applicable law.

1-804 Public Works--How Performed. Public works, including all local improvements, may be constructed, extended, repaired, and maintained either directly by day labor or by contract. The City shall require contractors to give bonds for the protection of the City and all persons furnishing labor and materials pursuant to the laws of the State.

CHAPTER 1-900

EMINENT DOMAIN

1-901 Power to Acquire Property. The City may acquire by purchase, gift, devise, or condemnation, any property, corporeal or incorporeal, either within or without its corporate boundaries, which may be needed by the City for any public use or purpose.

1-902 Proceedings in Acquiring Property. The necessity for the taking of any property by the City shall be determined by the Council and shall be declared by a resolution which shall describe such property as nearly as may be and state the use to which it is to be devoted. In acquiring property by exercising the power of eminent domain, the City shall proceed according to the laws of this State, except as otherwise provided in this Charter.

1-903 City May Take Entire Plant. If the City condemns a public utility which is operated at the time of the commencement of the condemnation proceedings as one property or one system, it shall not be necessary in the condemnation proceedings or any of the proceedings of the Council, to describe or treat separately the different kinds of property composing such system; but all of the property, lands, articles, franchises, and rights which comprise such system may, unless otherwise ordered by the court, be treated together as one (1) property and an award for the whole property in one (1) lump sum may be made by the commissioners or other body assessing the damage on condemnation. This does not prevent the City, when the plant and property are separable into distinct parts, from acquiring only such part or parts thereof as may be necessary in the public interest.

CHAPTER 1-1000

FRANCHISES

1-1001 Franchises Required. Except as otherwise provided by law, no person, firm, or corporation shall place or maintain any permanent or semi-permanent fixtures in, over, upon, or under any street or public place for the purpose of operating a public utility or for any purposes, without a franchise therefor from the City. A franchise shall be granted only by ordinance, which shall not be an emergency ordinance. Every ordinance granting a franchise shall contain all the terms and conditions of the franchise. The grantee shall bear the costs of publication of the franchise ordinance and shall make a sufficient deposit with the City Clerk to guarantee publication before the ordinance is passed.

1-1002 Term. No exclusive or perpetual franchise shall ever be granted. No franchise for a term exceeding 20 years shall be effective until approved by a majority of the electors voting thereon.

1-1003 Public Hearing. Before any franchise ordinance is adopted or any rates, fares, or prices to be charged by a public utility are fixed by the Council, the Council shall hold a public hearing on the matter. Notice of such hearing shall be published at least twice in the official paper and posted in three (3) public places within the City not less than ten (10) days prior to the date of the hearing.

1-1004 Power of Regulation Reserved. Subject to any applicable law the Council may, by ordinance, reasonably regulate and control the exercise of any franchise, including the maximum rates, fares, or prices to be charged by the grantee. No franchise value shall be included in the valuation of the grantee's property in regulating utility rates, fares, or prices under any applicable law, ordinance, or regulation or in proceedings for municipal acquisition of the grantee's property by purchase or eminent domain.

1-1005 Renewals or Extensions. Every extention, renewal, or modification of any existing franchise or of any franchise granted herein shall be subject to the same limitations and shall be granted in the same manner as a new franchise.

CHAPTER 1-1100

PUBLIC OWNERSHIP AND OPERATION OF UTILITIES

1-1101 Acquisition and Operation of Utilities. The City may own and operate any gas, water, heat, power, light, telephone, or other public utility for supplying its own needs for utility service or for supplying utility service to private consumers or both. It may construct all facilities reasonably needed for that purpose and may acquire any existing utility properties so needed; but no proceedings to acquire any such public utility shall be consumated unless the City has the money in the treasury to pay for acquisition or has made provision for paying for the property proposed to be acquired. The operation of all public utilities owned by the City shall be under the supervision of the City Manager.

1-1102 Rates and Finances. Upon recommendations made by the City Manager or upon its own motion, the Council may fix rates, fares, and prices for municipal utilities, but such rates, fares, and prices shall be just and reasonable. In like manner the Council may prescribe the time and manner in which payments for all such services shall be made, and may make such other regulations as may be necessary and prescribe penalties for violation of such regulations.

1-1103 Purchase in Bulk. The Council may, in lieu of providing for the local production of gas, electricity, water, and other utilities, purchase the same in bulk and resell them to local consumers at such rates as it may fix.

1-1104 Lease of Plant. The Council may, if the public interests will be served thereby, contract with any responsible person, co-partners or corporation, for the operation of any utility owned by the City, upon such rentals and conditions as it may deem necessary; but such contract shall be embodied in and let only by an ordinance approved by four (4) members of the Council and subject to popular referendum. Such ordinance shall not be an emergency ordinance. In no case shall such contract be for a longer term than ten (10) years.

1-1105 Public Utility--How Sold. No public utility owned by the City shall be sold or otherwise disposed of by the City unless the full terms of the proposition of sale or other disposition are embodied in an ordinance approved by a majority of the electors voting thereon at a general or special election. In the case of a water works or light plant, any sale, lease, or abandonment shall be subject, in addition, to the requirement of State law.

CHAPTER 1-1200

MISCELLANEOUS AND TRANSITORY PROVISIONS

1-1201 Official Publications. The Council shall annually designate a legal newspaper of general circulation in the City as its official newspaper in which shall be published ordinances and other matters required by law to be so published, as well as such other matters as the Council may deem it in the public interest to have published in this manner.

1-1202 Oath of Office. Every officer of the City shall, before entering upon the duties of his office, take and subscribe an oath of office substantially in the following form: "I do solemnly swear (or affirm) to support the constitution of the United States and of this State and to discharge faithfully the duties devolving upon me as (Mayor, Councilmember, City Manager, etc.) of the City of Coon Rapids to the best of my judgment and ability."

1-1203 City Officers not to be Interested in Contracts. Except as otherwise permitted by law, no officer of the City who is authorized to take part in any manner in any contract with the City shall voluntarily have a personal financial interest in such contract or personally benefit financially therefrom.

1-1204 Official Bonds. The City Manager, the City Clerk, the City Treasurer, and such other officers or employees of the City as may be provided for by ordinance shall each, before entering upon the duties of his respective office of employment, give a corporate surety bond to the City in such form and in such amount as may be fixed by the Council as security for the faithful performance of his official duties and the safekeeping of the public funds. Such bonds may be either individual or blanket bonds at the discretion of the City Council. They shall be approved by the Council, and approved as to form by the City Attorney, and filed with the City Clerk. The provisions of the laws of the State relating to official bonds not inconsistent with this Charter shall be complied with. The premium on such bonds shall be paid by the City.

1-1205 Sales of Real Property. No real property of the City shall be disposed of except by ordinance. The proceeds of any such property shall be used as far as possible to retire any outstanding indebtedness incurred by the City in the purchase, construction, or improvement of this or other property used for the same public purpose. If there is no such outstanding indebtedness, the Council may, by resolution, designate some other public use for the proceeds.

1-1206 Vacation of Streets. The Council may, by resolution, vacate any street, alley, public grounds, or any part thereof on petition of a majority of the owners of land abutting on the street, alley, public grounds, or part thereof to be vacated. No such vacation shall be made unless it appears to be in the interest of the public to

do so after a hearing preceded by two (2) weeks' published and posted notice. After a resolution of vacation is adopted, the City Clerk shall prepare and present to the proper County officers, notice of completion of the proceedings in accordance with Minnesota Statutes Annotated, Section 117.19.

1-1207 City to Succeed to Rights and Obligations of Former City. The City shall succeed to all the property, rights, and privileges, and shall be subject to all the legal obligations of the preceding village.

1-1208 Statutes not Affected by Charter. All general laws and statutes of the State applicable to all cities operating under home rule charters, and not inconsistent with the provisions of this Charter, shall apply to the City of Coon Rapids and shall be construed as supplementary to the provisions of this Charter.

1-1209 Existing Ordinances Continued. All ordinances and regulations of the City in force when this Charter takes effect, and not inconsistent with the provisions thereof, are hereby continued in full force and effect until amended or repealed.

1-1210 Pending Condemnations and Assessments. Any condemnation or assessment proceeding in progress when this Charter takes effect shall be continued and completed under the laws under which such proceedings were begun. All assessments made by the City prior to the time when this Charter takes effect shall be collected and the lien thereof enforced in the same manner as if this Charter had not been adopted.

1-1211 Ordinances to Make Charter Effective. The Council shall by ordinance make such regulations as may be necessary to carry out and make effective the provisions of this Chapter.

CHAPTER 1-1300

CERTIFICATES

1-1301 Certificate of Commission. We, the undersigned, being duly appointed qualified, and acting members of the Board of Freeholders (Charter Commission) in and for the Village of Coon Rapids, Anoka County, Minnesota, hereby certify that the foregoing document, consisting of 12 Chapters, is the draft of a proposed Charter prepared and framed by said Board of Freeholders, and hereby affix our signatures to said draft in testimony of our approval thereof, and deliver the same to the Honorable Irving A. Nelson, Mayor and Chief Executive Officer of the Village of Coon Rapids for action pursuant to law.

Dated at Coon Rapids, Minnesota, this 24th day of April, 1959.

NAMES

Kingsley D. Bronson
Robert M. Lommen
Robert E. Lawrence
A. T. Flynn
Guy V. Robinson
Constance Burchett
Hartley Medin
Howard M. Fleury
Blanche Nisun
Robert G. Hagen
Paul Talbot
Leland R. Sorteberg
Irving A. Nelson

The foregoing draft of a proposed Charter and certificate in connection therewith received, this 24th day of April, 1959.

IRVING A. NELSON
Irving A. Nelson
Mayor and Chief Executive
of the Village of Coon Rapids
Anoka County, Minnesota

1-1302 Certificate of Ratification. I, Irving A. Nelson, being the duly elected Chief Magistrate (Mayor) of the Village of Coon Rapids, Anoka County, Minnesota, now City of Coon Rapids, do hereby certify that the foregoing document consisting of Chapters 1 through 12, inclusive, is the City Charter for Coon Rapids, Minnesota, said Charter having been submitted to the Village Council of Coon Rapids by the Board of Freeholders (Charter Commission) on the 24th day of April, 1959, that the Charter was approved by the electorate of the Village of Coon Rapids on June 9, 1959, by a vote of 172, for, 59, against; said election results were canvassed by the Village Council on June 13, 1959, at a Special Meeting of said Council, all in accordance with the law.

Dated the 13th day of June, 1959.

IRVING A. NELSON
Irving A. Nelson
Chief Magistrate (Mayor)

SEAL

Published in the Coon Rapids Suburban Life, June 17, 1959.

HOME RULE CHARTER

of the

CITY OF ST. CLOUD

ARTICLE I

Name and Boundaries, Form of Government and Powers of City

Sec. 1.10 Name and Boundaries.

The inhabitants of the City of St. Cloud, a municipal corporation of the State of Minnesota, within the corporate limits and boundaries as established by Section 2 of Chapter I of the Home Rule Charter of the City of St. Cloud, Minnesota, adopted November 28, 1911, and as the same may have been lawfully changed thereafter, in the counties of Stearns, Benton and Sherburne, shall upon the taking effect of this amendment continue to be a municipal body, politic and corporate in perpetuity under the name of the City of St. Cloud. The area embraced within said limits and boundaries shall be divided into wards as hereinafter provided in Sec. 1.40 hereof.

Sec. 1.20 Form of Government.

The municipal government provided by this amendment shall be known as the Council-Mayor government. Pursuant to its provisions and subject only to the limitations imposed by the constitution or statutes of the State of Minnesota and by this charter, all powers of the city shall be vested in a mayor and elective council, hereinafter referred to as "the council", which shall enact local legislation, adopt budgets and determine policies, all subject to the initiative, referendum and recall powers of the people as hereinafter provided. All powers of the city shall be exercised in the manner prescribed by this amendment, or if the manner be not prescribed herein, then in such manner as may be prescribed by ordinance.

Sec. 1.30 Powers of City.

The City of St. Cloud shall have all the powers of cities granted by common law, by the constitution and by the general laws of this State to municipal corporations and cities having "Home Rule Charter," together with all the implied powers necessary to carry into execution all of the powers granted. The City of St. Cloud, by and in its corporate name, shall have perpetual succession, and save as herein otherwise provided and save as prohibited by the constitution or statutes of the State of Minnesota, it shall have and exercise all powers, functions, rights and privileges possessed by it prior to the adoption of this amendment. The City may acquire property within or without its corporate limits for any city purpose, in fee simple, or any lesser interest or estate, by purchase, gift, device, lease, or condemnation, and may sell, lease, mortgage, hold, manage and control such property as its interests may require; and it may contract with the

counties in which it is situated or with other municipalities for such joint services and utilities as may seem desirable and for all other legitimate purposes. The enumeration of particular powers for this amendment shall not be deemed to be exclusive and in addition to the powers enumerated therein or implied thereby or appropriate to the exercise of such powers, it is intended that the city shall have and may exercise all powers which under the constitution of this State and its statutes it would be competent for this amendment specifically to enumerate.

Sec. 1.40 Wards.

The area of the city as now or hereinafter established shall be divided into four wards. Each ward west of the Mississippi River shall contain not more than 30% nor less than 20% of the population of the city as disclosed by the last preceding decennial federal census, providing that that part of the city lying East of the Mississippi River shall constitute one ward. Each ward shall consist of contiguous compact territory, and whenever possible ward lines shall follow the center line of streets, avenues, alleys and boulevards. Ward lines shall not divide then-existing residences or platted blocks.

Within three months after the adoption of this amendment and within three months after the official announcement of the population of the city by census tracts after each succeeding decennial federal census, the council shall by ordinance reapportion the city into four wards in accordance with the provisions of this section. Whenever wards have been so reapportioned no further reapportionment thereof shall be made until the announcement of the population disclosed by the next federal decennial census. In the event any territory shall be annexed to the city it shall become part of the adjoining ward.

No reapportionment of wards shall disqualify a resident member of the council from completing the term of office he is serving at the time the reapportionment ordinance is adopted, nor shall any reapportionment ordinance apply to any city election for which filing for office has opened at the time such ordinance is adopted.

If the council fails to reapportion in accordance with this section within the period prescribed, the mayor and councilmen shall forfeit all remuneration until the wards of the city are reapportioned as required by this amendment; provided, that the mayor shall not forfeit compensation unless he vetoes such ordinance and the veto is not overridden. (Adopted 5/4/65)

ARTICLE II

The Council

Sec. 2.10 Members, Qualifications and Terms.

The council shall be composed of seven members, four of whom shall be resident members and three of whom shall be members at large, all of whom shall be qualified electors.

All council members shall be elected by the voters of the entire city.

The three members at large shall be elected from the city at large with no ward qualifications.

The terms of resident members elected at the general election in 1972 shall be two years. The terms of members at large, and of resident members elected at the general election in 1974 and thereafter, shall be four years.
(Ordinance No. 685, Adopted September 13, 1971)

Sec. 2.11 Resident Members.

The four resident members shall be qualified and shall be elected as follows: one member shall be, at the time of his election or appointment, a resident of and be elected or appointed from the First Ward. One member shall be at the time of his election or appointment a resident of and be elected or appointed from the Second Ward. One member shall be at the time of his election or appointment a resident of and be elected or appointed from the Third Ward. One member shall be at the time of his election or appointment, a resident of and be elected or appointed from the Fourth Ward. Continued residence in the ward in which each of said members resided at the time of his election or appointment shall be a qualification to hold office during said member's term. Removal from said ward by said resident councilman shall create a vacancy in the office held by said resident councilman and said vacancy so created shall be filled in accordance with the provisions of Section 2.30 hereof.

Sec. 2.20 Salaries and Expenses.

Each councilman shall receive $125.00 per month as full compensation for all services rendered by him to the city during his tenure in office. Such salaries shall be paid as other salaries are paid.

Members of the council shall receive reimbursement for all expenses incurred in the performance of their official duties and shall be paid as other claimants are paid. (Ordinance No. 713, Adopted June 5, 1972)

Sec. 2.30 Vacancies.

A vacancy shall be deemed to exist on the council whenever (1) any person elected to membership on the council fails to qualify on or before the date of the second regular meeting of the new council, (2) a council member dies, resigns or is recalled, (3) a council member fails without good cause to perform his duties as such for a period of three consecutive months, or (4) a council member is removed from office or disqualified by reason of his loss of residence or his conviction of an offense involving moral turpitude. The council shall fill such vacancy forthwith by appointment for the unexpired term. If the vacancy has not been filled by the council before the third successive regular meeting of the council after commencement of the vacancy, the council shall forthwith and at said meeting call a special election and by public notice shall call for nominations to commence no later than 10 days after said meeting; but no election to fill the vacancy shall be held if the final election under this provision may be held within six months prior to the next general municipal election.

Sec. 2.40 Powers.

All legislative powers of the city and the determination of all matters of policy

shall be vested in the council. Without limitation of the foregoing, the council shall have the power to:

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

2. Adopt the city budget.

3. Inquire into the conduct of any office, department, division or agency of the city and make investigations of municipal affairs.

4. Authorize the issuance of bonds by a bond ordinance.

5. Approve the appointments made by the Mayor of members of Boards and Commissions, and of the Administrative Assistant.

6. Adopt plats and adopt and from time to time modify the official map of the city.

7. Provide for the passage and enforcement of a building-zoning code, embracing regulation of buildings, public safety, inspection, fire limits, slum clearance, adequate housing and matters related thereto or implied herein.

8. Provide for an audit of the city's books and accounts at any time when needed or deemed advisable, and when such audit shall not coincide nor conflict with the regular comprehensive annual audit as required by Sec. 8.51 of this charter.

9. Adopt ordinances and resolutions in the manner hereinafter provided.

10. Fix and change precinct boundaries.

Sec. 2.60 Meetings and Procedure.

The members of the council elected at a regular biennial city election shall be inducted into office at a council meeting to be held at 7:30 o'clock p.m. on the first Monday next following their election. At such meeting, after their induction, the election of council officers provided for in Section 2.62 shall take place. After such meeting the council shall meet regularly at such times as may be prescribed by its rules, but not less frequently than once each month. All meetings of the council shall be held in the evening except by unanimous vote of all council members. All meetings of the council and its committees shall be open to the public. The council shall cause the minutes of its meetings to be published monthly in the official newspaper. (Ordinance No. 685, Adopted September 13, 1971)

Sec. 2.61 To Determine Qualifications.

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

Sec. 2.62 Rules, Journal, Quorum.

The Council shall elect from its membership a president and a vice-president and shall determine its own rules for order of business. The president shall preside at all Council meetings and in case of his death, disability or absence the vice-president shall preside. The Council shall keep a journal of its proceedings and the journal shall be open to public inspection. Four members shall constitute a quorum to do business but a less number may adjourn from time to time. The council may provide by rule a means by which a majority may compel the attendance of absent members.

Sec. 2.63 Ordinances, Procedure.

All legislation shall be by ordinance unless otherwise provided by this charter. The enacting clause of all ordinances passed by the council shall be "The council of the City of St. Cloud hereby ordains:". Every ordinance shall be introduced in writing and every ordinance other than emergency ordinances shall have two public readings in full. Upon introduction of a proposed ordinance said ordinance shall be read in full and if approved on its first reading a notice shall be published at least once in the official city newspaper containing a summary of said proposed ordinance, together with a notice stating the time and place when and where said ordinance will be given a public hearing and be considered for final passage. The first such publication shall be at least one week prior to the time set for the hearing. At the time and place set in said notice, or at any time and place to which such hearing shall from time to time be adjourned, such ordinances shall be read in full and after such reading all persons interested shall be given an opportunity to be heard. After such final reading and hearing, the council may finally pass such ordinance with or without amendment, except that if it shall make an amendment which constitutes a change of substance it shall not finally pass the ordinance until it shall have caused a like notice of hearing to be published at least once, which notice of hearing shall contain a summary of the proposed amendment, and which notice shall state the time and place when and where such amended ordinance shall be further considered. Said publication shall be at least three days prior to the time stated. At the time stated in said notice of hearing, or at any time and place to which a public hearing thereon shall be held, and after such hearing the governing body may finally pass such amended ordinance or again amend it subject to the same conditions. The second passage of any ordinance pursuant to this charter shall be final and no further passage shall be required.

Sec. 2.64 Emergency Ordinances.

Emergency ordinances are ordinances for the immediate preservation of the

public peace, health or safety in which the emergency is defined or declared in a preamble thereto, separately voted upon and agreed to by at least five members of the council as recorded by ayes and noes. Emergency ordinances must be in writing; but may be enacted after one reading and without hearing and without publication prior to enactment. No grant of any franchise shall be construed to be an emergency ordinance.

Sec. 2.65 Resolutions and Motions.

All powers other than legislative shall be exercised by resolutions or motions. Every resolution shall be presented in writing, and shall be read in full before a vote is taken thereon, unless the reading of a resolution is dispensed with by unanimous consent.

Sec. 2.66 Signing and Publication of Ordinances, Mayor's Veto.

Final adoption of an ordinance shall occur upon completion of one of the following procedures:

(a) Passage by the council, signature by the president of the council, signature of approval by the Mayor, and filing with the clerk;

(b) Passage by the council, signature by the President of the council, filing with the clerk and failure of the Mayor to veto the same within ten (10) days after such filing; or

(c) Passage by the council, signature by the President of the council, veto of the ordinance by the Mayor within ten (10) days after passage or filing with the clerk, and passage of the ordinance over the Mayor's veto by five affirmative votes of the council, and filing with the clerk.

When an ordinance has been passed by the council and filed with the clerk, he shall endorse his filing thereon; and shall forthwith transmit the ordinance to the Mayor. If the Mayor disapproves the ordinance, he may veto the same within ten (10) days after filing of the same with the clerk by appending thereto his statement of veto and may state his reasons for disapproving the same; if he fails to approve or veto the ordinance, he shall return the same to the clerk forthwith after the expiration of the 10 days.

Within fifteen (15) days after final adoption of an ordinance by the council, the clerk shall cause the same to be published at least once in the official paper of the city, except in the case of franchise ordinances previously published.

Sec. 2.67 Signing and Publication Take Effect.

Emergency ordinances and ordinances and resolutions making the annual tax levy, determining the annual budget and providing for local improvements and assessments, shall take effect immediately upon their final adoption. All other ordi-

nances enacted by the council shall take effect 30 days after the date of their final adoption unless a later date is fixed therein, in which event they shall take effect at such later date. Ordinances adopted by the electors of the city shall take effect at the time fixed therein, or if no such time is designated therein, then immediately upon the adoption thereof.

Sec. 2.68 Amendment and Repeal of Ordinances.

No ordinance or subdivision thereof, if subdivided, shall be amended or repealed except by ordinance. An ordinance may be repealed by reference to its title alone. When the ordinance to be amended is subdivided, one or more of the subdivisions thereof may be amended by a single ordinance.

When an ordinance, or a particular chapter, section, or other subdivision thereof, is to be amended, the published notice of the hearing provided for in Section 2.63 of this amendment shall set forth, in lieu of the summary of the amending ordinance as provided in said Section 2.63, the ordinance, or the particular chapter, section, or other subdivision thereof to be amended, as the case may be; with the part or portion thereof to be deleted printed in bold type and enclosed in parenthesis, and with the provision to be added underscored; provided, however, that, if any proposed amendment is to be effected through changes of charts, maps, or other illustrative appendages to ordinances, the proposed amended chart, map, or other illustrative appendage shall be filed with the city clerk, and the notice of said public hearing need only give notice of the fact of such filing and a summary of the proposed changes.
(Adopted April 16, 1956)

Sec. 2.69 Secretary of the Council.

The council shall choose a secretary and such other officers and employees as may be necessary to serve at its meetings. The secretary shall keep such records and perform all duties conferred and required by this charter or by vote of the council. The council may designate any official or employee of the city, except the Mayor or a member of the council, to act as its secretary.

ARTICLE III

The Mayor

Sec. 3.10 Qualifications, Election, Salary.

The Mayor shall be a qualified elector of the City of St. Cloud and shall be elected at large by the voters of the entire City for a term of four years. The Mayor's salary shall be fixed from time to time by ordinance in the manner prescribed by state law. (Ordinance No. 778, Adopted November 19, 1973).

Sec. 3.20 Powers and Duties.

The Mayor shall be the chief executive officer of the city and shall exercise all powers and perform such other duties as may be posed upon the Mayor by this amendment, the ordinances of the city and the laws of the State of Minnesota and the United States of America. Subject to the provisions of this charter and any regulations consistent therewith adopted by the council, the Mayor shall conduct the affairs of the city and is hereby authorized and directed as follows:

a. To see that this Charter and the laws, ordinances and resolutions of the city are enforced.

b. To appoint the city clerk, city attorney, city physician, city engineer, the heads of all departments, and, with the approval by the affirmative vote of not less than four members of the entire council, the Administrative Assistant who shall be appointed upon the basis of his qualifications, and who shall devote his full time and undivided attention exclusively to his duties as Administrative Assistant; he may hold a position as the head of one or more municipal departments; he shall be responsible for the faithful and lawful performance of his duties solely to the Mayor, who shall be responsible for the acts of his appointee.

c. To appoint all subordinate officers and employees in the departments as certified to him by the Civil Service Board.

d. To appoint all employees in the unclassified service.

e. To remove from office or employment said appointed officers, heads of departments or employees in the unclassified service, when in his opinion such removal is to the best interest of the city.

f. To file charges against, and to recommend the removal of any employee in the classified service.

g. To exercise control over all departments and divisions of the city administration created by this Charter or which may be hereafter created by the Council.

h. To attend all meetings of the Council either in person or by properly designated representative.

i. To recommend to the Council for adoption such measures as he may deem necessary for the welfare of the people and the efficient administration of the city's affairs.

j. To keep the Council fully advised as to the financial condition and needs of the City, and to prepare and to submit to the Council the annual budget and be responsible for its administration after adoption.

k. To prepare and to submit to the Council for adoption an administrative code incorporating the details of administrative procedure, and from time to time suggest amendments to the same.

l. To perform such other duties as may be prescribed by this Charter or required of him by ordinance or resolutions adopted by the Council.

Sec. 3.30 Absence or Disability of Mayor.

During the absence or disability of the Mayor, his administrative duties shall be performed by the Acting Mayor, who shall be either

a. The administrative assistant
b. President of the Council.
c. A councilman named by the Council who shall be termed the Acting Mayor, provided that he shall not have the power to discharge any subordinate officers and provided further that should such absence or disability of the Mayor be continuous for more than 90 days, a vacancy in the office of Mayor may be declared to exist, provided however, that should said absence or disability continue for six months a vacancy shall be declared to exist.

Sec. 3.35 Vacancy in Office of Mayor.

Should a vacancy occur in the office of Mayor, either by reason of the death, resignation or disqualification of the person holding that office, said vacancy shall be filled as follows:

Should said vacancy occur more than one year prior to the next regular municipal election, the City Council shall forthwith call a special election to be held within sixty days after said call, as provided in Sec. 4.50 hereto, at which election a duly qualified person shall be elected Mayor to fill the unexpired term. Should said vacancy occur less than one year prior to the next general City election, the Council shall, by majority vote, appoint a suitable person to fill the office of Mayor for the unexpired term.

Sec. 3.40 Administrative Departments.

There shall be (1) a Department of Finance, (2) a Department of Public Works, (3) a Department of Public Affairs and Safety, and such other departments as may be established by ordinance or required by statute.

Sec. 3.50 Subordinate Officers.

There shall be a city clerk, a city attorney, a city physician, a city engineer and an administrative assistant and such other officers subordinate to the Mayor as the Council may create by ordinance. At the head of each department there shall be a director who shall be an officer of the City and who shall have supervision and control of the department which he heads, subject to the direction of the Mayor. Two or more departments may be headed by the same person. The city clerk shall be subject to the direction of the Mayor and shall have such duties in connection with keeping of the public records, the custody and disbursement of the public funds and the general administration of the City's affairs as shall be ordained by the Council. He may be designated to act as secretary of the Council and also as city treasurer. The Council may by ordinance abolish offices and employments which have been created by ordinance and subject to the provisions of this amendment, and it may combine the duties of various offices as it may see fit.

ARTICLE IV

Nominations and Elections

Sec. 4.10 Regular Municipal Primary Election.

A regular municipal primary election shall be held on the last Monday in March of each even numbered year commencing with the year 1972. (Ordinance No. 685, Adopted September 13, 1971)

Sec. 4.11 Nominations.

At the first election, and at all subsequent primary elections, only the names of candidates duly nominated in accordance with the provisions hereof shall be placed upon the election ballots. All nominations of candidates shall be by petition. Petitions for the nominations of resident councilmen shall be signed by qualified electors of the ward from which said candidate is to be nominated. Petitions for the nomination of councilmen at large and mayor may be signed by qualified electors from the City at large. Each petition of nomination shall be signed by not less than twenty-five qualified electors of the City. Said petitions shall contain a request that the name of the proposed candidate be placed on the ballot as a candidate for nomination for a certain office, naming said office, and shall be signed by the electors requesting said nomination. There shall be set opposite the signatures of the petitioners, their home number and street address. Nomination petitions for candidates must be filed in the office of the city clerk not more than forty-five days nor less than thirty days prior to the date of the primary or special election, as the case may be.

Sec. 4.12 Withdrawal of Candidate.

Any person whose name has been presented in the manner provided for in the foregoing section as a candidate may, not later than twenty-five days before the day of primary or special election, cause his name to be withdrawn from nomination by filing with the city clerk a request to do so in writing, and no name so withdrawn shall be printed upon the ballot. If such withdrawal reduces the number of candidates remaining for a particular office so that the number of remaining candidates does not equal the number to be elected, then other nominations may be made by filing petitions therefor as herein provided, but not later than twenty days prior to such election.

Sec. 4.13 Voting by Electors.

Every voter shall be entitled to vote for as many candidates as there are offices to be filled.

Sec. 4.14 Primary Election to be Nominating Election.

At all primary elections the names of all candidates for the respective offices shall be placed upon the election ballots immediately following the designation of the office to be filled, provided that if there be only two candidates for each of the offices of Mayor and the respective resident councilman, their names shall not appear as candidates on the primary ballot, but shall appear as nominees on the general election ballot, and provided further that should there be only six or less candidates for councilman at large, their names shall not appear on the primary ballot, but the names of all of the six or less candidates shall appear as nominees on the general election ballot.

The two candidates for each office voted upon, receiving the largest number of votes cast at said election, shall be declared to be the nominees for said office, provided that if any persons who under the provisions of this section would have been entitled to become a nominee for any office except for the fact that some other candidate received an equal number of votes therefor, then all such persons receiving such equal number of votes, shall likewise become nominees for said office.

Sec. 4.15 Regular General Election.

A regular general election shall be held on the third Monday in April of each even numbered year commencing with the year 1972.

At said general elections the candidates named as nominees at the primary elections shall be nominees for the respective offices and their names shall be placed on the general election ballot in alphabetical order immediately following the designation of the office to be filled.

The nominees who shall receive the largest number of votes for the respective office at such general election shall be declared elected to said office, provided that for election to the three offices of councilman at large, the three nominees for councilman at large receiving the largest number of votes shall be declared to be elected to said offices. (Ordinance No. 685, Adopted September 13, 1971)

Sec. 4.20 Beginning of Regular Terms.

All officers elected at the regular general election shall take office on the first Monday next following their election.

Sec. 4.40 Publication of Names of Candidates.

Immediately upon the expiration of the time for filing the petitions for the candidates at any municipal primary election, and also immediately upon the determination of the nominees after the primary election, the city clerk shall cause to be published for three successive days in a legal daily newspaper and once in each legal weekly newspaper published in the City of St. Cloud in the proper form the names of the persons with the offices for which

they are the respective candidates and nominees, as they are to appear upon the primary or general election ballot, and shall cause said respective ballots to be printed, authenticated with the facsimile of his signature.

Sec. 4.50 Special Elections.

The council may by resolution order a special election, fix the time of and provide all means for holding the same. The procedure at such election shall conform as nearly as possible to the procedure herein provided for other municipal elections.

Sec. 4.60 Judges and Clerk.

The Council shall, at least ten days before each municipal election, appoint the new number of judges of election by it deemed necessary, and said judges so appointed shall appoint qualified electors of the same voting district, as authorized by the council, to serve as clerk of election. Judges and clerks acting at primary election shall also act at general elections without further appointment.

Sec. 4.70 Canvass of Elections.

The Council shall meet and canvass the election returns within five days after any regular or special election, and shall make full declaration of the results as soon as possible, and file a statement thereof with the city clerk. This statement shall include: (a) the total number of good ballots cast; (b) the total number of spoiled or defective ballots; (c) the vote for each candidate with an indication of those who were elected; (d) a true copy of the ballots used; (e) the names of the judges and clerks of election; and (f) such other information as may seem pertinent. The city clerk shall forthwith notify all persons elected of the fact of their election.

Sec. 4.71 Procedure at Elections.

The conduct of elections shall be regulated by ordinance, subject to the provisions of this charter and of the general laws of Minnesota. In determining the results of municipal elections, as well as in all matters of election procedure not covered by this Charter or by ordinance, all officers shall be guided by the rules laid down in the general statutes for the conduct of election in this State, except that where such rules are incompatible with the provisions of this Charter, they shall not be enforced in the election of municipal officers.

ARTICLE V

Initiative, Referendum and Recall

Sec. 5.10 Powers Reserved by the People.

The people of St. Cloud reserve to themselves the powers, in accordance with the provisions of this charter, to initiate and adopt ordinances, to require

ordinances passed by the council to be referred to the electorate for approval or disapproval, and to recall elected public officials. These powers shall be called the initiative, the referendum, and the recall, respectively.

Sec. 5.11 Expenditures by Petitioners.

No member of any initiative, referendum or recall committee, no circulator of a signature paper, and no signer of any such paper, or any other person, shall accept or offer any reward, pecuniary or otherwise, for service rendered in connection with the circulation thereof, but this shall not prevent any such committee from incurring an expense not to exceed fifty dollars for legal advice, stationery, copying, printing, and notaries' fees. Any violation of the provisions of this section shall constitute a misdemeanor.

Sec. 5.20 Initiative: Initiation of Measures.

Any five electors may form themselves into a committee for the initiation of any measure of public concern. After formulating their measure they shall file a verified copy thereof with the city clerk together with their names and addresses as members of such committees. They shall also attach a verified copy of the proposed measure to each of the signature papers herein described, together with their names and addresses as sponsors therefor.

Sec. 5.21 Form of Petition and of Signature Papers.

The petition for the adoption of any measure shall consist of the measure, together with all the signature papers and affidavits thereto attached. Such petitions shall not be complete unless signed by a number of voters equal to at least five percent of the total number of qualified electors registered in the city at the time of the regular municipal election immediately prior to the filing of said petition. All the signatures need not be on one signature paper, but the circulator of every such papers shall make an affidavit that each signature appended to the paper is the genuine signature of the persons whose name it purports to be. Each signature paper shall be in substantially the following form:

Initiative Petition

proposing an ordinance to _____ (stating the purpose of the measure,) a copy of which ordinance is hereto attached. This measure is sponsored by the following committee of electors:

1. Name _____

   Address _____

2. Name _____

   Address _____

3. Name _____

Address _____

The undersigned electors, understanding the terms, and the nature of the measure attached, petition the council for its adoption, or, in lieu thereof, for its submission to the electors for their approval.

1. Name _____

Address _____

2. Name _____

Address _____

At the end of the list of signatures shall be appended the affidavit of the circulator, mentioned above.

Sec. 5.22 Filing of Petitions and Action Thereon.

All the signature papers shall be filed in the office of the city clerk as one instrument. Within five days after the filing of the petition the city clerk shall ascertain by examination the number of electors whose signatures are appended thereto, and whether this number is at least five percent of the total number of qualified electors registered in the city at the time of the regular municipal election immediately prior to the filing of said petition. If he finds the petition insufficient or irregular, he shall at once notify one or more of the committee of sponsors of that fact, certifying the reasons for his findings. The committee shall then be given thirty days in which to file additional signature papers and to correct the petition in all other particulars If at the end of that period the petition is found to be still insufficient or irregular, the clerk shall file the same in his office and shall notify each member of the committee of that fact. The final finding of the insufficiency or irregularity of a petition shall not prejudice the filing of a new petition for the same purpose, nor shall it prevent the council from referring the measure to the electors at the next regular or any special election, at its option.

Sec. 5.23 Action of Council on Petition.

Whenever the petition shall be found to be sufficient, the city clerk shall so certify to the council at its next meeting, stating the number of petitioners, and the percentage of the total number of voters which they constitute, and the council shall at once read the measure and refer it to an appropriate committee, which may be a committee of the whole. The committee or council shall thereupon provide for public hearings upon the measure, after the holding of which the measure shall be finally acted upon by the council

not later than thirty days after the date upon which such measure was submitted to the council by the city clerk. If the council shall fail to pass the proposed measure, or shall pass it in a form different from that set forth in the petition and unsatisfactory to the petitioners, the proposed measure shall be submitted by the council to the vote of the electors at the next regular municipal election. If said petition accompanying the proposed ordinance be signed by a number of qualified electors equal to fifteen percent of the total number of qualified electors registered in the city at the time of the regular municipal election immediately prior to the filing of said petition, then the council shall within thirty days after the attachment of the clerk's certificate of sufficiency to the accompanying petition either: (a) Pass said ordinance without alteration, or (b) proceed to call a special election at which said ordinance without alteration shall be submitted to a vote of the people. Provided, that should said proposed measure be amended and passed by said council as amended, and at least four-fifths of the committee of petitioners do not express their dissatisfaction with such amended form by a certificate filed with the city clerk within ten days after the passage of said measure by the council, then and in that case said measure need not be submitted to the electors as herein provided.

Sec. 5.24 Publication.

Whenever any measure is proposed hereunder the same shall be published in full once in the official newspaper of the city, and if the same is amended before final action thereon the amendment thereto shall be published in like manner, said publication to be at least one week prior to the date of final action thereon by the council, or at least one week prior to the general or special election at which said measure is submitted to a vote of the people.

Sec. 5.25 Amendment or Repeal.

The council may submit a proposal for the repeal of any such ordinance, or for amendments thereto to be voted upon at any succeeding general municipal election, and should such proposal so submitted receive a majority of the votes cast thereon at such election, such ordinance shall thereupon be repealed or amended accordingly. Any ordinance or measure adopted by a vote of the people cannot be repealed or amended except by a vote of the people.

Sec. 5.26 Initiative Ballots.

The ballots used when voting upon any such proposed measure shall state the substance thereof, and shall give the voter the opportunity to vote either "for the measure" or "against the measure". If a majority of the electors voting on any such measure shall vote in favor thereof, it shall thereupon become an ordinance of the city. Any number of proposed measures may be voted upon at the same election, but in case there shall be more than one, the voter shall be allowed to vote for or against each separately.

Sec. 5.27 Initiation of Charter Amendments.

Nothing in this charter contained shall be construed as in any way affecting

the right of the electors under the constitution and statutes of Minnesota to propose amendments to this charter.

Sec. 5.30 Referendum, The Referendum.

If prior to the date when an ordinance or resolution takes effect a petition signed by qualified electors of the city equal in number to five percent of the total number of qualified electors registered in the city at the time of the regular municipal election immediately prior to the filing of said petition be filed with the city clerk requesting that any such measure, or any part thereof, be repealed or be submitted to a vote of the electors, the said measure shall thereby be prevented from going into operation. The council shall thereupon reconsider the said measure at its next regular meeting, and either repeal the same, or repeal the sections thereof to which objection has been raised by the petitioners, or by aye and no vote reaffirm its adherence to the measure as passed. In the latter case the council shall immediately order an election to be held thereon, pending which the ordinance or resolution shall remain suspended. If a majority of the voters voting thereon are opposed to the measure, it shall not become effective; otherwise it shall go into effect immediately or on the date therein specified.

Sec. 5.31 Referendum Petitions.

The requirements laid down in Sec. 5.20, Sec. 5.21 and such portions of Sec. 5.22 as may apply, as to the formation of committees for the initiation of measures as to the form of petitions and signature papers shall apply to the referendum as far as possible, and with such verbal changes as might be necessary. A referendum petition shall read as follows:

Referendum Petition

proposing the repeal of an ordinance (or resolution, as the case may be) to (stating the purpose of the measure), a copy of which ordinance (or resolution) is hereto attached. The proposed repeal is sponsored by the following committee of electors:

1. Name _____

   Address _____

2. Name _____

   Address _____

3. Name _____

   Address _____

The undersigned petitioners, understanding the nature of the measure hereto attached, and believing it to be detrimental to

the welfare of the city, petition the council for its submission to a vote of the electors for their approval or disapproval.

1. Name _____

   Address _____

2. Name _____

   Address _____

Sec. 5.32 Referendum Ballots.

The ballots used in any referendum election shall conform as nearly as possible to the rules laid down in Sec. 5.26 of this charter for initiative ballots.

Sec. 5.40 Recall. The Recall.

Any five electors may form themselves into a committee for the purpose of bringing about the recall of any elected officer of the city. The committee shall certify to the city clerk the name of the officers whose removal is sought, a statement of the grounds for removal in not more than two hundred and fifty words and their intention to bring about his recall. A copy of this certificate shall be attached to each signature paper and no signature paper shall be put into circulation previous to such certification.

Sec. 5.41 Recall Petitions.

The petition for the recall of any official shall consist of a certificate identical with that filed with the city clerk together with all signature papers and affidavits thereto attached. All the signatures need not be on one signature paper, but the circulator of every such paper shall make an affidavit that each signature appended to the paper is the genuine signature of the person whose name it purports to be. Each signature paper shall be in substantially the following form:

Recall Petition

proposing the recall of _____ from his office as _____, which recall is sought for the reasons set forth in the attached certificate. This movement is sponsored by the following committee of electors:

1. Name _____

   Address _____

2. Name _____

   Address _____

3. Name _____

Address _____

The undersigned electors, understanding the nature of the charges against the officer herein sought to be recalled, desire the holding of a recall election for that purpose.

1. Name _____

Address _____

2. Name _____

Address _____

At the end of the list of signatures shall be appended the affidavit of the circulator, mentioned above.

Sec. 5.42 Filing of Petition.

Within thirty days after the filing of the original certificate, the committee shall file the completed petition in the office of the city clerk. The city clerk shall examine the same within the next five days, and if he finds it irregular in any way, or finds that the number of signers is less than twenty-five percent of the total number of qualified electors registered in the city at the time of the regular municipal election immediately prior to the filing of said petition, he shall so notify one or more members of the committee. The committee shall then be given ten days in which to file additional signature papers and to correct the petition in all other respects, but they may not change the statement of the grounds upon which the recall is sought. If at the end of that time the city clerk finds the petition still insufficient or irregular he shall notify all the members of the committee to that effect and shall file the petition in his office. No further action shall be taken thereon.

Sec. 5.43 Recall Election.

If the petition or amended petition be found sufficient, the city clerk shall transmit it to the council without delay, and shall also officially notify the person sought to be recalled of the sufficiency of the petition and of the pending action. The council shall at its next meeting, on motion, provide for the holding of a special recall election throughout the city, not less than thirty nor more than forty-five days thereafter, provided that if any other municipal election is to occur within sixty days after such meeting, the council may in its discretion provide for the holding of the recall election at that time.

Sec. 5.44 Procedure of Recall Election.

In the published call for the election there shall be given the statement of the grounds for the recall, and also in not more than five hundred words the answer of the officer concerned in justification of his course in office. At said recall election should a majority of all votes cast at said election be in favor of the recall of said officer, said officer shall be removed and the council shall thereupon declare a vacancy to exist. Said vacancy shall be filled in accordance with the provisions of Sec. 2.30 or 3.35 of this Charter.

Sec. 5.45 Form of Recall Ballot.

Unless the officer whose removal is sought shall have resigned within ten days after the receipt by the council of the completed recall petition, the form of ballot at such election shall be as near as may be: "Shall a _____ _____ be recalled from the office of _____?" The name of the officer whose recall is sought being inserted in place of a, and the electors shall be permitted to vote separately "yes" or "no" upon this question.

Sec. 5.46 Recall as Disqualification.

No officer recalled as herein provided shall be appointed or elected to the office from which he was removed for a period of one year from the date of his removal.

Sec. 5.47 Limitation on Recall.

No recall petition shall be filed against any officer until he has actually held his office for at least one year.

Sec. 5.50 Further Regulations.

The council may by ordinance make such further regulations as may be necessary to carry out the provisions of this article pertaining to the Initiative, the Referendum and the Recall.

ARTICLE VI

Planning Commission

Sec. 6.10 Organization.

There shall be a city planning commission which shall consist of seven members who shall be appointed by the Mayor, with approval of a majority of the entire membership of the council, none of whom shall hold any other office or position in the City government. The Mayor and one member of the city council shall serve as ex-officio members of the commission. The commission shall elect its chairman from among the appointive members.

Sec. 6.20 Term of Office; Vacancies.

The term of the appointive members shall be seven years, except that, of the seven members first appointed one shall be appointed for a term of one year, one for two years, one for three years, one for four years, one for five years, one for six years, and one for seven years. Any vacancy during the unexpired term of an appointed member shall be filled by the council for the remainder of the term.

Sec. 6.30 Power and Duties.

The commission shall have power and shall be required to:

1. Develop a master plan for the physical development of the city, and from time to time amend, extend, and add to such master plan, which shall show the commission's recommendations for the development of city territory. Such plan may include, among other things (a) the general location, character and extent of streets, bridges, parks, waterways, and other public ways; grounds and spaces, (b) the general location of public buildings and other public property, (c) the general location and extent of public utilities, whether publicly or privately owned, (d) contemplated changes in the removal, relocation, widening, vacation or abandonment of existing or future public ways, grounds, spaces, buildings, property or utilities, and (e) maps, plats, charts and descriptive and explanatory matter, detailing an overall plan for future development. The adoption of such plan for part, amendment, or extension thereof shall be by resolution of said commission carried by the affirmative votes of not less than a majority of all members, but before the adoption of said hold at least one public hearing on the proposed action. Upon the adoption an attested copy of such plan or amendment or extension thereof shall be certified to the council.

2. Exercise control over platting or subdividing land within the city.

3. Draft for the council an official map of the city and recommend or disapprove proposed changes in such map.

4. Make and adopt a zoning plan and recommend or disapprove proposed changes in such plan.

5. Submit annually to the city mayor not less than ninety days prior to the beginning of the budget year, a list of recommended capital improvements which in the opinion of the commission are necessary or desirable, to be constructed during the forthcoming six year period. Such list shall be arranged in order of preference with recommendations as to which projects shall be constructed in which year.

6. Promote public interest in and understanding of the master plan, and of planning, zoning and physical development of the city.

7. Meet not less than once each month and keep a public record of its resolutions, findings and determinations, and meet at its quarterly monthly meeting with the city council to discuss its program of development.

The commission shall have power to:

1. Require information which shall be furnished within a reasonable time from the other departments of the city government in relation to its work.

2. In the performance of its functions enter upon any land and make examinations and surveys and place and maintain necessary monuments and marks thereon.

3. Make and adopt plans for the replatting, improvement and redevelopment of neighborhoods, and to request of the mayor additional assistance and special survey work, and the mayor may at his discretion assign to the commission members of the staff of any administrative department or direct such department to make special studies requested by the commission.

4. Make recommendations to the mayor and to the city council for the expenditure of city funds in the purchase of property for the city for the development and improvement thereof, and to approve expenditures from the improvement fund as hereinafter provided.

Sec. 6.40 Legal Effect.

No street, park or other public way, ground or space, no public building or structure and no public utility, whether publicly or privately owned shall be constructed or authorized in the city, nor shall any real property be acquired by the city, until and unless the location and extent thereof shall have been submitted to and approved by the commission; provided that in case of disapproval the commission shall communicate its reasons to the council, which shall have the power to overrule such disapproval, and upon such overruling by a vote of five-sevenths of all the members of the council, the council or proper department shall have the power to proceed. The widening, narrowing, relocation, vacation or change in the use of any street or other public way or ground, or the sale of any public building or real property shall be subject to similar submission and approval, and failure to approve may be similarly overruled by the council. The failure of the commission to act within thirty days after the date of official submission to the commission shall be deemed approval, unless a longer period be granted by the council.

Sec. 6.50 Platting or Subdivision Control.

The planning commission shall be the platting commission of the city and no proposed plat or subdivision shall be approved by the city council until said proposed plat or subdivision has been submitted to and approved by the commission, provided that after disapproval by said commission the council may adopt said plat or subdivision by a five-sevenths vote of all the members of the council.

Sec. 6.51 Regulations for Platting.

In exercising the powers hereby granted to the planning commission, said commission shall adopt regulations governing the platting and subdivision of land within its jurisdiction. Such regulations shall provide for the harmonious

development of the city and its environs, for the coordination of streets, for adequate open spaces or spaces for traffic, utilities, recreation, light and air, and for the avoidance of traffic and population congestion.

Sec. 6.60 Power to Incur Debt Limited.

The planning commission shall have no power to incur indebtedness without the approval previously granted by the council. All commission members shall serve without pay as members thereof. The council shall pay from the municipal treasury all expenses incurred by the commission in connection with the performance of its duties and shall furnish it with all supplies, stationery and equipment it may require, but all bills and accounts of the commission shall be audited and approved by the president and secretary of the commission before being paid by the council.

ARTICLE VII

Civil Service

Sec. 7.10 Merit Basis of Appointment.

Appointments and promotions in the administrative service of the City shall be made according to merit and fitness, to be ascertained so far as practicable by competitive examination. In order that qualified persons shall become interested in taking examinations for the purpose of entering the City service, and of assuring them fair treatment in their examinations and guaranteeing them satisfactory working conditions and reasonable promotion opportunities on the basis of merit, there is hereby established a Civil Service Board.

Sec. 7.20 Membership; Duties.

The civil service board shall consist of three members and shall have all of the powers and duties heretofore and hereafter granted to and imposed upon the Firemen's Civil Service Commission and the Policemen's Civil Service Commission as provided by the statutes of Minnesota and as heretofore established by the resolution of the City commission and the City council of the City of St. Cloud. The civil service board shall have such further powers and duties over the employees of the City as are hereinafter granted and provided.

Sec. 7.30 Classification of Employees.

Subject to the laws of the State of Minnesota, where applicable, governing employment in the fire and police department of the city, the officers and employees of the city are divided into the unclassified and classified service.

(a) The unclassified service is comprised of the following offices and positions:

1. Members of the city council and other elected officers and persons appointed to fill vacancies in elected offices.

2. The mayor and administrative assistant.

3. The directors or heads of departments except those in the classified service of the city on the effective date of this ordinance.

4. Members of boards and commissions in the city's service.

5. Persons employed to make or conduct a special inquiry, investigation, examination or installation, if the council and the mayor certify that such employment is temporary and necessary and that the work should not be performed by employees in the classified service.

6. Part-time employees who shall not work more than 60 hours per two week period.

7. Temporary full-time employees who shall not work more than nine consecutive months in any twelve month period.

8. Any other officer or employee placed in the unclassified service by ordinance of the council after consultation with the Civil Service Board.

9. Any person in the classified service who has completed the probationary period on the effective date of an ordinance changing such office or employment to the unclassified service, shall remain in the classified service until the expiration of their term or until an earlier vacancy occurs, or until the termination of their employment.

10. The classified service shall comprise all positions not specifically included by this section in the unclassified service. (Ordinance No. 779, Adopted November 19, 1973)

Sec. 7.40 Retention of Present Civil Service Commissioners and Rules.

The civil service commission of the City of St. Cloud as now established is hereby ratified and confirmed as the civil service board and shall continue under this Charter to function as heretofore as the civil service board, with all of the powers heretofore or hereafter granted by the laws of the State of Minnesota and the acts of the city commission and the city council. Upon the expiration of the terms of the present members, or in case of vacancies upon said board, appointments of members of said board shall be by the majority vote of the council. The council may provide for a personnel director and secretary, regulate their duties and provide for their compensation. The council may remove any board member who in the judgment of the council has wilfully violated any of the provisions of Minnesota statutes governing firemen's or policemen's civil service commissions or any of the provisions of this charter. No member of the Board shall at the time of his appointment or while serving, hold any other office or employment under the City, the United States, the State of Minnesota or any public corporation or political division thereof, other than the office of notary public. Each member before entering upon his duties shall subscribe and file with the city clerk an oath for the faithful discharge of his duties. At the expiration of the term of

the present members the council shall appoint each year thereafter one member of the Board whose term of office shall be for three years, and each member of the Board shall be president of the Board during the last year of the term for which he is appointed. All vacancies in the Board must be filled by appointment by the Council within thirty days after the vacancy occurs. Each member of the Board shall serve without pay. The Council shall pay from the municipal treasury all expenses incurred by the Board in connection with the performance of its duties and shall furnish it with all supplies, stationery and equipment it may require, but all bills and accounts of the Board shall be audited and approved by the president and secretary of the Board before being paid by the Council.

Sec. 7.41 Retention of Status.

All City employees now under civil service as established shall retain their present status.

Sec. 7.42 Permanent Employee Defined.

All City employees not now under civil service who shall have held their positions for nine months or longer at the time of the adoption of this Charter shall be deemed to be permanent employees in their respective positions, subject, however, to the rules and regulations of the civil service board hereafter adopted governing the classified service.

Sec. 7.50 Classification.

The civil service board shall, as soon after the adoption of this Charter as may be reasonably possible, prepare and maintain an up-to-date record of the authority, duties and responsibilities of each position in the classified service. Within one year after the adoption of this Charter the Board shall prepare and submit to the Mayor a plan of classification and grading of all such positions according to similarity of authority, duties and responsibilities. The Mayor shall submit the classification plan to the Council with such recommendations as he deems desirable and such plan shall take effect when adopted by the Council or on the thirtieth day after it is submitted to the Council if prior thereto the Council has not disapproved it by resolution.

Changes in the classification plan which the Board may deem desirable may be recommended and adopted from time to time in similar manner.

After the adoption of the classification plan and after any amendment thereof the Board shall allocate each position in the classified service to the appropriate class therein on the basis of its authority, duties and responsibilities. Thereafter if new positions are created or additional classes are established or existing classes are divided, combined, altered or abolished, the Board shall make such allocations or re-allocations of positions to new or existing classes as are necessitated thereby.

Following the adoption of the classification plan and the allocation to classes

therein of positions in the classified service, the class titles set forth therein shall be used to designate such positions in all official records, documents, vouchers and communications, and no person shall be appointed to or employed in a position in the classified service under any class title which has not been approved as herein provided for the approval of the general plan.

Employees affected by the allocation or re-allocation of a position to a class, or by any changes in the classification plan, shall be afforded a reasonable opportunity to be heard thereon before the Board after filing a written request with the secretary of the Board for such hearing.

Sec. 7.60 Rules, Board to Make.

Immediately after the taking effect of this Charter and from time to time thereafter as the case may require, the civil service board shall make, amend, alter and change rules to promote efficiently in the various departments and to carry out the purposes of this article. The rules shall provide, among other things, for:

1. Classification of all offices and employments of the city.

2. Public competitive examinations to test the relative fitness of applicants.

3. Public advertisement of the holding of examinations at least ten days in advance in a newspaper of general circulation of said city and posting such advertisement for ten days on a bulletin board in the City Hall.

4. The creation and maintenance of lists of eligible candidates after successive examinations in order of their standing in the examinations and without reference to the time of examination, which lists shall be embraced in an eligible register.

5. The commission may by rule provide for striking any name from the eligible register after it has been two years thereon.

6. The rejection of candidates or eligibles who, after the entry of their names shall fail to comply with the reasonable rules and requirements of the commission in respect to age, character, residence, physical condition or otherwise, or who have been guilty of criminal, infamous or disgraceful conduct, or of any wilful misrepresentation, deception or fraud in connection with the examination or in connection with their applications for employment.

7. The certification of the three names standing highest on the appropriate list to fill any vacancy; provided that if there are only one or two names on such list, the certification of such name or names.

8. Temporary employment without examination with the consent in each case of the board, in case of emergency, but no such temporary employment shall continue more than thirty days nor shall successive temporary employments be permitted for the same position.

9. Promotion based on competitive examinations and upon the records of efficiency, character, conduct and seniority.

10. Suspension with or without pay for not longer than sixty days and for leave of absence with or without pay.

11. Removals, reduction in rank and reinstatement of employees.

12. Such other rules not inconsistent with the provisions of this article as may from time to time be found necessary to secure the purpose of this article.

A copy of all rules promulgated and adopted by the civil service board shall be kept posted in a conspicuous place in each department of the city government for the examination by all persons interested, and no rules of general application with reference to employment, promotion, disability or suspension shall be effective until so posted.

Sec. 7.61 Competition Suspended, When.

In case of a vacancy in any office which required peculiar or exceptional qualifications of a scientific, professional or expert character, and upon satisfactory affidavits that competition is impracticable and that the office can best be filled by the selection of some designated person of recognized attaintments, the civil service board may by majority vote, with the approval of a majority of all the members of the city council, suspend competition but no such suspension shall be general in its application to such office.

Sec. 7.70 Schedule of Pay.

The civil service board shall prepare for and submit to the Mayor, proposed standard schedule of pay for each position in the classified service. The Mayor shall submit the pay plan to the council with such recommendations as he deems desirable and such schedule of pay shall take effect when adopted by the council or on the thirtieth day after it is submitted if prior thereto the council has not disapproved by resolution. Amendments to the pay schedule may be made and adopted by the council from time to time but only after notification to the civil service board and the Mayor of the intention so to do. The council shall not increase or decrease any individual salary item, but shall act solely with respect to classes of positions as established and in no event shall the council reduce the salary of a class below the maximum salary established by the pay plan except by amendment of said plan.

Sec. 7.80 Appointments by Mayor Restricted.

All appointments of employees in the city classified service, except as by this charter otherwise provided, shall be made by the Mayor, but his selection of employees shall be limited to persons certified to him by the civil service board. No reductions in rank or removals shall be made except in accordance with rules of the civil service board.

Sec. 7.90 Prohibitions.

No persons in the classified service of the city or seeking admission thereto shall be appointed, promoted, reduced, or in any way favored or discriminated against because of his race or his political or religious opinions or affiliations. No person shall wilfully or corruptly make any false statement, certificate, mark, rating or report in regard to any test, certification, or appointment held or made under the personnel provisions of this charter or in any manner commit or attempt to commit any fraud preventing the impartial execution of such personnel provisions or of the rules and regulations made thereunder. No officer or employee in the classified service of the city shall continue in such position after becoming a candidate for nomination or election to any public office. No persons seeking appointment to or promotion in the classified service of the City shall either directly or indirectly give, render or pay any money, service, or other valuable thing to any person for or on account of or in connection with his test, appointment, proposed appointment, promotion or proposed promotion. No person shall orally, by letter, or otherwise solicit or be in any manner concerned in soliciting any assessment, subscription or contribution for any political party or political purpose whatever from any person holding a position in the classified service of the City. No person holding a position in the classified service of the City shall make any contribution to the campaign fund of any political party or take any part in the management, affairs or political campaign of any political party, further than in the exercise of his rights as a citizen to express his opinion and to cast his vote.

Any person who by himself or with others wilfully or corruptly violates any of the provisions of this section shall be guilty of a misdemeanor and shall upon conviction thereof be punished by a fine of not less than $25.00 nor more than $100.00, or by imprisonment for a term not exceeding ninety days, or by both such fine and imprisonment. Any person who is convicted under this section shall for a period of five years be ineligible for appointment to or employment in a position in the City service, and shall, if he be an officer or employee of the City, immediately forfeit the office or position he holds.

ARTICLE VIII

Finance

Sec. 8.10 Control of Finances.

The council shall have full authority over the financial affairs of the city and shall levy an annual tax upon all taxable property in the city, according

to law, for the support of the city government and the payment of its obligations, and shall provide for and make collection of all revenues from all sources. The council shall provide for the auditing and settlement of city accounts and the safekeeping and disbursement of public moneys and shall in the exercise of sound discretion appropriate money by means of a budget for the governmental expenses and for the maintenance of its separate funds, as in this article provided.

Sec. 8.11 Fiscal Year.

The fiscal year of the city shall end each year on the 31st day of December.

Sec. 8.12 Local Taxation.

Subject to the State Constitution and except as forbidden by it or by laws of the State, the council shall have full power to provide by ordinance and resolution for a system of local taxation, and to change and amend the same as the city's needs may require.

Sec. 8.13 Board of Equalization.

The council shall constitute a Board of Equalization and shall meet as such board in the council's usual meeting place on the last Monday in July to equalize assessments according to law.

Sec. 8.20 Annual Budget.

The Mayor shall prepare and submit to the council at its regular meeting in August of each year the estimates for the annual budget. Such estimates of expenditures shall be arranged for each department or division of the city as may by direction of the council be required. All increases and decreases of amounts shown on the previous year's budget shall be clearly shown. In parallel columns shall be shown the amounts granted and the amounts expended under similar headings for the past two fiscal years, and so far as possible for the current year. In addition to the estimates of expenditures the estimates shall include a statement of the revenues which have accrued for the past two completed fiscal years with the amounts collected and the uncollected balances, together with the same information so far as possible for the current fiscal year, and an estimate of the revenue of the ensuing fiscal year. Such estimates should be printed or typewritten and as many copies thereof shall be submitted as may be required by the council. Any interested tax payer may have access to said estimates after the same have been submitted. After the submission of said estimates to the council the council shall carefully consider the same and make such changes as appear to be in the best interests of the city, and thereafter further proceedings shall be had thereon in accordance with the provisions of Sec. 2.63 of this charter pertaining to ordinances, but the final adoption of the budget shall be by resolution which shall be adopted not later than October 1st of each year.

Said annual budget as finally adopted shall set forth in detail the complete financial project of the city for the ensuing fiscal year. It shall indicate

the sums to be raised and from what sources, and the sums to be spent and for what purposes, and shall indicate the fund for which said sums are to be raised and from which said sums are to be disbursed. It shall not be necessary to include in the budget estimates of revenues or expenses of the permanent improvement revolving fund, from the sale of bonds or of any other fund not supported by taxes.

Sec. 8.21 Alteration.

After the budget shall have been duly adopted the council shall not have power to increase the amounts therein fixed, whether by the insertion of new items or otherwise beyond the estimated revenues, unless the actual receipts shall exceed such estimates, and in that event not beyond such actual receipts. The sums fixed in the budget shall be and become appropriated at the beginning of the fiscal year for the several purposes named therein and no other. The council may at any time, by a resolution passed by five-sevenths vote of all the members of the council, reduce the sums appropriated for any purpose, or authorize the transfer of sums from unexpended balances to other purposes, except as in this charter otherwise provided.

Sec. 8.22 Enforcement.

It shall be the duty of the mayor to enforce strictly the provisions of the budget. He shall not approve any order upon the city treasurer for any expenditure from a fund included in the budget unless there is a sufficient unexpended balance left after deducting the total past expenditures and the sum of all outstanding orders and encumbrances. No officer or employee of the city shall place any orders or make any purchases except for the purposes and to the amounts authorized in the budget. Any person violating the terms of this section shall be personally liable for any amount in excess of the amount authorized.

Sec. 8.23 Emergency Appropriation in Budget.

The council shall have power to establish an emergency appropriation as a part of the budget, but not to exceed ten percent of the total budget. Transfers from the emergency appropriation to any other appropriation shall be made only by a unanimous vote of the council. The sums transferred to the several departments or divisions shall be considered as a part of such appropriations and shall be used only for the purposes designated by the council.

Sec. 8.30 Levy of Taxes.

After the adoption of the annual budget and not later than the 1st day of October of each year, the Council shall by resolution levy the taxes necessary to meet the requirements of the budget as adopted for the ensuing fiscal year. The city clerk shall thereupon transmit to the county auditors of the counties in which the City of St. Cloud lies, not later than the 10th of October, a statement of all the taxes levied and such taxes shall be collected and the

payment thereof be enforced with and in like manner as state and county taxes. No tax shall be invalid by reason of any informality in the manner of levying the same nor because the amount levied shall exceed the amount required to be raised for the special purposes for which the same is levied, but in that case the surplus shall go into the fund to which such tax belongs.

Sec. 8.41 Tax Settlement.

It shall be the duty of the city treasurer to collect from the treasurers of the separate counties all monies collected by and in possession of said treasurers belonging to the city and said collection thereof by the city treasurer and the payment thereof by the several county treasurers of said counties shall be made at the times provided by law.

Sec. 8.50 Funds of the City.

There shall be maintained in the city treasury the following funds for the support and maintenance of which the council shall, unless otherwise provided, appropriate and annually levy taxes in sufficient amount to accomplish their purposes:

1. Such funds as are required by statute.

2. A general fund for the payment to all general government expenses and obligations of the city as the council may deem proper and as are authorized by law. Into this fund shall be paid all monies not otherwise provided herein, or by statute or by ordinance to be paid into any other fund.

3. A permanent improvement fund to pay for local improvements properly chargeable and charged against the city, the payment of which is not otherwise provided for. Receipts from the sale of city property not otherwise disposed of shall be deposited in this fund.

4. A public utility fund or funds into which shall be paid all money derived from the sale of bonds issued on account of any municipally owned utility or enterprise and all money derived from the sale of utility or other public enterprise services and from the sale of any property acquired for or used in connection with any such utility or enterprise. There shall be paid out of this fund the cost of the purchase, construction, operation, maintenance and repair of such utility or enterprise, including the principal of and interest upon obligations which have been or shall be issued on its account. Separate funds or accounts shall be kept for all utilities or public service enterprises which are operated separately.

5. A development fund into which there shall be deposited annually an amount equal to twenty-five percent of all monies received from the sale of licenses, issuance of all permits and income from parking meters in the city during the said period, together with such additional amount as the council may provide by a tax levy. No expenditure

from the development fund shall be made without the approval of the planning commission and no transfer from said fund shall be made except to one or more bond sinking funds of the city and then only with the approval of the planning commission. Expenditures from the development fund shall be made only for such purposes as will advance the master plan for the physical development of the city.

Sec. 8.41 Additional Funds.

The council is authorized to establish and to appropriate money and levy taxes for the maintenance of such other and additional funds as from time to time it seems necessary for the proper carrying on the city's business.

Sec. 8.42 Present Monies Apportioned.

Upon the adoption of this charter all monies in the city treasury and monies to be collected from taxes heretofore levied shall be apportioned among the several funds hereby established so far as possible, and if such division is not practicable said monies shall then be paid into the general fund.

Sec. 8.43 Contingent Fund.

The Council shall each year, by resolution, appropriate a sum for contingent expenses incurred or to be incurred by the mayor and the council for the benefit of the city and its people. Said contingent fund is to be a part of the general fund and disbursements therefrom shall be made as provided for other disbursements; provided that in any year when a city general election is held the disbursements therefrom prior to the beginning of new terms of office commencing that year shall not exceed one-third of the amount appropriated for that year.

Sec. 8.50 Receipts and Accounts.

All receipts of money belonging to the city or any branch thereof, excepting only those funds collected by the county treasurers, shall be paid into the city treasury by the person authorized to receive the same at the close of each business day. All such monies and also all monies received upon tax settlements from the county treasurers shall be deposited as soon as received or within a reasonable time in a bank or banks approved by the city council. The Mayor shall be the chief accounting officer of the city and of every branch thereof, and he shall in accordance with the provision of Sec. 3.20 and Sec. 3.50 provide for the duties of the city clerk and city treasurer and the methods and procedures of said offices. He shall submit to the council his statement each month showing the amount of money in the custody of the city treasurer, the status of all funds, the amount spent or chargeable against each of the annual budget allowances and the balances left in each, and such other information relative to the finances of the city as the council may require. On each year, on or before the last day of January, the Mayor shall submit a report to the council covering the entire financial operations

of the city for the past year. This report shall contain a full and complete report of all receipts and expenditures and a complete statement of the financial standing of the city and such other information as might be required by the council.

Sec. 8.51 Comprehensive Audit.

The council shall annually cause a comprehensive audit of the books and accounts of the city to be made by the state public examiner, and shall cause the report of said examination to be published in the official newspaper.

Sec. 8.60 Tax Anticipation Certificates.

For the purpose of providing necessary monies to meet authorized expenditures after the annual tax levy has been certified to the county auditor, and prior to the collection of taxes payable in the current year, the council may after January 1st of any fiscal year, issue certificates of indebtedness to be repaid out of such taxes on such terms and conditions as it may determine.

Sec. 8.61 Emergency Debt Certificates.

If in any year the receipts from taxes or other sources should from some unforseen cause become insufficient for the ordinary expenses of the city, or if any calamity or other public emergency should subject the city to the necessity of making extraordinary expenditures which may not have been budgeted or anticipated, then the council may authorize the sale by the city treasurer of emergency debt certificates to run not to exceed three years and to bear interest at not to exceed six percent. A tax sufficient to redeem all such certificates at maturity shall be levied each year. The issuance of such certificates shall be authorized by an ordinance passed by five-sevenths of all the members of the council and such ordinance may if deemed necessary be passed as an emergency ordinance.

Sec. 8.62 Purchases and Contracts.

The mayor shall be the chief purchasing agent of the city. The purchasing agent, subject to the provisions of this charter and pursuant to rules and regulations established by ordinance, shall contract for, purchase, store and distribute all supplies, materials and equipment required by any office, department or agency of the city government. He shall establish and enforce specifications, inspect or supervise the inspection of all deliveries and have full and complete charge of, and be responsible for, all supplies, materials and equipment purchased for or belonging to the city.

The approval of the council must be given in advance for purchases or contracts exceeding $1,000.00. The council may authorize purchases or contracts without advertising and receiving competitive bids thereon for purchases or contracts not exceeding $2,500.00. Before making purchase of or contract for supplies, materials or equipment of more than $2,500.00, ample opportunity

for competitive bidding shall be given under such rules and regulations as the council may prescribe by ordinance, provided that should the article or service required be of a noncompetitive nature the council may purchase the same without bids. The council may reject any and all bids and may re-advertise.

All contracts, bonds and other instruments of every kind to which the city shall be a party shall be executed in the name of the city and signed by the mayor and the city clerk on behalf of the city, and approved by the city mayor.

The city council may, in its discretion, and with the recommendation of the mayor, direct any work or construction or any part thereof to be done by day labor or by any department of the city government under direction of the mayor.

Sec. 8.70 Payment from Treasury.

No money shall be paid out of the city treasury except upon order duly signed by the city clerk and Mayor. All claims against the city except claims for payments or judgments, salaries and wages previously fixed by the council or by statute, principal and interest on obligations, rent and other fixed charges, the exact amount of which has been previously determined by contract authorized by the council, shall be itemized and verified by the claimant, approved by the department head or director, approved by the Mayor and presented to the city council. The council may provide by ordinance or resolution for the payment, subject to subsequent council approval of claims which must be paid in advance of council approval, for the business operation of the city government. Upon allowance by the city council of such itemized, verified and approved claim where required, the city clerk shall draw an order upon the city treasurer, which order when properly signed by the Mayor shall be authority to the treasurer to issue his check upon the proper fund of the city, but should the city treasurer and the city clerk be the same person said check shall be validated by a person designated by the council. Provided that the council may provide by resolution for the payment of any or all employees of said city on payrolls to be prepared as directed by said resolution, by heads of departments and approved by the mayor. All such payrolls shall be duly audited and ordered paid by said council when approved, and the payees named thereon shall receipt for the amounts received upon said payrolls. Said council may make such further rules and regulations as to payrolls for city employees as it may deem necessary.

Sec. 8.80 Investment of Surplus Funds.

The council may invest the surplus of any fund, by a vote of five-sevenths of all members of the council, in any securities in which funds of the State of Minnesota may be invested, and in obligations of the City of St. Cloud.

ARTICLE IX

Bonds

Sec. 9.10 Power to Issue, Limitations.

The bonds of the City of St. Cloud may be issued as in this article provided:

In addition to all the powers in respect to borrowing, and with reference to the issuance of bonds and certificates of indebtedness specifically or impliedly granted by this charter and any amendments thereto, the City of St. Cloud shall have all the powers in reference to these matters granted and authorized for cities of its class by the statutes of the State of Minnesota as now in effect and as may be hereafter amended or supplemented. The city shall have the power to issue and sell its bonds to the State of Minnesota or to private purchasers according to the laws of the State or the provisions of this charter.

No bonds shall ever be issued to pay current expenses or to refund certificates of indebtedness issued to provide for temporary deficiency in the revenues to cover current expenses. The total net debt of said city shall not exceed the net debt limit established by law for cities of its class.

The city council may issue the bonds of said city by a majority vote without submitting the issue thereof to a vote of the electors, for the purpose of paying, taking up and refunding outstanding bonds of said city and for the purpose of paying judgments lawfully rendered against said city, as to which the time of appeal has expired.

No bonds of the City of St. Cloud shall be issued for any purpose where state law requires that the question of the issuance of such bonds shall be submitted to an election without the approval first obtained of a majority of the electors of said city voting on the question at a special election called for that purpose, or at a general municipal election in the notice of which special or general municipal election the proposed issue shall have been plainly submitted for approval or rejection.

Sec. 9.20 Proceeds.

After the sale of said bonds according to law and the payment therefor to the treasurer of said city of the amount for which said bonds are sold, the bonds shall be executed and delivered to the purchaser thereof and the treasurer shall receive and hold the proceeds thereof as a separate fund for the purposes for which said bonds were issued.

ARTICLE X

Improvements and Special Assessments

Sec. 10.10 General Powers and Procedure.

The City of St. Cloud shall have the power to make any and every type of public improvement not forbidden by the laws of this State, and to levy special assessments for all such improvements as are of a local character, such special assessments to be levied against each lot or other unit of property separately as the same may be platted or subdivided. The amounts

assessed to benefited property to pay for local improvement may equal the cost of the improvement with interest until paid, but shall in no case exceed the value of the benefit received by such property. No levy of special assessments shall be deemed invalid by reason of the fact that the total amount of special assessments shall exceed the actual cost of the improvement. But in case there shall be any excess of assessments over actual cost, the city council shall have the power and it shall be its duty to provide for a pro rata return or remission of such excess assessments to the persons who are by law entitled thereto.

Sec. 10.11 Procedure.

All improvements to be paid for by special assessment against the benefited property shall be instituted by either of the following methods, to-wit:

1. Upon the written request of not less than twenty-five percent in number and interest (the term interest shall mean footage of abutting property except when otherwise defined by resolution adopted by the city council) of the affected resident property owners. The city council, as it deems such public improvement advisable, shall direct the Mayor to have prepared an estimate of the cost of the proposed improvements and also a petition in proper form containing such estimate which shall be set forth both in unit prices and in total thereof. Such petition so prepared shall be used for circulation among the affected resident property owners and when signed by a majority in number and interest of such resident owners may be presented to the city council as a petition for such improvement. Thereupon it shall be the duty of the city council to proceed within a reasonable time to make such improvements, provided however, that no contract therefor shall be let in the event the contract price exceeds the estimated cost made by the Mayor as hereinbefore prescribed. The city council shall have authority to proceed with the proposed improvement at any time within two years from the date of filing of the majority petition under this method. A new petition following the procedure herein prescribed may be filed at any time.

2. By resolution adopted by affirmative vote of the majority of the council any public improvement other than repair or replacement may be declared advisable and to be paid for by special assessment. Such resolution shall state the nature and scope of such public improvement. Upon adoption of such resolution which shall direct the mayor to have prepared an estimate of the cost thereof, the Mayor shall have prepared such an estimate which shall be set forth both in unit price and in total thereof. Upon receipt of such estimate the council shall by resolution set a date for a public hearing on the proposed improvement, setting forth therein the time, place and purpose of such hearing. Such resolution shall be published in the official newspaper of the city at least one week prior to the date of said hearing, and in addition thereto a copy of such resolution shall be mailed to each affected resident property owner at his last known city address at least one week prior to the date of said hearing. At such hearing the city council shall receive any written petitions and hear any petitioners for or against the proposed improvement.

Sec. 10.12 Reference to Planning Commission.

Any improvement which may be authorized and directed to be constructed under the provisions of this Article, which may fall within the provision of Article VI hereof pertaining to the powers and duties of the city planning commission, shall be referred by the city council to said commission and shall be authorized only in accordance with the procedure set forth in said Article VI hereof.

Sec. 10.20 Limitations on Council.

If the proposed improvement is in the nature of streets, alleys, sidewalks, curbs, gutters or other improvements of a public way, the council may proceed with such improvement if seventy-five percent or more in number and interest of the affected property owners oppose the improvement as shown by their signatures on a petition setting forth their opposition to the said improvement and giving their proper street addresses and description of their property to be affected by the improvement.

If the proposed improvement is in the nature of a sanitary sewer or facilities connected to or a part of the municipal sewerage system, the council may proceed with the improvement and levy assessments therefor, except that the council may not proceed with such improvement if ninety percent or more in number and interest of the affected resident property owners oppose the improvement as shown by their signatures on a petition setting forth their opposition to said improvement and giving their proper street addresses and description of their property to be affected by the improvement.

If the proposed improvement is of any nature other than the above, the council may proceed with the improvement and levy assessments therefor, except that the council may not proceed with such improvement if fifty-one percent or more in number and interest of the affected resident property owners oppose the improvement as shown by their signatures on a petition setting forth their opposition to said improvement and giving their proper street addresses and description of their property to be affected by the improvement.

The city council shall have authority to proceed with the proposed improvement within two years after the date of public hearing under this method, and assessment shall be made against the described property regardless of the ownership, except that after one year from the set date of hearing upon written petition of at least fifty-one percent of the affected resident property owners in number and interest the council shall set a second hearing as before to re-determine the percent of the then affected resident property owners who opposed the proposed improvement.

Sec. 10.21 Repairs and Replacements.

The city council by five-sevenths vote of its members may initiate proceedings for the repair or replacement with suitable materials of special assessment improvements. Such proceedings may be initiated by adoption of a resolution describing the repair or replacement contemplated, and the necessity therefor, and setting forth in said resolution the time and place of a hearing to

be held before the council on such proposed repair or replacement. Notice of the time, place and purpose of said hearing shall be published once in the official newspaper of the city at least one week prior to said hearing. In addition, a copy of such notice shall be mailed at least one week prior to said hearing to each affected resident property owner at his last known city address. Prior to said hearing the Mayor shall have prepared an estimate of the cost of the proposed repair or replacement, both in unit price and in total thereof. At said hearing the council shall hear all interested parties and if, after such hearing the council shall so decide by a five-sevenths affirmative vote of the members thereof, it may proceed with such repair or replacement, provided, however, that no contract therefor shall be let in the event the contract price exceeds the estimated cost submitted by the Mayor as hereinbefore prescribed. In the event the cost of any such repair or replacement shall not exceed twenty-five dollars on any one parcel or property, the city council may, without hearing, by five-sevenths affirmative vote of its members order such repair or replacement made after giving ten days written notice to the owner of such property at his last known city address.

Special assessments to cover the cost of any such repair or replacement shall be levied as hereinabove provided for.

Sec. 10.22 Regulations to be Adopted.

After this amendment takes effect local improvements shall continue for the time being to be made as far as possible according to the amendment provisions and laws previously applicable thereto, and the council is hereby authorized to adopt and to put into effect in the City of St. Cloud any general law of the state applicable to local improvements of any type and levying of assessments thereof, provided that the same does not violate the provisions of this amendment. As soon as possible, however, the council shall prepare and adopt a complete ordinance covering every type of public improvement, and when this ordinance takes effect it shall, subject to the provisions of Article X of this amendment, supplant other provisions of law or of the previous city charter upon the same subject. It may be amended from time to time as other ordinances. It shall classify public improvements into three groups as follows: (1) those which shall be constructed or provided entirely from the general revenue of the city; (2) those which shall be constructed or provided partly from general revenues and partly from special assessments; and (3) those which shall be constructed or provided entirely by special assessments. The second class may be further subdivided. The ordinance shall provide a complete working code covering the determination of assessments and assessment districts, public hearings, appeals from and collection of assessments along with other taxes or otherwise, penalties for delinquency in making payments, financing and issuance of warrants for the collection of said assessments, the certifying of unpaid assessments for collection by the proper county officer. Said ordinance may also provide for installment payments and notices to be given thereof, appellate procedure, re-assessment if necessary and all other matters appropriate to the subject of local improvements and assessments. After the passage of such ordinance or resolution providing for public improvements and all procedures in com-

pliance therewith shall conform to the regulations as set forth in such ordinances and as otherwise contained in this amendment.

Sec. 10.23 State Law to Govern.

Except as provided by this amendment or otherwise authorized or provided by ordinance or resolution of the city council, the laws of the State of Minnesota pertaining to and governing public improvements in cities of the class of the City of St. Cloud shall be allowed.

ARTICLE XI

Acquisition of Property

Sec. 11.10 Power to Acquire Property.

The City of St. Cloud is hereby empowered to acquire by purchase, gift, devise, or condemnation any property, corporael or incorporael, either within or without its corporate boundaries, which may be needed by said city for any public use or purpose. In addition to the power to acquire property for other public purposes, the city may, when authorized by two-thirds of the voters voting on the question, also acquire, as herein provided, at the end of any five year period from granting of a franchise, any gas, water, heat, power, light, telephone or other plant, or other public utility, but no proceeding to acquire any such public utility shall be consummated unless the city has the money in its treasury to pay for the same or has by vote of the people made provision for paying for the property proposed to be acquired. Easements for slopes, fill, sewers, building lines, poles, wires, pipes and conduits for water, gas, heat, and power and for other public purposes, may be acquired by gift, device, purchase or condemnation in the manner provided by law.

Sec. 11.11 Proceedings in Taking Property.

The necessity for taking of any property by the city shall be determined by the council and shall be declared by a resolution which shall describe such property as nearly as may be and state the use to which it is to be devoted. The acquisition of such property may be accomplished by proceedings at law, as in taking land for public use by right of eminent domain according to the laws of the State of Minnesota, except as otherwise provided in this amendment.

Sec. 11.12 Payment of Award.

Whenever an award of damages shall be confirmed in any proceeding for the taking of property under this Article, or whenever the court shall render final judgment in any appeal from any such award, and the time for abandoning such proceedings by the city shall have been expired, the city shall be bound to, and shall, within sixty days of such final determination, pay the amount

of the award with interest thereon at the rate of six percent per annum from the date of the confirmation of the award or judgment of the court, as the case may be; and if not so paid, judgment therefor may be had against the city.

Sec. 11.13 City May Abandon Proceedings.

The city may, by resolution of the council at any stage of the condemnation proceedings, or at any time within thirty days after any commissioners appointed by the court hereunder shall have filed their report with the clerk of court, or in case of an appeal to the district or supreme court, at any time within thirty days after the final determination thereof, abandon such proceedings as to all or any parcel of the property sought to be acquired and shall pay all costs thereof.

Sec. 11.20 City May Take Entire Plant.

In case the city shall condemn a public utility which is operated at the time of the commencement of condemnation proceedings as one property or one system, it shall not be necessary in such condemnation proceedings or any of the proceedings of the council, to describe or treat separately the different kinds of property composing such system, but all of the property, lands, articles, franchises and rights which enter into and go to make up such system may, unless otherwise ordered by the court, be treated together as constituting one property and an award for the whole property in one lump sum may be made by the commissions on condemnation or other body assessing the damages. But this shall not prevent the city, in cases where the plant and property is separable into distinct parts, from taking only such part or parts thereof as may be necessary in the public interests.

ARTICLE XII

Franchises

Sec. 12.10 Franchises Defined.

The word "Franchise" as used in this article shall be construed to mean any special privilege granted to any person, co-partnership or corporation, in, over, upon or under any of the highways or public places of the City, whether such privilege has heretofore been granted by it or by the State of Minnesota, or shall hereafter be granted by the City or by the State of Minnesota.

Sec. 12.20 Franchise Ordinances.

The council may grant franchises by ordinance adopted by a majority vote, subject to the referendum powers contained in this charter.

Said franchise ordinance shall be introduced in the council as other ordinances are introduced and the council shall follow the provisions of Sec. 2.63 hereof

as to notice, hearings and passage. Any franchise rights shall always be subject to the superior rights of the public to the use of streets and public places, and said franchise shall be without validity whatever until it has been accepted by the grantee as adopted.

The grantee shall bear the costs of publication of the franchise ordinance and shall make a sufficient deposit with the clerk to guarantee publication before the ordinance is passed.

Every extension, renewal or modification of any existing franchise or of any franchise granted hereafter shall be subject to the same limitations and shall be granted in the same manner as a new franchise.

Sec. 12.30 Term of Franchises Limited.

No perpetual franchise shall ever be granted, nor shall any franchise be granted for longer than a twenty-five year term.

Sec. 12.40 Power to Regulate and Control.

The City shall have the right and power to regulate and control the exercise by any corporation, co-partnership or person of any franchise, however acquired and whether such franchise has been heretofore granted by it or by the State of Minnesota, or shall hereafter be granted by the City or by the State of Minnesota.

Sec. 12.50 Regulation of Rates and Charges.

All corporations, co-partnerships, and persons exercising franchises in the City shall give courteous, efficient and adequate service at reasonable rates. A reasonable rate shall be construed to be one which will with efficient management normally yield, above all operating expenses and depreciation, a fair return upon all money honestly and efficiently invested in the plant and equipment used by the company in furnishing service within the City. This shall not be construed as a guarantee of a return and in no case shall there be any return upon franchise value. Within these limits, the determination of a maximum price or rate to be charged by any company for service rendered to the City or to any person or persons within the City shall be made, if possible, by direct negotiations between the company and the council at public hearings. In case of failure to reach an agreement by this method, the council shall, not less than thirty days before the expiration of any existing rate schedule or agreement, appoint the City Mayor or some other expert as its representative; the company shall appoint a representative; and these two shall by mutual agreement select a third person, preferably an expert in valuation and rate-making, who shall together constitute a board of arbitration. This board shall report its findings as soon as possible and the rate, which it shall agree upon by a majority vote shall be the legal rate, subject to revision by any court of competent jurisdiction. Schedules of rates thus fixed shall be as flexible as may be, and shall in no case fix a definite rate for a period of more than five years. The City and the company may by

mutual agreement, revise existing schedules of rates at any time, proceeding in each case as provided for the original filing of the rates.

Sec. 12.60 Conditions in Every Franchise.

Every franchise shall contain the following provisions:

1. That the grantee shall be subject to and will perform on its part all the terms of this article, as well as all other pertinent provisions of this amendment.

2. That the grantee shall in no case claim or pretend to exercise any power to fix fares, rates, and charges; but that such fares, rates, and charges shall at all times be just, fair and reasonable for the services rendered, and shall in all cases be fixed and from time to time changed in the manner provided in Sec.12.50 of this amendment.

3. That the council shall have the right to require reasonable extensions of any public service system from time to time, and to make such rules and regulations as may be required to secure adequate and proper service and to provide sufficient accommodations for the public.

4. That the grantee shall not issue any capital stock on account of the franchise or the value thereof, and that the grantee shall have no right to receive, upon condemnation proceedings brought by the City to acquire the public utility exercising such franchise, any return on account of the franchise or its value.

5. That no sale or lease of said franchise shall be effective until the assignee or lessee shall have filed in the office of the city clerk an instrument, duly executed, reciting the fact of such sale or lease, accepting the terms of the franchise, and agreeing to perform all the conditions required of the grantee thereunder. The assignee or lessee shall also file a bond in such amount and with such conditions as the council may require, which bond shall run to the City as obligee, with sureties satisfactory to the council, and shall obligate the assignee or lessee to discharge all obligations and liabilities imposed by said franchise.

6. That every grant in said franchise contained or permission for the erection of poles, masts, or other fixtures in the streets and for the attachment of wires thereto, or for the laying of tracks in, or for pipes or conduits under the streets or public places, or for the placing in the streets or other public places of any permanent or semi-permanent fixtures whatsoever, shall be subject to the conditions that the council shall have the power to require such alterations therein, or re-location or rerouting thereof, as the council may at any time deem necessary for the safety, health or convenience of the public, and particularly that it shall have the power to require the removal of poles, masts and other fixtures bearing wires and the placing underground of all wires for whatsoever purpose used.

7. Every franchise and every extension or renewal of such franchise, shall contain a provision for its acceptance in writing by the grantee within thirty days after its adoption and passage. No such franchise shall be binding upon the City until its acceptance by the grantee. Such acceptance shall be construed to be an acceptance of and consent to all the terms, conditions, and limitations contained in the ordinance granting the franchise as well as of the provisions of this amendment.

The violations by the holder of any franchise of any of the express provisions prescribed by this section shall be a sufficient cause for the forfeiture of the franchise by a resolution of the council, if not corrected within a reasonable time after notice thereof from the City.

Within ninety days after the close of the fiscal year of the person or corporation exercising any franchise, such person or corporation shall file annually in the office of the city clerk a statement of the earnings and expenditures of such business. Such statement shall include whatever information may be required by the city council. Said statement shall be open to public inspection.

Sec. 12.70 Further Provisions of Franchises.

The enumeration and specification of particular matters which must be included in every franchise or renewal or extension thereof, shall not be construed as impairing the right of the City to insert in any such franchise or renewal or extension thereof such other and further conditions and restrictions as the council may deem proper to protect the City's interests, nor shall anything contained in this amendment limit any right or power possessed by the City over existing franchises.

ARTICLE XIII

Public Ownership and Operation of Utilities

Sec. 13.10 Acquisition and Operation of Utilities.

The City shall have the power to acquire public utilities as provided in Article XI of this amendment. The operation of all public utilities owned by the City shall be under supervision of the Mayor.

Sec. 13.20 Rates and Finances.

Upon the recommendations made by the Mayor or upon its own motion the council shall have the power to fix all rates and charges for water, light, heat, and all other utilities provided by plants owned by the City, but such rates and charges shall be just and reasonable. In like manner the council may prescribe the time and manner in which payments for all such services shall be made, and the manner in which water and electric current shall be computed or

measured, whether by meter or flat rate, and make such other regulations as may be necessary, establish liens for non-payment and may prescribe penalties for violations of such regulations.

Sec. 13.30 Purchase in Bulk.

The council may, in lieu of providing for the local production of gas, electricity, water and other utilities, purchase the same in bulk and resell them to local consumers at such rates as it may fix.

Sec. 13.40 City to Pay for Services.

The council shall make a reasonable charge, based on the cost of service, for lighting the street and public buildings, or supplying heat, power or any other utility, and a reasonable hydrant rental and other charges for supplying the City with water, and shall credit the same to the publicly owned utility supplying service. Such rentals and other charges for light, heat, power, water and other services, shall be collected in the same manner as from other consumers unless the council provides some other plan.

Sec. 13.50 Lease of Plant.

The council may, if the public interests will be served thereby, contract with any responsible person, co-partnership or corporation for the operation of any utility owned by the City, upon such rentals and conditions as it may deem necessary, but such contract shall be embodied in and let only by an ordinance approved by five-sevenths of all the members of the council and subject to popular referendum. In no case shall such contract be for a longer term than ten years. The contractor shall be subject as far as possible to the rules as to rates and service and as to council control laid down for the holders of franchises in Article XII of this amendment.

Sec. 13.60 Public Utility: How Sold.

No public utility owned by the City, whether acquired prior to the adoption of this amendment or thereafter, shall be sold or otherwise disposed of by the City unless the full terms of the proposition of said sale or other disposition thereof, together with the price to be paid therefor, shall have been embodied in an ordinance passed by a five-sevenths vote of all the members of the council in the usual way, and submitted to the electors at a general or special election and approved by a majority vote of the electors voting thereon.

ARTICLE XIV

Miscellaneous and Transitory Provisions

Sec. 14.10 Official Publications.

The council shall annually designate a legal newspaper of general circulation in the City as the official paper, in which shall be published such measures

and matters as are by this amendment and by the laws of this State required to be published, and such other matters as the council may deem it wise to have published.

Sec. 14.20 Oath of Office.

Every officer of the City shall, before entering upon the duties of his office, take and subscribe an oath of office in substantially the following form: "I do solemnly swear (or affirm) to support the constitution of the United States and of this State, and to discharge faithfully the duties devolving upon me as (mayor, councilman, etc.) of this City to the best of my judgment and ability."

Sec. 14.30 City Officers Not to Accept Favors or Contracts.

No officer or employee of the City shall solicit or receive any pay, commission, money or thing of value, or derive any benefit, profit or advantage, directly or indirectly, from or by reason of any improvement or alteration or repair required by authority of the City, or any contract to which the City shall be a party, except his lawful compensation or salary as such officer or employee, unless the council has with full knowledge of the interest of an officer or employee in such contract, accepted and approved the same by unanimous vote of all members of the council. No officer or employee of the City except as otherwise provided in this amendment, or by law, shall solicit, accept, or receive, directly or indirectly from any public utility corporation or the owner of any public utility or franchise, any pass, frank, free ticket, free service or any other favor, upon terms more favorable than those granted the public generally. A violation of any provision of this section shall disqualify the offender from continuing in office or in the employment of the City, and he shall be removed therefrom. Any contract with the City in which any officer or employee becomes directly or indirectly interested except as herein provided, personally or as a member of a firm, or as an officer or a director of a corporation shall be void; and any money which shall have been paid on such contract by the City may be recovered from any or all the persons interested therein by joint or several action.

Sec. 14.31 Interference with Administration.

Neither the council nor any of its members shall dictate or attempt to dictate the appointment of any person to office or employment by the Mayor or in any manner interfere with the Mayor or prevent him from exercising his own judgment in the appointment of officers or employees in the administrative service. Except for the purpose of inquiry the council and its members shall deal with and control the administrative service solely through the Mayor, and neither the council nor any member thereof shall give orders to any of the subordinates of the Mayor, either publicly or privately. Any violation of the provision of this section by a member of the council shall be a misdemeanor, conviction of which shall immediately forfeit the office of the member so convicted.

Sec. 14.40 Bonds of Officials and Employees.

The Mayor, the city treasurer, the city clerk and such other officers of the City as the council may require to be bonded, shall each before entering upon the duties of their respective offices and employments give corporate surety bond to the City in such sum as may be fixed by the council as additional security for the faithful performance of their respective official duties and the safekeeping of the public funds. Such bonds shall be approved by the city council and shall be endorsed by at least three members of the council as having been so approved. They shall be filed with the secretary of the council. The provisions of the laws of the State relating to official bonds not inconsistent with this amendment shall be complied with. The City shall pay the bond premium on bonds of all its officers and employees required to be bonded.

Sec. 14.50 Sales of Real Property.

No real property of the City shall be disposed of except by resolution after submission as provided in Sec. 6.40 hereof. The proceeds of any such sale shall be used as far as possible to retire any outstanding indebtedness incurred by the City in the purchase, construction or improvement of this or other property used for the same public purpose; but if there be no such outstanding indebtedness, then the council may by ordinance adopted by a five-sevenths vote designate some other public use for such proceeds.

Sec. 14.60 Vacation of Streets.

The city council shall have the sole and exclusive power to vacate or discontinue public grounds, streets, alleys and highways within the City. No street or alley within the City shall be discontinued except by ordinance in accordance with the provisions of Sec. 6.40 hereof. A record of such vacation shall be made in the office of the Register of Deeds of the county in which said real property is located. No such ordinance shall be an emergency ordinance.

Sec. 14.70 City to Succeed to Rights and Obligations.

The City shall succeed to all the property, rights and privileges and shall be subject to all the legal obligations of the City of St. Cloud that were in existence prior to this amendment.

Sec. 14.80 Present Officers to Hold Office.

The present commissioners of the City shall make provisions for the election of the Mayor and council, as provided by Article IV of this amendment, and said commissioners shall continue in their respective offices and functions and shall continue to govern the City according to the amendment and laws in effect in the City at the time of the adoption of this proposed amendment until the newly elected officers under this amendment qualify and take office. All other officers and employees shall continue in their respective offices

and functions in the employ of the City, subject to the administrative powers of this amendment.

Sec. 14.81 Statutes Not Affected by Charter.

All general laws and statutes of the State applicable to all cities operating under home rule charters, or applicable to cities of the same class as the City of St. Cloud operating under home rule charters, and not inconsistent with the provisions of this amendment, shall apply to the City of St. Cloud, and shall be construed as supplementary to the provisions of this amendment.

Sec. 14.82 Existing Ordinances Continued.

All ordinances and regulations of the City in force when this amendment takes effect, and not inconsistent with the provisions thereof, are hereby continued in full force and effect until amended or repealed.

Sec. 14.83 Pending Condemnations and Amendments.

Any condemnation or assessment proceeding in progress when this amendment takes effect shall be continued and completed under the laws under which such proceedings were begun. All assessments made by the City prior to the time when this amended amendment takes effect shall be collected and the lien thereof enforced in the same manner as if this amended charter had not been adopted.

Sec. 14.84 Ordinances to Make Charter Effective.

The council is hereby empowered to, and it shall by ordinance make such regulations as may be necessary to carry out and make effective the provisions of this amended amendment.

Sec. 14.85 Nullification of Election Provided by Present Charter.

Should the provisions of this amendment be adopted not later than April 1st, 1952, all provisions of the Charter adopted in 1911, pertaining to elections to be held April 7th and April 21st, 1952, are hereby abrogated and nullified and no elections as stated in this clause shall be held.

TRANSMITTAL ORDER

To the Honorable Math Malisheske,
Mayor and Chief Executive Officer
of the City of St. Cloud:

We, the undersigned board of 15 free-holders, heretofore duly appointed by the District Judges of the Seventh and Eighteenth Judicial Districts in which the City of St. Cloud is situated, to draft a proposed charter and amendments thereto for the said City of St. Cloud pursuant to Section 36 of Article 4 of the Constitution of Minnesota and the Laws of the State of Minnesota enacted in pursuance thereof, do hereby respectfully return, submit and deliver to you as the chief magistrate and executive officer of said City of St. Cloud, the foregoing proposed amendment to the Charter of the City of St. Cloud, which charter was adopted by the qualified voters of the City of St. Cloud November 28, 1911, and which said charter is in effect an amendment to the Home Rule Charter of said City adopted April 6, 1908.

And we do hereby respectfully propose and submit for adoption by the qualified voters of the City of St. Cloud the foregoing proposed amendment to said City Amendment as returned and proposed by, the undersigned Board of Freeholders, constituting the Charter Commission of the said City this 28th day of January, 1952.

L. J. JERDE

W. W. HOLES

MAX GILBERT

FRANCIS FEARON

HAROLD SCHOELKOPF

DAN MARSH

MRS. T. N. FLEMING

MRS. VERINA MEAGHER

CHARLES H. RICHTER

FRANK HONER

CARL W. GREWE

J. J. QUIGLEY, JR.

FRANK J. UNGER

FRANK POEPKE

CERTIFICATION

I, Math Malisheski, Mayor of the City of St. Cloud, Minnesota, do hereby certify that the hereto attached document was duly prepared by a board of Fifteen Freeholders, duly appointed by the Judges of the District Court of the Districts in which said City of St. Cloud is situated, pursuant to Section 36 of Article 4 of the Constitution of the State of Minnesota and the Laws of the State of Minnesota enacted in pursuance thereof, for the purpose of submitting amendments to the Charter of said City and by said Board of Freeholders duly presented to the Mayor of said City and by him duly presented to the City Commission of said City, who thereupon duly ordered said proposed amendment to the City Charter to be submitted to the voters of said City at a special election to be held for that purpose on Tuesday, March 18, 1952.

I further certify that said election was duly held on said date and said proposed amendments to the City Charter were duly ratified by the voters of said City at said election by the following vote: 4,743 votes for the adoption of said proposed amendments to the City Charter and 3,063 votes against the adoption of said proposed amendments to the City Charter and 12 spoiled ballots, there being a total of 7,818 votes cast in said election.

IN TESTIMONY WHEREOF, I have hereunto fixed my name as Mayor of said City and caused the seal of said City to be affixed this 1st day of April, 1952.

MATH MALISHESKI
Mayor of the City of
St. Cloud, Minnesota

ATTEST:

(Seal)

A. J. HABERKORN
City Clerk
City of St. Cloud, Minnesota

Filed this 5th day of March
A.D. 1965
John J. Streitz,
City Clerk

TRANSMITTAL ORDER

To the Honorable John J. Streitz,
City Clerk of the City of
St. Cloud:

We, the undersigned board of 15 freeholders and qualified voters of the City of St. Cloud, Minnesota, heretofore duly appointed by the judges of the district courts of the judicial districts in which the City of St. Cloud is situated, to draft a proposed charter and amendments thereto for the said City of St. Cloud, pursuant to the Constitution and laws of the State of Minnesota, do hereby respectfully return, submit and deliver to you as the Clerk of said City of St. Cloud, the foregoing proposed amendment to the charter of the City of St. Cloud adopted April 6, 1908, as subsequently amended on November 28, 1911, and on March 18, 1952.

And we do hereby respectfully propose and submit for adoption by the voters of the City of St. Cloud, the foregoing proposed amendment, this 26th day of February, 1965.

DANIEL J. FOUQUETTE

BERNICE W. RENGEL

CHARLES H. RICHTER

FLOYD COUGHTRY

J. L. BURNETT

MRS. T. N. FLEMING

MRS. VERENA MEAGHER

RONALD G. RIGGS

FRANK UNGER

GEORGE REASBECK

HAROLD SCHOELKOPF

CERTIFICATION

I, Edward L. Henry, Mayor of the City of St. Cloud, Minnesota, do hereby certify that the hereto attached document was duly prepared by a board of Fifteen Freeholders, duly appointed by the Judges of the District Court of the Districts in which said City of St. Cloud is situated, pursuant to Section 36 of Article 4 of the Constitution of the State of Minnesota and the Laws of the State of Minnesota, enacted in pursuance thereof, for the purpose of submitting amendments to the Charter of said City and by said Board of Freeholders duly presented to the City Clerk of said City and by him duly presented to the City Council of said City, who thereupon duly ordered said proposed amendment to the City Charter to be submitted to the voters of said City at a special election to be held for that purpose on Tuesday, May 4, 1965.

I further certify that said election was duly held on said date and said proposed amendments to the City Charter were duly ratified by the voters of said City at said election to the following vote: 3,476 votes for the adoption of said proposed amendments to the City Charter and 2,307 votes against the adoption of said proposed amendments to the City Charter, there being a total of 5,783 votes cast in said election.

In Testimony Whereof, I have hereunto fixed my name as Mayor of said City and caused the seal of said City to be affixed this 20th day of May, 1965.

ATTEST:
(Seal)
John J. Streitz
City Clerk
City of St. Cloud, Minnesota

EDWARD L. HENRY
Mayor of the City of
St. Cloud, Minnesota

AMENDMENTS TO CITY CHARTER
ADOPTED MAY 4, 1965

The amended Home Rule Charter of the City of St. Cloud, Minnesota, adopted March 18, 1952, is amended so that Sections 1.40, 7.60, 7.61, 8.40, 8.43, 8.62, 9.10, 9.20, and 12.20 thereof shall read as shown above.

ORDINANCE NO. 685

AN ORDINANCE AMENDING THE CITY CHARTER OF THE CITY OF ST. CLOUD TO PROVIDE STAGGERED TERMS FOR COUNCILMEN AND TO CHANGE THE DATES OF THE PRIMARY AND GENERAL MUNICIPAL ELECTIONS

WHEREAS, Minnesota Statute 410.21 provided that upon recommendation of the Charter Commission of the City Council may enact a charter amendment by ordinance; and

WHEREAS, the St. Cloud Charter Commission has recommended to the City Council certain changes respecting the terms of councilmen and the dates of the regular municipal primary and general elections;

NOW, THEREFORE, THE COUNCIL OF THE CITY OF ST. CLOUD HEREBY ORDAINS:

The City Charter of the City of St. Cloud, adopted April 6, 1908 as subsequently amended on November 28, 1911, on March 18, 1952, on April 16, 1956, and on May 4, 1965 is hereby amended in the following respects:

Sections 2.10, 2.60, 4.10 and 4.15 are amended to read as follows:

"Sec. 2.10 Members, Qualifications and Terms

The council shall be composed of seven members, four of whom shall be resident members and three of whom shall be members at large, all of whom shall be qualified electors.

All council members shall be elected by the voters of the entire city.

The three members at large shall be elected from the city at large with no ward qualifications.

The terms of resident members elected at the general election in 1972 shall be two years. The terms of members at large, and of resident members elected at the general election in 1974 and thereafter, shall be four years.

Sec. 2.60 Meetings and Procedure

The members of the council elected at a regular biennial city election shall be inducted into office at a council meeting to be held at 7:30 o'clock p.m. on the first Monday next following their election. At such meeting, after their induction, the election of council officers provided for in Section 2.62 shall take place. After such meeting the council shall meet regularly at such times as may be prescribed by its rules, but not less frequently than once each month. All meetings of the council shall be held in the evening except by unanimous vote of all council members. All meetings of the council and its committees shall be open to the public. The council shall cause the minutes of its meetings to be published monthly in the official newspaper.

Sec. 4.10 Regular Municipal Primary Election

A regular municipal primary election shall be held on the last Monday in March of each even numbered year commencing with the year 1972.

Sec. 4.15 Regular General Election

A regular general election shall be held on the third Monday in April of each even numbered year commencing with the year 1972.

At said general election the candidates named as nominees at the primary elections shall be nominees for the respective offices and their names shall be placed on the general election ballot in alphabetical order immediately following the designation of the office to be filled.

The nominees who shall receive the largest number of votes for the respective office at such general election shall be declared elected to said office, provided that for election to the three offices of councilman at large, the three nominees for councilman at large receiving the largest number of votes shall be declared to be elected to said offices."

This ordinance shall be effective upon passage and publication in the manner required by law.

Adopted by the Council of the City of St. Cloud at a regular meeting held September 13, 1971 by the following vote:

AYES: Councilmen Laakso, Myers, McGlynn, Wahl, Donohue and Reasbeck.

NAYS: None

John A. Wahl
City Council President

Approved by the Mayor of the City of St. Cloud this 17th day of September, 1971.

Alcuin G. Loehr
Mayor of the City of St. Cloud

Attest:
John J. Streitz
City Clerk

Publish: Sept. 21, 1971

ORDINANCE NO. 713

AN ORDINANCE AMENDING THE CITY CHARTER OF THE CITY OF ST. CLOUD

THE COUNCIL OF THE CITY OF ST. CLOUD HEREBY ORDAINS:

The City Charter of the City of St. Cloud, adopted April 6, 1908, as subsequently amended on November 28, 1911, on March 18, 1952, on April 16, 1956, on May 4, 1965, and on September 13, 1971, is hereby amended in the following respects:

Section 2.20 is amended to read as follows:

"Sec. 2.20 Salaries and Expenses.

Each councilman shall receive $125.00 per month as full compensation for all services rendered by him to the city during his tenure in office. Such salaries shall be paid as other salaries are paid.

Members of the council shall receive reimbursement for all expenses incurred in the performance of their official duties and shall be paid as other claimants are paid."

This ordinance shall be effective upon passage and publication in the manner required by law.

Adopted by the Council of the City of St. Cloud, Minnesota, at a regular meeting held June 5, 1972, by the following vote:

AYES: Councilmen Stacke, Myers, Nahan, Wick, Reasbeck, Weyrens, and Williams.

NAYS: None.

/s/ George A. Reasbeck
City Council President

Approved by the Mayor of the City of St. Cloud, Minnesota this the 6th day of June, 1972.

/s/ Alcuin G. Loehr
Mayor of the City of St. Cloud

Attest: /s/ John J. Streitz
City Clerk

Publish: June 12, 1972.

CHARTER AMENDMENT ORDINANCE

AN ORDINANCE
RELATING TO THE QUALIFICATION,
ELECTION, AND SALARY OF THE MAYOR;
AMENDING SECTION 3.10 OF THE CHARTER
OF THE CITY OF ST. CLOUD

THE COUNCIL OF THE CITY OF ST. CLOUD HEREBY ORDAINS:

Section 1. Authority. This ordinance is enacted pursuant to the authority granted the City by Minnesota Statutes, Section 410.31, and the recommendation of the City Charter Commission. The amendment herein made are to the City Charter of the City of St. Cloud, adopted April 6, 1908, as amended on November 28, 1911, on March 18, 1952, on April 16, 1956, and on May 4, 1965.

Section 2. Amendment. Sections 3.10 of the City Charter is amended to read as follows:

"Sec. 3.10 Qualifications, Election, Salary

The Mayor shall be a qualified elector of the City of St. Cloud and shall be elected at large by the voters of the entire City for a term of four years. The Mayor's salary shall be fixed from time to time by ordinance in the manner prescribed by state law."

Section 3. Approval: Effective Date. This ordinance is approved by the affirmative vote of all the members of the council and the approval of the Mayor. This ordinance is effective 90 days from its passage and publication in accordance with law."

Passed by the Council this 19th day of November, 1973.

/s/ George A. Reasbeck
Council President

/s/ Alcuin G. Loehr
Mayor

Filed: November 20, 1973

/s/ John J. Streitz
Clerk

Publish: December 1, 1973

CHARTER AMENDMENT ORDINANCE

AN ORDINANCE RELATING TO CIVIL SERVICE:
AMENDING SECTION 7.30 OF THE CHARTER OF
THE CITY OF ST. CLOUD

THE COUNCIL OF THE CITY OF ST. CLOUD HEREBY ORDAINS:

Section 1. Authority. This ordinance is enacted pursuant to the authority granted the city by Minnesota Statutes, Section 410.31, and the recommendation of the city charter commission. This amendment herein made is to the city charter of the City of St. Cloud, adopted April 6, 1908, as amended on November 28,1911, on March 18, 1952, on April 16, 1956 and on May 4, 1965.

Section 2. Amendment. Section 7.30 of the city charter is hereby amended to read as follows:

"Sec. 7.30 Classification of Employees

Subject to the laws of the State of Minnesota, where applicable, governing employment in the fire and police department of the city, the officers and employees of the city are divided into the unclassified and classified service.

(a) The unclassified service is comprised of the following offices and positions:

1. Members of the city council and other elected officers and persons appointed to fill vacancies in elected offices.

2. The mayor and administrative assistant.

3. The directors or heads of departments except those in the classified service of the city on the effective date of this ordinance.

4. Members of boards and commissions in the city's service.

5. Persons employed to make or conduct a special inquiry, investigation, examination or installation, if the council and mayor certify that such employment is temporary and necessary and that the work should not be performed by employees in the classified service.

6. Part-time employees who shall not work more than 60 hours per two week period.

7. Temporary full-time employees who shall not work more than nine consecutive months in any twelve month period.

8. Any other officer or employee placed in the unclassified service by ordinance of the council after consultation with the Civil Service Board.

9. Any person in the classified service who has completed the probationary period on the effective date of an ordinance changing such office or employment to the unclassified service, shall remain in the classified service until the expiration of their term or until an earlier vacancy occurs, or until the termination of their employment.

10. The classified service shall comprise all positions not specifically included by this section in the unclassified service."

Section 3. Approval: Effective Date. This ordinance is approved by the affirmative vote of all the members of the council and the approval of the Mayor. This ordinance is effective 90 days from its passage and publication in accordance with law.

Passed by the council this 19th day of November, 1973.

/s/ George A. Reasbeck
Council President

/s/ Alcuin G. Loehr
Mayor

Filed: November 20,1973

/s/ John J. Streitz
Clerk

Publish: December 1, 1973

LeFevere
Lefler
Kennedy
O'Brien &
Drawz

A Professional
Association

0 First Bank Place West
neapolis
nesota 55402

ephone 612-333-0543

ylon L. LeFevere
rbert P. Lefler
Dennis O'Brien
hn E. Drawz
vid J. Kennedy
hn B. Dean
nn E. Purdue
hard J. Schieffer
arles L. LeFevere
rbert P. Lefler III
frey J. Strand
ry J. Bjorklund
hn G. Kressel
yle Nolan
dy L. Lavorato
chael A. Nash
an F. Rice
raine S. Clugg
mes J. Thomson, Jr.
mes M. Strommen
ry C. Nielsen

April 19, 1984

Mr. John T. Irving
City Manager
City of Crystal
4141 Douglas Drive North
Crystal, Minnesota 55422

RE: Charter Changes

Dear Jack,

The City Council has asked that I advise them in a general way about the procedure for City Charter amendments. The Council will be discussing the matter at a special meeting on Tuesday, April 24.

As I mentioned to the Council, I think the best information on the subject is contained in the League of Minnesota Cities publication: "Home Rule Charter Commission Procedure," and "A Model Charter for Minnesota Cities," and I understand you have supplied copies to the Council. I should add that the LMC has a wide variety of other materials dealing with various substantive charter matters, such as forms of municipal government, elections, finance, ward-at large systems and data on various forms of charter government in effect in Minnesota, together with extensive commentaries on most of the city charters adopted since 1948 (including, I suspect, comments on the present Crystal Charter). I'd like the Council to know, too, that I have had extensive experience in drafting and commenting on charters, as well as working with and interpreting actual city charter provisions of many cities and as a charter commission member in Bloomington.

I think most of the Council's preliminary questions will be answered by a review of the two publications they have. But there are a few basic points I'd like to set out before the meeting:

1. The basic law governing city charters is Minnesota Statutes, Chapter 410. It reads quite

well for a statute, and you may wish to make copies available to the Council.

2. There are a number of procedures set out in Chapter 410 for charter amendment, but all of them involve a charter commission, an independent body whose sole function is to prepare, initiate or review charter amendments (and original charters).

3. All procedures for amending a charter involve the charter commission in some capacity. (There is an exception for fourth class cities--below 10,000--not applicable to Crystal.)

4. All procedures for amending a charter involve the voters in some way, either directly or indirectly.

5. The only way a charter provision can be changed or made ineffective is by the procedure in Chapter 410 or by an act of the legislature.

6. A charter provision may not permit what a state law prohibits nor prohibit what a state law permits; nor can a city charter deal with a subject that has been pre-empted (either expressly by legislation or in the view of the courts) by the state.

7. A charter provision on a subject of purely municipal concern (a term that has been given meaning--more and more limited--by the courts over the past 90 years) has the same status as an act of the legislature. This idea underlies our concept of "house rule" in Minnesota.

I think what these general principles show is that a city charter is a document of fundamental law, not unlike state and federal constitutions or corporate articles, which may not be changed without adherence to substantial procedural safeguards which involve the citizens of the city in some degree.

I should mention another point. The appointment of a charter commission is somewhat clouded by the wording of Section 410.05. While original appointments are made by the chief judge of the district court (on voter petition or council resolution), vacancies may be filled by the city council if the court fails to act to fill the vacancy; and the charter commission members hold office

until their successors are appointed and qualify. Thus, technically, Crystal still has a charter commission, but I understand that it has not been active since the present charter was adopted. In my judgment, the problem would best be approached by the City's notifying the court that vacancies exist, and if the court declines to make the appointments within the 30 day period specified by the statute, the Council could proceed to do so. By the way, there is no guidance in the statute as to who should be appointed (other than that a member must be a qualified voter and may not be a judge). Normally, the court will appoint from a list of names submitted by the petitioners or the city council.

Our final point. A charter commission may initiate charter amendments on its own, and must do so on a proper petition of voters, without council review or approval. The Council must place the matter on the ballot if properly presented to it. The approval requirement in all cases where an amendment is voted on is 51 percent of those voting.

I'll be happy to elaborate on any of these points.

Very truly yours,

David J. Kennedy

DJK:jdn

league of minnesota cities
183 university avenue east, st. paul, mn 55101

information

for municipal officials

100c.1
Revised October, 1974

HOME RULE CHARTER COMMISSION PROCEDURE

(Excerpts from William Anderson's City Charter Making in Minnesota 1922; adapted by the League staff to incorporate subsequent changes in law and practice.)

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I. THE CHARTER COMMISSION - APPOINTMENT, QUALIFICATION, TERMS

Appointment of the charter commission. (M.S.A. 410.05.) The requirements of the law as to the appointment of charter commissions are very simple. In the first place, the district court (acting through its chief judge) of the district in which the city lies may make the appointment without waiting for a petition of the people. It is not to be expected, however, that they will proceed until the people in the city have shown some interest in the matter. They usually wait until they have been approached by some locally influential citizens or clubs.

In the second place, the judges are required to make the appointment upon the presentation to them of a petition signed by voters who constitute at least 10 per cent of the number of voters who voted at the last municipal election. In the smaller communities it is an easy matter for a few interested persons to procure the signatures of the requisite number of voters.

Thirdly, the council of any city may by resolution request the appointment of a charter commission and the district court must make the appointments. A city council, an existing charter commission, or the petitioners requesting the appointment of a charter may submit to the court names of eligible nominees which the district court may consider in making appointments to the commission. Except as noted below, however, it is the judges of the district court who make the appointments, and it is for them to make such appointments as they deem expedient within the limits prescribed by law.

Qualifications of charter commission members. (M.S.A. 410.05.) The statute prescribes only one qualification for the members of charter commissions. The members must be qualified voters of the city. No person is disqualified from serving on the commission because of the fact that he holds some other public office or employment other than a judicial office. Thus, city council members may serve on charter commissions. No person may be appointed to more than two successive terms.

Order of appointment and oath of office. (M.S.A. 410.05.) Having determined to make the appointments, or having been directed by a petition or council resolution so to do, the judges undoubtedly listen to such counsel and information from interested citizens as to appointments as the latter see fit to give. A city council, or the petitioners requesting appointment of a commission, or, in the case of new appointments to an existing commission, the charter commission itself, may suggest names of eligible nominees to the district court for such consideration as the district court wishes to give them.

The appointments are then made by the court, acting through the chief judge, by means of an order filed with the clerk of the district court for the county in which the city lies. Appointments are for staggered, or overlapping terms. Of the members initially appointed, half plus one are appointed for two-year terms and the other half for four-year terms. Thereafter, new appointments are made biennially by the chief judge, who also fills vacancies as they occur.

When appointments are made, the clerk of the district court then notifies the appointees, who are given 30 days in which to file with the clerk their written acceptances and oaths of office. The statute does not give any

definite form for either the acceptance or the oath; but the latter should adhere as closely as possible to the form laid down for public officers in the constitution and statutes (Minn. Const. Art. 5, Sec. 8; M.S.A. 358.05), as follows:

"I, A _____ B _____, do solemnly swear (or affirm) to support the Constitution of the United States, and of this state, and faithfully discharge the duties of charter commissioner of the city of _____ to the best of my judgment and ability." In case any appointee fails to file his acceptance and oath of office in the time specified, he is deemed to have declined to serve, and his place is filled by the judge by a new appointment.

Charter Commission a Permanent Body. (M.S.A. 410.05.) A charter commission consists of not less than seven nor more than fifteen members. The size is to be determined by the court, except that where the commission is appointed pursuant to a petition of the voters or resolution of the governing body of the city, the size of the commission is determined by the figure specified in the petition or resolution.

Any city having a home rule charter may amend the charter to fix the size of the commission at a figure of not less than seven nor more than fifteen. The commission is not deemed to be complete and ready for business until the last of the members has qualified by filing his acceptance and oath of office.

Once appointed, a charter commission becomes a permanent body, theoretically everlasting, like Congress or the Supreme Court. Its membership will change from time to time; each member is appointed for only four years at a time; but the commission as such goes on indefinitely. Mere failure of the body to meet or to function does not end its existence. If the chief judge fails to fill vacancies or appoint new commission members (after expiration of the four-year terms) within 30 days, then thereafter the governing body of the city appoints the new members, unless within the 30-day period, the chief judge indicates in writing to the governing body his intention to make the appointments in which case he has an additional 60 days within which to make the appointment.

Vacancies in the commission may occur in various ways, as by death, disability to perform duties, resignation (including failure to file the acceptance and oath of office), or removal from the corporate limits of the city. Members may also be removed from the commission at any time by written order of the district court, but the order in this case must show the reason for removal. In case any member fails to perform his duties and fails to attend four consecutive meetings of the commission without satisfactory reason, a majority of the members may sign a request for, and thereupon the court must order, his removal. In all such cases the chief judge fills the vacancies by appointment for the unexpired term. The commission should always contain its full complement of members.

II. CHARTER COMMISSION WORK - COMMITTEES, MEETINGS, CHARTER PREPARATION

Starting the commission's work. (410.05.) The law declares that within 30 days after its appointment the charter commission "shall make rules including quorum requirements with reference to its operations and procedures." The commission must file an annual report of its activities with the chief judge on or before December 31 of each year. A copy of the report is to be given to the municipal clerk. Every such commission is practically master of its own house. Success or failure rests very much with the members themselves.

A new charter as soon as practicable. (M.S.A. 410.07.) In a city without a home rule charter, the new charter commission is directed to deliver to the city clerk "as soon as practicable" either (1) a report stating that a home rule charter is not necessary or desirable or (2) the draft of a proposed charter. The report or the charter draft must be signed by at least a majority of the members of the commission.

First meeting. Officers and committees. At their initial meeting, the commissioners should elect a chairman, a vice chairman, and a secretary, and should prepare for their work. The chairman should be a person with some experience as a presiding officer and one well acquainted with parliamentary procedure. This person should be characterized by qualities of leadership, tact, and businesslike habits. The vice chairman should be selected for similar qualities. The position of secretary should go to one who is able to write good English in a clear hand, whose habits are orderly, and who is willing to invest some time and labor not only in keeping a full and clear record of proceedings but also in keeping himself or herself constantly in touch with all the work of the commission and its several committees. A good secretary to a charter commission is simply invaluable.

At the same meeting there should be appointed several committees, as follows: (1) a small standing committee on rules (three members will suffice); (2) a small standing committee on arrangements to deal with the time and place of meeting, stenographic assistance, library, stationery, and other matters, not neglecting publicity; (3) a large committee on general plans and purposes. This latter committee should deal with the general strategy of the situation, in the manner to be described, and the question of whether it should be a temporary or a permanent committee should be left to later decision.

Committee on plans and purposes. Because it will have much to do, the committee on general plans and purposes should meet immediately after the first meeting of the entire commission to plan its work. Upon discussing the problem it may find it necessary to divide into several subcommittees, or at least to delegate to selected persons the duty to report on special questions falling within the three main fields of its investigations.

These fields are three: (1) Members of this committee should get in touch with the leaders of public opinion in the community, men and women, businessmen, professional people, public officials, politicians, labor leaders, newspaper editors, ministers, and others, and particularly with

some of those who petitioned for the appointment of the charter commission. From these persons they should learn what the public is expecting of the charter commission. Why was the charter commission appointed? Why are the people dissatisfied with their existing city government? How much of the existing set-up needs to be changed, i.e. must there be a complete reorganization or can the existing one be included in the charter with only minor modifications? What must the new charter contain in order to win the support of the voters? Much of this information the committee members will get easily by private consultations, each member interviewing a select few. In addition, a widely advertised public meeting should be arranged for in which the various views can be presented.

(2) The quest of the committee should not end after getting local opinion. A few selected members should find out, by a short, intensive study, just what sort of city government the community has, what its various departments and officers are and what they do, how much the government costs the people in comparison with the cost of neighboring towns, how much the taxpayers are getting for their expenditures as compared to others, what the real defects in the local system are, and so on. It may prove, on investigation, that the public opinion is "barking up the wrong tree," and that what really ails the local government is something entirely different from what the people think.

(3) The committee should also look into the history and literature of American municipal progress to ascertain what forward steps the cities in this and other states have taken, and what the national leaders in municipal reform think about the various proposed cures for the ills of municipal government. To summarize this section, this committee should diagnose the local situation as fully and as carefully as time will permit and should get some ideas concerning the probable remedies. It will then be in a position to submit to the next meeting of the entire commission a report as to what work the commission should undertake, whether a complete new charter or merely some amendments to the old, of what nature the new charter or amended charter should be and what committees will be necessary to carry out the work.

Expert charter advice. The making of a city charter is a complex and difficult matter requiring special skill. The laws of Minnesota are rather liberal as to the amount which may be spent by the charter commission in its work. In first class cities up to $10,000 may be expended and in all other cities the limit is $1,500. These amounts the city is obligated to pay, but both these limits may be exceeded if the council so authorizes. In addition, charter commission expenditures (which, of course, are paid by the council) are not subject to statutory or charter budgetary limitations. A tax to pay these expenses is within the statutory restriction that the city's total taxes, with certain exceptions and offsets, may not be more than six percent more than the previous levy, but such a tax is outside other statutory or charter limits. (M.S. 410.06.)

There are not many skilled charter draftsmen in the entire country. Nevertheless, a charter commission should get a little preliminary advice from some person with skill in these matters as to what should go into a charter and should also, before proposing a charter, submit its draft to some impartial expert for final criticism. The League of Minnesota Municipalities, 300

Hanover Building, 480 Cedar Street, St. Paul, MN 55101, can be of some assistance both directly and in suggesting the names of charter experts as well as in furnishing the commission with a number of pertinent memorandums. The charter commission will usually find it helpful to have a member of the League's professional staff attend an early meeting of the commission to talk about forms of government, drafting procedure, and major policy problems. Most new charter commissions have taken advantage of this service, though occasionally distance and staff commitments may make such a visit impossible. The League does not itself render charter drafting service, but it will give general advice without cost to the charter commission of any League member, and its counsel will examine and criticize any charter draft, also without charge. Almost all proposed charters have been sent to the League for this kind of review of comment. Other agencies which can be of service include the National Municipal League, a citizens' organization for state and local government improvement, whose address is 47 East 68th Street, New York City, 10021, which has drafted a model city charter of its own, and also publishes A Guide for Charter Commissions, and the International City Management Association, 1140 Connecticut Avenue, N.W., Washington, D.C. 20036, which has many bulletins and reports on subjects of possible concern to charter commissions. Almost all charter commissions have found that it expedited its work to start with the National Municipal League or the League of Minnesota Municipalities model charter. The League model is designed especially for Minnesota cities and contains comments and sample provisions on policy alternatives in addition to the main charter itself.

Subject to the dollar limitations mentioned above, a charter commission may employ an attorney and other personnel to assist it in drafting a charter.

Second meeting. Standing committees. The second meeting of the charter commission should come within two weeks. An early start is necessary and members should become accustomed to frequent meetings. At this session the first important items of business should be the adoption of rules of procedure and the making of arrangements for future meetings. Following these matters, the commission should hear the report of the committee on general plans and purposes, and should if possible, reach an agreement upon its general plan of procedure. Unless this is done at the outset, much valuable time will be wasted. Assuming that it is decided to draft an entirely new charter, the writer would suggest an immediate division of the commission into five committees, somewhat as follows:

1. On general provisions, the plan of government, the council, and legislation.
2. On nominations, elections, initiative, referendum and recall.
3. On administration, taxation, and finance.
4. On local improvements, special assessments, and eminent domain.
5. On franchises, public utilities, and miscellaneous matters.

Third meeting. General plan of government. At the next (third) meeting of the charter commission, the first committee named immediately above should present its report in favor of one or another general plan of government for the city. Is there to be a commission plan, or a mayor and a council, or a council and a manager? What other elective officers are there to be provided? Are there to be any boards? These and other leading questions require an early tentative solution. The preliminary agreement on these fundamentals need not be final and binding, but it should at least temporarily form the basis from which to proceed. In any case, this general subject should be

the first one brought up for discussion, and it should be considered continuously until settled. In the meantime, the several committees ought to be gathering their materials and meeting from time to time for discussion in order to have their proposals ready to be embodied in the charter just as soon as substantial agreement is reached on the main outlines of the plan of government.

Further progress on the charter. "Well begun is half done" is a proverb which every charter commission will find true in its own experience. If good, orderly habits of business are adopted in the beginning, the way to a successful conclusion will not seem so hard. Nevertheless there is much work ahead. Meetings of the whole commission should come at least once every two weeks on a day and at a time set in advance. Each of the five committees should make a progress report at every meeting of the whole board.

It is appropriate to emphasize again that every effort should be made by the commission and its committees to secure informed and interested opinion from citizens and city officials about the existing form of government and proposed changes. If there are criticisms of the existing government which are pertinent to the commission's charter drafting work, they should be elicited; if there has been good experience with some features of the existing laws under which the city operates, the charter commission should know about them so that those particular features can be written into the proposed charter if that seems desirable. Likewise, it is important that tentative proposals be brought to the attention of the public and city officials before final decisions are made. Often the mayor, councilmen, and city officials may, from their city legislative and administrative experience, have special insights bearing on the merits or practicability of particular proposals.

When substantial agreement has been reached upon the plan of government, a definite time should be fixed for each of the committees to present a final report. Time will be saved if each committee prepares its report in the form of sections and articles of a charter, following a model charter. Enough copies of each committee report should be run off to give each member of the commission a copy for his own use, with a few to spare. These copies should be in the hands of members before the meeting.

When the report is called for, it should be read by the chairman section by section, with opportunity given for amendments and debate. In case no objection is offered to any seciton it can be passed over, but where objection is made, or an amendment offered, a vote should be taken as soon as the debate has been closed. When an entire chapter has been read and informally approved, a formal yea and nay vote should be taken on it as a whole, and the results recorded by the secretary. When all the work of any committee has been approved, that committee may be discharged and its members may be designated to assist other committees or to do some other work. Steady and visible progress will be made if the commission adopts chapters of the charter in their order, instead of skipping about. The members will feel the charter growing under their hands.

Committee on phraseology. Legal advice. Just as soon as a chapter of the charter has been approved by the commission, it should be submitted to a special committee on phraseology, to be gone over and revised from the point of view of uniform, clear, concise English. This committee should be composed of about three persons, including those members of the commission who are most skilled in the use of the language. If there is a lawyer on the commission, he should serve with this committee to see to the proper use of legal terms and to study all the proposed provisions from the point of view of their legality. As the work of this committee proceeds it will unquestionably find a number of misuses and variation in the use of terms, inconsistencies, ambiguities, and even direct contradictions. Its function is to weld all the sections and chapters into one unified, consistent document, making it a complete and harmonious charter. Having finished its work it will report back to the entire commission, which will hear the explanation of the several changes introduced, debate them if so desired, reject such as it opposes, and finally, as the culmination of its work as a drafting body, vote upon the adoption of the revised charter as a whole. The final vote should be carefully recorded.

Signing, returning, and printing the charter. When the charter draft has been adopted by a vote of a majority of the commission, at least three good, clear copies should be made and authenticated. Each of the three should be signed by all the members who approved of the draft. (1) One of these should be delivered to the clerk of the city, to be transmitted by him to the city council. (2) A second copy should be preserved by the charter commission in its own files. (3) A third copy should be kept for the use of the printer. Obviously, the three copies should be absolutely identical in contents.

The secretary of the commission should see to it that any printing is carefully done, so that the printed charter will be an exact copy of the charter adopted by the commission, even to punctuation, spelling, and capitalization. In addition, the pamphlet should be made as attractive as possible for distribution among the voters.

III. THE CHARTER ELECTION

Time of charter election. (M.S.A. 410.10.) The clerk is inferentially required to notify the council or other governing body of the city that he has received the draft of the proposed charter, and that body is then in duty bound, and can by court order be compelled, to submit the charter to an election by the voters.

As to the time of the election, however, the council has several options. (1) If no general city election is to occur in the city within six months after the delivery of the draft to the clerk, the council is required to call a special charter election within ninety days of the delivery of the draft charter. (2) But if a general city election is to occur within the six months' period, the council may either (a) postpone the election on the charter until such general election, or (b) call a special election on the charter to be held on some day prior to the general election.

The charter commission may recall its proposed charter at any time before the council has fixed a date for the election and the council may authorize the commission to recall the charter at any time prior to the first publication of the proposed charter. The complete charter must be contained in the notice of election which must be published once a week for two successive weeks in the official newspaper and may be published in any other legal newspaper in the municipality.[1]

The charter campaign. Charter commission members have differed in their views of the role of the charter commission and its members in the charter campaign. There is nothing in the law which gives the commission any responsibility after the charter has left the commission's hands, nor is there any express restriction either. Some charter commissions have been the principal sponsoring organization for the charter; its members have been responsible for publicity and have made many public speeches in the charter's behalf. In other cities the commission as a whole has kept aloof from the campaign, though sometimes individual members have participated personally. Since there is no statutory provision on the subject, what is done by the commission members will depend on their own perception of their appropriate role. Surely no group is likely to be better informed about what the charter contains and why particular provisions have been included or omitted, and none is likely to be as interested in the charter election.

No outsider can give much advice as to the campaign which should be conducted in favor of the adoption of the charter. Local conditions and the sort of opposition which develops will determine what needs to be done. Two points may be stressed, however. (1) Over-confidence of supporters frequently results in the defeat of a charter. The opposition may be more effective and noisy, and it is no easy task, especially at a general election, to get the necessary majority to vote in favor of the charter. (2) Absolute frankness and honesty about the contents of the charter go a long way toward disarming any opposition. Throughout its entire proceedings, the commission should follow the policy of letting the public know exactly what is being done and of asking for public cooperation. If this has been done, there will be less opposition manifested during the campaign.

Election. Form of ballots. (M.S.A. 410.10.) The expense of a charter election is borne by the city. Presumably, the ordinary rules as to the conduct of elections will apply, but the statutes add the following provision: "If the election is held at the same time with the general election, the voting places and election officers shall be the same for both elctions . . .The ballot shall bear the printed words, 'Shall the proposed new charter be adopted? Yes -- No,' with a square after each of the last two words, in which the voter may place a cross to express his choice. If any part of such charter be submitted in the alternative, the ballot shall be so printed as to permit the voter to indicate his preference in any instance by inserting a cross in like manner." A sample ballot would therefore take somewhat the following form:

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[1] In first class cities publication must be made in a newspaper having an aggregate regular paid circulation of a least 25,000 copies.

CHARTER ELECTION BALLOT

Shall the proposed new charter be adopted? Yes ____

No ____

Shall the alternative section 35A be adopted in lieu of section 35 relating to the debt limit of the city?

Yes ____

No ____

Majority required for adoption. (M.S.A. 410.10.) The Constitution provides that a proposed charter can be adopted by such majority as the legislature may prescribe. The majority needed for adoption of a new charter, as now prescribed by law is 51 percent of those voting on the question at the election, except 55% is required to remove or amend charter provisions establishing liquor patrol limits.

Certification of charter. (M.S.A. 410.11.) If the charter is adopted, the city clerk must file copies in the office of the Secretary of State, the office of the Register of Deeds, and his own office. Each copy must be accompanied by a certificate attesting to its accuracy and giving the date of the election and the vote by which the charter was adopted. While the Constitution and laws do not require it, it is exceedingly desirable that the charter commission retain at least one copy of the charter itself, and that printed copies be sent out as follows: Two or more to the League of Minnesota Municipalities, 300 Hanover Building, 480 Cedar Street, St. Paul, MN 55101, one to the Minnesota Historical Society, St. Paul; one to the Public Affairs Library, 365 Blegen Hall, University of Minnesota, Minneapolis, 55455; one to the State Library, Capitol, St.Paul; one or more to the local city library; one to the clerk of the district court for the county. Not only will these copies be frequently referred to in these various places, but the city will gain a good name from a fairly liberal policy in the distribution of its charter. The League can profitably use several copies to send on library loan to other Minnesota charter commissions considering new charters.

Charter in effect. Succession. (M.S.A. 410.11.) Assuming that the certificates mentioned above have been deposited, the new charter will take effect at the end of thirty days from the date of the election or at such other time as is fixed in the charter. It supersedes the previous charter of the city, if any, the courts are required to take judicial notice of it, and the officials elected and appointed under it may take over the control of the city's records, money, and property at any time specified therein. The charter may provide that in

the meantime, that is, until an election of officers can be held, the officers under the old charter shall continue to function in their different capacities. When the new charter finally comes fully into operation, the municipal corporation thus reorganized is in all respects the legal seccessor of the corporation under the old charter. Existing, consistent ordinances and contracts continue until they are changed or expire by their terms.

Further duties of charter commission. As has been said above, the charter commission is a permanent body. Once a charter commission has been set up in any city, that city is never legally without such a board. Its function is to continue to study the local charter and government. The charter commission act itself requires that the commission meet at least once each calendar year. In addition, upon presentation of a petition of at least 10% of the number of voters at the last regular municipal election, or upon a resolution of a majority of the local council, the commission must meet to consider any proposals set forth in the petition or resolution. (M.S.A. 410.05.) In case the first charter proposed is rejected, the commission may submit another, and another, until one is finally adopted. Thereafter, too, it may from time to time submit new charters, or amendments to the old charter, whenever it sees fit.

For the local government, the charter commission is a sort of standing constitutional convention, and empowered to propose charter changes at any time. If the charter which it has drafted for the city does not work out as was expected or proves to be faulty in operation, it is the commission's duty to propose improvements. It should, therefore, meet at regular intervals, perhaps at least twice a year, and thus keep its organization intact for any emergency that may arise.

IV. CHARTER AMENDMENTS

Amendments to the charter. (M.S.A. 410.12.) Amendments may originate in one of five ways.

1. The charter commission may propose amendments at any time.

2. A number of voters (only registered voters may sign the petition) equal to 5 per cent of the total votes cast at the last state general election in the city may sign and file with the charter commission a petition for any amendment to the charter which they desire, and in that case the commission is required to submit it to popular vote. The amendment is delivered to the clerk of the city, who notifies the council, and the latter body then provides for the election under the same rules as apply to the submission of a new charter. The council may not refuse to submit the amendment, or change it.

The law imposes a number of requirements that must be followed. All petitions circulated on any one amendment must be alike and have the text of the amendment attached unless it is more than 1,000 words, when a copy of the amendment may be filed with the city clerk and a summary of 50 to 300 words approved by the charter commission must accompany each copy of the petition. Signatures should be in ink or indelible pencil and the address must also appear. A committee of five persons whose names and addresses appear on each petition must be responsible for the circulation and filing of the petition. An affidavit of the circulator must accompany each petition.

3. The municipal council may propose an amendment by ordinance subject to charter commission review. An ordinance proposing an amendment is submitted to the commission which has 60 days to review. The council may extend this review period an additional 90 days upon formal request by the commission. After the review period, the commission returns the amendment or its own substitute amendment to the council which then submits to the voters either the amendment originally proposed by it or the substitute amendment. (M.S.A. 410.27.)

4. The charter commission may recommend to the council that it amend the charter by ordinance. If this is done, the council by a unanimous vote (including approval by the mayor where he has the veto) may adopt the ordinance after a public hearing on two weeks' published notice. The notice must contain the text of the proposed amendment. The ordinance proposing the amendment is subject to the same publication requirements as other ordinances. The ordinance does not become effective for 90 days, and during the first 60 days, a petition submitted by registered voters equal to two percent of the votes at the last state general election, or 2,000 voters whichever is less, may force a referendum on the amendment. If the proper petition is filed, the amendment is handled as if it had been proposed like any other amendment, except that the council may submit the ordinance at a general or special election held within 60 days after the petition or it may reconsider its action in adopting the ordinance.

5. Cities below 10,000 only. The council may propose amendments by ordinance without submission to the charter commission. The ordinance must be adopted by a four-fifths vote of all the council members after two weeks' published notice. The council must then submit the ordinance to the voters like any other amendment.

Publication of amendments. (M.S.A. 410.10 and 410.12.) Amendments are submitted to the voters and published in the same manner as original charters, except as noted in (4) above.

Adoption and certification of amendments. (M.S.A. 410.12.) The election upon proposed amendments is conducted, and the ballot is arranged in substantially the same manner as in the case of the adoption of a new charter. An amendment will not be considered adopted unless it is approved by 51 percent of those voting on the question at the election or 55% if liquor patrol limits are to be changed or removed. Amendments, like charters, must be certified by the clerk and copies must be in the offices of the Secretary of State and Register of Deeds as well as in his own office. The League of Minnesota Municipalities would also appreciate a copy in order to keep its charter collection up to date. Amendments take effect either at the end of 30 days after the election or at some other time specified in the amendments themselves. Alternative proposals are permissible.

Charter repeal or revisions. Any city may repeal its home rule charter and adopt a statutory form of government or a new charter upon the same majority vote as is required by law for the adoption of a charter in the first place. (Minn. Const. Art. 11, Sec. 4) See Part VI below.

Any city having a home rule charter may adopt a new or revised charter in the same manner as an original charter is adopted. (M.S.A. 410.24.)

If a new or completely revised charter is to be submitted to the voters, the ballot may be prepared in substantially the same form as previously discussed in Part III.

V. SUBMITTING SECOND CHARTER AFTER CHARTER DEFEAT

There is, under the home rule provision of the Constitution and the home rule charter enabling act, no period of time during which the voters may not be asked to vote on a charter again after a charter is defeated at the polls. If a charter is submitted after one charter is defeated, the same procedure is used as for the earlier submission.

There is some question, however, about the possibility of resubmitting the same charter without change, and it is impossible to answer this question authoritatively because there appear to no decisions, either in this state or others, involving similar problems. M.S.A. 410.10 provides that if any charter submitted to the voters is rejected, the charter commission "may propose others from time to time" until one is adopted. Without this language, there would be little room for hesitancy in concluding that the same charter may be submitted again at any time. That seems to be the situation with respect to the submission of a proposal for the issuance of bonds after it has once been defeated. (See A.G. Op., 1920, No. 140.)

It would appear that the legislature had in mind in the language referred to simply making clear that the power of the people to adopt a charter was not exhausted when one proposal had been defeated. As a matter of fact, it is not necessarily inconsistent with the language of the statute to hold that no changes need be made in a charter before it may be submitted again. The word "others" is often used to include others of the same article and this is the interpretation that probably should be given to the word as used in the home rule enabling act. There may even be grounds for arguing that any other construction of the statute makes it an unconstitutional infringement of the home rule privilege granted to municipalities by the Minnesota Constitution, Article 11, Section 3.

At any rate, it apparently must be admitted that any change in the charter no matter how slight that change is, makes the charter a different one from the defeated document. If there were any objections made to the charter during the campaign before the charter election and changes in the charter can be made to meet those objections without harming the document, the charter commission may wish to consider the inclusion of one or more of these changes in a charter to be submitted next time.

VI. ABANDONING A HOME RULE CHARTER

The Minnesota Constitution, Article 11, Section 4, authorizes cities having a home rule charter to repeal it and adopt a statutory form of municipal government on the same majority vote as is required by law for the adoption of a charter in the first instance. This constitutional provision, however, does not provide the machinery for repealing the charter but, rather, contemplates further legislation for that purpose.

M.S.A. 410.50 implements this constitutional authority by allowing any home rule city to abandon its charter and become a statutory city. The city may abandon its charter by a proposal presented, adopted and becoming effective in the same manner as a charter amendment. Thus, such approval would require approval by 51 percent of those voting on the question. The proposal must include a schedule containing necessary provisions for transition to the statutory city form of government (Minn. Stats. Ch. 412) in order to place the municipality on a regular election schedule as soon as practicable. The proposal may provide in effect for continuance of specified provisions of the home rule charter for an interim period and shall specify the standard plan or the optional plan under which the city is to operate as a statutory city.

VII. APPENDIX OF FORMS FOR USE BY CHARTER COMMISSION

Form I. Petition for Appointment of Charter Commission

PETITION TO THE JUDGES OF THE DISTRICT COURT FOR APPOINTMENT OF A HOME RULE CHARTER COMMISSION FOR THE CITY OF _____

To the Honorable Judges of the District Court For The _____ Judicial District:[1]

We, the undersigned qualified voters[2] of the city of _____, respectfully request the judges of the district court of the _____ Judicial District to appoint a home rule charter commission consisting of _____ members[3] in accordance with Article 11, Section 4, of the Minnesota Constitution and M.S.A. 410.05, to make recommendations on the adoption of a home rule charter for the city of _____.

Name	Address
_____	_____
_____	_____
_____	_____
_____	

[1]The petition should be presented to the judges of the judicial district in which the city is located.

[2]The district court may appoint a charter commission on its own volition without a petition, but is required to do so by M.S.A. 410.05 when presented a petition signed by voters equal to at least 10 percent of those voting at the last municipal election. If this number of signatures appears on the petition, the following language may appropriately be added after the phrase "qualified voters" in the text: "equal in number to ten percent of those voting at the last election held in this city."

[3]Obviously an odd number should be specified - 7,9,11,13, or 15. The petitioners would be well advised to consult with the city council, civic leaders, and the court before specifying a particular number.

Form II. Suggested Charter Commission Certificate

WE, the undersigned, being the duly appointed, qualified and acting members of the Charter Commission in and for the city of _____, _____ County, Minnesota, hereby certify that the foregoing document consisting of Chapters _____ through _____, inclusive, is the draft of a proposed (revised) charter prepared and framed by the Charter Commission, and we hereby affix our signatures to that draft in testimony of our approval thereof, and deliver the same to _____, the city clerk of the said city, for action pursuant to law.[1]

_____ _____

_____ _____

_____ _____

_____ _____

_____ _____

_____ _____

_____ _____

_____ _____

_____ _____

_____ _____

_____ _____

_____ _____

_____

(Chairman)

I, _____, clerk of the city of _____, _____ County, Minnesota, hereby certify that the foregoing draft of a proposed (revised) charter and certificate in connection therewith was delivered to me this _____ day of _____, 19_____.

_____

Clerk (Recorder)

[1] A proposed charter must be signed by a least a majority of the commission members and delivered to the city clerk.

Form III. Suggested Certificate of Adoption of Home Rule Charter

State of Minnesota)
) ss
County of _____)

I, _____, clerk (recorder) of the city of _____ _____ do hereby certify that the charter hereto attached and made a part of this certificate, is a true and correct copy of the charter returned and filed with the city by the duly appointed and qualified charter commission of such city.

I further certify that such charter was duly submitted to the voters of the city of _____ at the general (a special) election held in such city on _____, 19 ___ and was duly adopted by a vote of _____ for the charter and _____ against the charter, the total vote cast in such city _____ at such election being _____.

Witness my hand and the corporate seal of the city of _____ _____ this _____ day of _____, 19 ___.

_____
Clerk (Recorder)

This certificate must be signed in triplicate by the clerk, and one copy of the charter should be attached to each certificate. The one copy must be deposited in the office of the Secretary of State, a second is filed in the office of the County Register of Deeds, and the third is deposited as a permanent record in the archives of the municipality. This should be done within thirty days after the adoption of the charter. Two or more copies should also be sent to the League of Minnesota Municipalities.

LWC:ral

10/74
Rev:
OCP:cas

THE OPEN MEETING LAW

The Minnesota Open Meeting Law, M.S. 471.705, requires all meetings of any governing body of a county, city, town or other public body and of "any committee, subcommittee, board, department or commission thereof" to be open to the public.

The court case, *Sullivan v. Credit River Township*, 299 Minn. 170, 217 N.W. 2d 502 (1974), sets out the specifics as to the kind of notice which the Court is going to be requiring in determinations as to compliance with the open meeting law. Specifically, the Court stated that no notice need be given of regularly scheduled meetings of public bodies or of such meetings adjourned to a specific time and place at the regular meeting. However, publication of notice of the first meeting of a new or newly reconstituted charter commission seems wise. Public notice is required of all special meetings except those called for emergency purposes where the giving of notice is impracticable or impossible. The timeliness and mode of given public notice is left to the reasonable discretion of the public body, and the Court states that "Notice in a newspaper is not essential." The Court notes that notice may consist of a posted notice at certain predesignated locations such as the city hall or other locations determined by the public body, so long as the public has a reasonable opportunity to be aware of the places in which such notice will be regularly posted. Thus, it would seem advisable to designate such places of posting or other measures for public notice in the commission rules. Since most people are likely to call the clerk for information of this type, use of any notice board designated by the council for notice of council meetings would seem to be at least one of the places where such notice should be posted.

The *Credit River* opinion does not give much assistance in determining what amount of notice is reasonable. However, it is evident that the public officials calling such special meetings will have to consider both the subject proposed to be dealt with and the extent to which any action proposed to be taken at such special meeting might be controversial. These factors, weighed against the necessity for early action on the matter under consideration will normally be the elements in the reasonableness determination.

Thus, arguably a minimum of 24 hours posted notice might be adequate in certain non-controversial situations where there is minimal impact on the general citizenry of the municipality, where individuals more specifically affected are given direct notice, and where the media is advised directly of the pending meeting. However, public bodies will want to minimize contentions of inadequacies of the notice by providing as much advance notice as the circumstances reasonably permit.

The Attorney General has construed the law as applying to deliberations as well as formal action. (A.G. Op. 471-e, LMM 140B, Oct. 28, 1974.) In another controversial opinion he also ruled that when two members of a five-member council deliberate on a matter within the council's official duties or powers, the public meeting law applies.

SGP:glb
8/24/78

league of minnesota cities
300 hanover building. 480 cedar st./saint paul, minn. 55101

information

for municipal officials

100 a.5

A Model Charter

for Minnesota Cities

1977 edition

Supplement

Comments

on the Model Charter

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Preface

In 1922 a model charter for Minnesota cities was prepared by Professor William Anderson of the University of Minnesota Political Science Department and included as Appendix 1 of his *City Charter Making in Minnesota,* now out of print. In the next 34 years before the charter was revised, a score of cities in the state adopted charters using this model charter as a guide, and many of its essential features were incorporated in the optional council-manager plan provisions of the 1949 village code (Minn. Stats. Ch. 412, now a code for all non-home rule charter cities).

With the passing years it became increasingly apparent that, despite its basic soundness, the Anderson model charter needed revision in the light of experience and statutory developments. The first revision of the charter was made in 1956 by the League staff. Like the 1956 revision, the 1974 revision retains the basic provisions of the original, but some alternative suggestions on form of government and methods of election have been made available in an accompanying memorandum of comments, where questions that charter commissions should consider in using the model charter as a guide are raised and pertinent statutes and points of policy noted.

Suggestions and criticisms of charter commissions and city officials in the use of the revised model charter and comments are solicited so that future revisions may increasingly meet the needs of Minnesota cities. The model charter should be used with two other revised excerpts from the 1922 Anderson monograph: *Principles and Problems of Charter Making* and *Home Rule Charter Commission Procedure.* These and other charter memoranda are listed in Appendix D.

CHAPTER 1

NAME, BOUNDARIES, POWERS, AND GENERAL PROVISIONS

Section 1.01. **Name and boundaries.** The City of _____, _____ County, Minnesota shall continue to be a municipal corporation under that name and with the same boundaries as now are or hereafter may be established.

Sec. 1.02. **Powers of the City.** The city shall have all powers which it may now or hereafter be possible for a municipal corporation in this state to exercise in harmony with the constitutions of this state and of the United States. It is the intention of this charter to confer upon the city every power which it would have if it were specifically mentioned. The charter shall be construed liberally in favor of the city and the specific mention of particular municipal powers in other sections of this charter does not limit the powers of the city to those thus mentioned. Unless granted to some other officer or body, all powers are vested in the city council.

CHAPTER 2

FORM OF GOVERNMENT

Sec. 2.01. **Form of Government.** The form of government established by this charter is the "Council-Manager Plan." Except as otherwise provided by law or this charter, all powers of the city are vested in the council. The city manager shall be the head of the administrative branch of the city government and shall be responsible to the council for the proper administration of all city affairs.

Sec. 2.02. **Boards and commissions.** There shall be no separate administrative board of health, library board, or any other administrative board or commission except for the administration of a function jointly with another political subdivision. The council shall itself be and perform the duties and exercise the powers of such boards and commissions provided for by statute. The council may, however, establish boards or commissions to advise the council with respect to any municipal function or activity, to investigate any subject of interest to the city, or to perform quasi-judicial functions.

Sec. 2.03. **Council composition and election.** The council shall be composed of a mayor and six councilmen who shall be qualified electors and who shall be elected at large. Each councilman shall serve for a term of four years and until his successor is elected and qualifies, except that at the first election held after the adoption of this charter the three candidates having the highest number of votes shall serve for four years and the other three successful candidates shall serve for two years. The mayor shall serve for a term of four years and until his successor is elected and qualifies.

Sec. 2.04. **Incompatible offices.** No member of the council shall be appointed city manager, nor shall any member hold any paid municipal office or employment under the city; and until one year after the expiration of his term as mayor or councilman no former member shall be appointed to any paid appointive office or employment under the city which was created or the compensation for which was increased during his term as councilman.

Sec. 2.05. Vacancies. An elective office be-

comes vacant when the person elected or appointed thereto dies before taking office or fails to qualify, or the incumbent dies, resigns in writing filed with the city clerk, is convicted of a felony, ceases to reside in the city, or is adjudged incompetent by a court of competent jurisdiction. In each such case the council shall by resolution declare the vacancy to exist and shall forthwith appoint an eligible person to fill the vacancy for the remainder of the unexpired term.

Sec. 2.06. **The mayor.** The mayor shall preside at meetings of the council and shall have a vote as a member. The council shall choose from its members a president pro tem who shall hold office at the pleasure of the council. He shall serve as president in the mayor's absence and as mayor in case of the mayor's disability or absence from the city. The mayor shall be recognized as head of the city government for all ceremonial purposes, by the courts for the purpose of serving civil process, and by the governor for purposes of martial law, but he shall have no administrative duties.

Sec. 2.07. **Salaries.** The mayor and councilmen shall receive such compensation as is fixed by the council in accordance with law. The city manager and all subordinate officers and employees of the city shall receive such salaries or wages as may be fixed by the council.

Sec. 2.08. **Investigation of city affairs.** The council may make investigations into the affairs of the city and the conduct of any city department, office or agency and for this purpose may subpoena witnesses, administer oaths, take testimony, and require the production of evidence. The council shall provide for an audit of the city's accounts at least once a year by the state department in charge of such work or by a public accountant. At any time the council may provide for an examination or audit of the accounts of any city officer or agency and it may provide for any survey or research study of any subject of municipal concern.

Sec. 2.09. **Interferences with administration.** Neither the council nor any of its members shall dictate the appointment or removal of any city administrative officer or employee, but the council may express its views and freely discuss with the manager anything pertaining to appointment and removal of officers and employees. Except for the purpose of inquiry and investigation under Section 2.08, the council and its members shall deal with and control city administrative officers and employees under the jurisdiction of the manager solely through the manager, and neither the council nor any council member shall give orders to any subordinate of the manager either publicly or privately.

CHAPTER 3

COUNCIL PROCEDURE

Sec. 3.01. **Council meetings.** The council shall meet regularly at least once each month at such times and places as the council may designate by rule. The mayor or any three members of the council may call special meetings of the council upon at least twelve hours notice to each member and such reasonable public notice as may be prescribed by council rule in compliance with the laws of Minnesota. To the extent provided by law, all meetings of the council and its committees shall be public and any citizen shall have access to the minutes and records of the council at all

reasonable times.

Sec. 3.02. **Secretary of council.** The city clerk shall act as secretary of the council. He shall keep a journal of council proceedings and perform such other duties as this charter or the council may require. The council may designate any other city official or employee except the city manager or a member of the council to act as secretary of the council.

Sec. 3.03. **Rules of procedure and quorum.** The council shall determine its own rules and order of business. A majority of all members shall constitute a quorum but a smaller number may adjourn from time to time. The council may by rule provide a means by which a minority may compel the attendance of absent members.

Sec. 3.04. **Ordinances, resolutions, and motions.** Except as otherwise provided in this charter, all legislation shall be by ordinance. The votes of council members on any action taken shall be recorded in accordance with statute. Except as otherwise provided in this charter, an affirmative vote of a majority of all the members of the council shall be required for the adoption of all ordinances and resolutions.

Sec. 3.05. **Procedure on ordinances.** Every proposed ordinance shall be presented in writing. No ordinance shall contain more than one subject which shall be clearly expressed in its title. The enacting clause shall be, "The City of _____ _____ ordains." No ordinance except an emergency ordinance shall be adopted at the meeting at which it is introduced and at least three days shall elapse between its introduction and final passage.

Sec. 3.06 **Emergency ordinances.** An emergency ordinance is an ordinance necessary for the immediate preservation of the public peace, health, morals, safety or welfare in which the emergency is defined and declared in a preamble and the ordinance is adopted by a vote of at least five members of the council.

Sec. 3.07. **Procedure on resolutions.** Every resolution shall be presented in writing and read in full before adoption, unless the reading is dispensed with by unanimous consent.

Sec. 3.08. **Signing and publication of ordinances and resolutions.** Every ordinance or resolution passed by the council shall be signed by the mayor, attested by the city clerk, and filed and preserved by him. Every ordinance shall be published at least once in the official newspaper. To the extent and in the manner provided by law an ordinance may incorporate by reference a statute, state administrative rule or regulation of Minnesota, a code, or ordinance or part thereof without publishing the material referred to in full.

Sec. 3.09. **When ordinances and resolutions take effect.** Every resolution and emergency ordinance shall take effect immediately upon its passage or at such later date as it specifies. Every other ordinance shall take effect 30 days after publication or at such later date as it specifies. Every ordinance and resolution adopted by the voters of the city shall take effect immediately upon its adoption or at such later date as it specifies.

Sec. 3.10. **Amendment and repeal of ordinances and resolutions.** Every ordinance or resolution repealing all or part of a previous ordinance or resolution shall give the number, if any, and the

title of the ordinance or resolution to be repealed in whole or in part. No ordinance or resolution shall be amended by reference to the title alone, but such an amending ordinance or resolution shall set forth in full each section or subdivision to be amended and shall indicate by appropriate type or symbols matter to be omitted or added.

Sec. 3.11. **Revision and codification of ordinances.** The city may revise, rearrange, and codify its ordinances with such additions and deletions as may be deemed necessary. The ordinance code may be published in book, pamphlet, or continuously revised loose-leaf form and copies shall be made available by the council at the office of the city clerk for general distribution to the public free or for a reasonable charge. Publication in such a code shall be a sufficient publication of any ordinance provision not previously published if a notice that copies of the codification are available at the office of the city clerk is published in the official newspaper for at least two successive weeks.

CHAPTER 4

NOMINATIONS AND ELECTIONS

Sec. 4.01. **The regular municipal election.** A regular municipal election shall be held on the first Tuesday after the first Monday in November of each odd-numbered year commencing in 19___ at such place or places as the city council may designate. The city clerk shall give at least two weeks published notice of the time and place of holding such election and of the officers to be elected, but failure to give such notice shall not invalidate the election.

Sec. 4.02. Special elections. The council may by resolution order a special election and provide all means for holding it. The clerk shall give at least two weeks published notice of a special election. The procedure at such election shall conform as nearly as possible to that prescribed for other city elections.

Sec. 4.03. Filing for office. No earlier than ____days or later than____days before the municipal election, any voter of the city qualified under the state constitution for elective office may, by filing an affidavit and paying a filing fee of $____ to the city clerk, have his name placed on the municipal primary ballot or, if there is no primary election, on the municipal election ballot.

Sec. 4.04. **Procedure at elections.** Subject to this charter and applicable state laws, the council may by ordinance further regulate the conduct of municipal elections. Except as otherwise provided by this charter and supplementary ordinances, general state laws on elections shall apply to municipal elections.

CHAPTER 5

INITIATIVE AND REFERENDUM

Sec. 5.01. **General voter authority.** The voters of the city shall have the right, in accordance with this charter, to propose ordinances and to require ordinances to be submitted to a vote by processes known respectively as the initiative and referendum.

Sec. 5.02. Petitions. An initiative or referendum shall be initiated by a petition signed by registered voters of the city equal in number to 20 percent of those who voted for mayor in the last preceding city election. Each petition shall be sponsored

by a committee of five voters whose names and addresses shall appear on the petition. A petition may consist of one or more papers, but each paper circulated separately shall contain at its head or attached to it the statement required by Section 5.05 or 5.06, as the case may be. Each signer shall sign his name and give his street address. Each separate page of the petition shall have appended to it a certificate, verified by oath, that each signature is the genuine signature of the person whose name it purports to be. The person making the certificate shall be a resident of the city. Any person whose name appears on a petition may withdraw his name by a statement in writing filed with the city clerk before the clerk advises the council of the sufficiency of the petition.

Sec. 5.03. **Determination of sufficiency.** Immediately upon receipt of the petition, the city clerk shall examine the petition as to its sufficiency and report to the council within 20 days. Upon receiving the report, the council shall determine by resolution the sufficiency of the petition.

Sec. 5.04. **Disposition of insufficient petition.** If the council determines that the petition is insufficient or irregular, the city clerk shall deliver a copy of the petition, together with a written statement of its defects, to the sponsoring committee. The committee shall have 30 days in which to file additional signature papers and to correct the petition in all other particulars. If at the end of that period the council finds that the petition is still insufficient or irregular, the city clerk shall file the petition in his office and notify the sponsoring committee. The final finding that the petition is insufficient or irregular shall not prejudice the filing of a new petition for the same purpose nor shall it prevent the council from referring the ordinance to the voters at the next regular or special election at its option.

Sec. 5.05. **Initiative.** Any ordinance, except an ordinance relating to the budget or capital program, the appropriation of money, the levy of taxes, or the salaries of city officers or employees, may be proposed by a petition which shall state at the head of each page or attached thereto the exact text of the proposed ordinance. If the council passes the proposed ordinance with amendments and a majority of the sponsoring committee do not disapprove the amended form by a statement filed with the city clerk within 10 days of its passage by the council, the ordinance need not be submitted to the voters. If the council fails to enact the ordinance in an acceptable form within 60 days after the final determination of sufficiency of the petition, the ordinance shall be placed on the ballot at the next election occurring in the city. If no election is to occur within 120 days after the filing of the petition, the council shall call a special election on the ordinance to be held within such period. If a majority of those voting on the ordinance vote in its favor, it shall become effective 30 days after adoption unless the ordinance specifies a later effective date.

Sec. 5.06. **Referendum.** Any ordinance subject to the initiative may be subjected to referendum by a petition which shall state, at the head of each page or on an attached paper, a description of the ordinance. Any ordinance upon which a petition is filed, other than an emergency ordinance, shall be suspended in its operation as soon as the petition is found sufficient. If the ordinance is not thereafter entirely repealed, it shall be placed on the ballot at the next election or at a special election called for that purpose, as the council

determines. If a majority of the voters voting thereon favors the ordinance, it shall go into effect immediately or on the date specified in the ordinance; if a majority of the electors voting thereon votes against the ordinance, it shall be considered repealed upon certification of the election results. If a petition is filed against an emergency ordinance, the ordinance shall remain in effect but shall be repealed if a majority of the voters voting on the ordinance vote against it.

CHAPTER 6

ADMINISTRATION OF CITY AFFAIRS

Sec. 6.01. **The city manager.** The city manager shall be the chief administrative officer of the city. He shall be chosen by the council solely on the basis of his training, experience, executive and administrative qualifications. He need not be a resident of the city at the time of his appointment but may reside outside the city while in office only with the approval of the council. The city manager shall be appointed for an indefinite term and may be removed at any time by an affirmative vote of a majority of the council; but after he has served as manager for one year, he may demand written charges and a public hearing on the charges before the council prior to the date when his final removal takes effect. After the hearing, if one is demanded, the council shall have unlimited discretion either to reinstate the manager or make his removal final. Pending the hearing and removal, the council may suspend the manager from office. With the approval of the council, the manager may designate some properly qualified person to perform the duties of the manager during his absence or disability or while the office is vacant.

Sec. 6.02. **Powers and Duties of the City Manager.** Subdivision 1. The city manager shall be responsible to the council for the administration of the city's affairs. He shall have the powers and duties set forth in the following subdivisions:

Subd. 2. He shall see that this charter and the laws, ordinances, and resolutions of the city are enforced.

Subd. 3. He shall appoint and may suspend and remove, upon the basis of merit and fitness and subject to applicable personnel rules, the city clerk, all heads of departments and all subordinate officers and employees.

Subd. 4. He shall direct and supervise all departments, offices, and agencies of the city, except as otherwise provided by law or charter.

Subd. 5. He shall attend all meetings of the council and may take part in discussion but not vote; but the council may, in its discretion, exclude him from any meeting at which his removal is considered.

Subd. 6. He shall recommend to the council for adoption such measures as he deems necessary for the welfare of the people and the efficient administration of the city's affairs.

Subd. 7. He shall keep the council fully advised on the financial condition and needs of the city, and he shall prepare and submit to the council the annual budget and capital program.

Subd. 8. He shall submit to the council and make available to the public a complete report on the finances and administrative activities of the city at the end of each fiscal year.

Subd. 9. He shall perform such other duties as are prescribed by charter or may be required by the council.

Sec. 6.03. **Administrative organization.** The council may by ordinance establish city departments, offices, and agencies and prescribe their functions. No power or duty conferred by this

charter upon a particular office or agency shall be transferred to any other.

Sec. 6.04. **Subordinate officers.** There shall be a city clerk and such other officers subordinate to the city manager as the council may establish by ordinance. The city clerk shall be subject to the direction of the city manager and shall have such duties in connection with the keeping of the public records, the custody and disbursement of the public funds, and the general administration of the city's affairs as the council may prescribe. He may be designated to act as secretary of the council and also as treasurer. The council may by ordinance abolish offices which have been created by ordinance and it may combine the duties of various offices as it may see fit.

Sec. 6.05. **Purchases and contracts.** The city manager shall be the chief purchasing agent of the city. All city purchases and contracts shall be made or let by the city manager when the amount involved does not exceed $_____. All other purchases shall be made and all other contracts let by the council after the recommendation of the city manager has first been obtained. Contracts shall be made in compliance with the uniform contracting law, and whenever competitive bids are required, the contract shall be let to the lowest responsible bidder. All contracts, bonds, and instruments of any kind to which the city is a party shall be signed by the mayor and the city manager on behalf of the city and shall be executed in the name of the city. The council may by ordinance adopt further regulations for the making of bids and the letting of contracts.

CHAPTER 7

TAXATION AND FINANCES

Sec. 7.01. **Council to control finances.** The council shall have full authority over the financial affairs of the city. It shall provide for the collection of all revenues and other assets, the auditing and settlement of accounts, and the safekeeping and disbursement of public moneys.

Sec. 7.02. **Fiscal year.** The fiscal year of the city shall be the calendar year.

Sec. 7.03. **System of taxation.** Subject to the state constitution, and except as forbidden by it or by state law, the council shall have full power to provide by ordinance for a system of local taxation. This authority includes the power by ordinance to assess, levy, and collect taxes on all subjects or objects of taxation except as limited or prohibited by the state constitution, by this charter or by laws imposing restrictions upon the city irrespective of charter provisions.

Sec. 7.04. **Submission of budget.** Annually the city manager shall submit to the council his recommended budget in accordance with a budget calendar to be established by ordinance or, in the absence of ordinance, by September 1.

The budget shall provide a complete financial plan for all city funds and activities for the ensuing fiscal year and, except as required by law or charter, shall be in such form as the manager deems desirable or the council may require. It shall include a summary and show in detail all estimated income and all proposed expenditures, including debt service and comparative figures for the current fiscal year, actual and estimated, and the preceding fiscal year. In addition to showing proposed expenditures for current operations, it shall show proposed capital expenditures to be made during

the year and the proposed method of financing each such capital expenditure. For each utility operated by the city, the budget shall show anticipated net surplus or deficit and the proposed method of its disposition; and subsidiary budgets for each such utility giving income and expenditure information shall be included or attached as appendices. The total proposed operating budget to be provided from the property tax shall not exceed the amounts authorized by law and this charter. Consistent with these provisions, the budget shall contain such information and be in the form prescribed by ordinance and by law.

Sec. 7.05. **Capital improvement program.** The manager shall prepare and submit to the council a recommended five-year capital improvement program no later than June 1 each year. The capital improvement program shall include a list of all capital improvements proposed to be undertaken during the next five fiscal years, with appropriate supporting information as to the necessity for such improvements; cost estimates, method of financing and recommended time schedules for each such improvement; and the estimated annual cost of operating and maintaining the facilities to be constructed or acquired. This information shall be revised and extended each year for capital improvements still pending or in process. The council shall hold a public hearing on the capital improvement program and adopt it with or without amendment no later than August 15.

Sec. 7.06. **Council action on budget.** The budget shall be considered at the first regular monthly meeting of the council in September and at subsequent meetings until a budget is adopted for the ensuing year. The meetings shall be so conducted as to give interested citizens a reasonable opportunity to be heard. The council may revise the proposed budget but no amendment to the budget shall increase the authorized expenditures to an amount greater than the estimated income. The council shall adopt the budget not later than the first week of October by a resolution which shall set forth the total for each budgeted fund and each department with such segregation as to objects and purposes of expenditures as the council deems necessary for purposes of budget control. The council shall also adopt a resolution levying the amount of taxes provided in the budget and the clerk shall certify the tax resolution to the county auditor in accordance with law not later than October 10. Adoption of the budget resolution shall constitute appropriations at the beginning of the fiscal year of the sums fixed in the resolution for the several purposes named.

Sec. 7.07. **Enforcement of the budget.** The city manager shall enforce strictly the provisions of the budget. He shall not authorize any payment or the incurring of any obligation by the city unless an appropriation has been made in the budget resolution and there is a sufficient unexpended balance left after deducting the total past expenditures and encumbrances against the appropriation. No officer or employee of the city shall place any order or make any purchase except for a purpose and to the amount authorized in the budget resolution. Any obligation incurred by any person in the employ of the city for any purpose not authorized in the budget resolution or for any amount in excess of the amount authorized shall be a personal obligation upon the person incurring the obligation. No check shall be issued or transfer made to any account other

than one owned by the city until the claim to which it relates has been supported by an itemized bill, payroll, or time-sheet or other document approved and signed by the responsible city officer who vouches for its correctness and reasonableness.

Sec. 7.08. **Alterations in the budget.** After the budget resolution has been adopted, the council shall not increase the amounts fixed in the resolution beyond the estimated receipts except to the extent that actual receipts exceed the estimate. At any time the council may, by resolution approved by a majority of its members, reduce the sums appropriated for any purpose by the budget resolution or authorize the transfer of sums from unencumbered balances of appropriations in the budget resolution to other purposes.

Sec. 7.09. **Funds.** There shall be maintained in the city treasury a general fund and such other funds as may be required by statute, ordinance, or resolution. The council may, by ordinance or resolution, make inter-fund loans, except from trust and agency funds, as it may deem necessary and appropriate.

Sec. 7.10. **City indebtedness.** Except as provided in Sections 7.11 and 7.12, no obligations shall be issued to pay current expenses, but the council may issue and sell obligations for any other municipal purpose in accordance with law and within the limitations prescribed by law. Except in the case of obligations for which an election is not required by this charter or by law, no such obligations shall be issued and sold without the approval of the majority of the voters voting on the question at a general or special election.

Sec. 7.11. **Anticipation certificates.** At any time after January 1 the council may issue certificates of indebtedness in anticipation of state and federal aids and the collection of taxes levied the previous year for any fund and not yet collected. The total amount of certificates issued against any fund for any year together with interest thereon until maturity shall not exceed the total of state and federal aids and current taxes due to the fund and uncollected at the time of issuance. Such certificates shall be issued on such terms and conditions as the council may determine, but they shall become due not later than April 1 of the year following their issuance. The proceeds of the tax levied and such state or federal aids as the governing body may have allocated for the fund against which tax anticipation certificates are issued and the full faith and credit of the city shall be irrevocably pledged for the redemption of the certificates.

Sec. 7.12. **Emergency debt certificates.** If in any year the receipts from taxes or other sources should from some unforeseen cause become insufficient for the ordinary expenses of the city, or if any calamity or other public emergency necessitates the making of extraordinary expenditures, the council may by ordinance issue on such terms and in such manner as the council determines emergency debt certificates to run not to exceed three years. A tax sufficient to pay principal and interest on such certificates with the margin required by law shall be levied as required by law. The ordinance authorizing an issue of such emergency debt certificate shall state the nature of the emergency and be approved by at least five members of the council. It may be passed as an emergency ordinance.

CHAPTER 8

PUBLIC IMPROVEMENTS AND SPECIAL ASSESSMENTS

Sec. 8.01. **Power to make improvements and levy assessments.** The city may make any type of public improvement not forbidden by law and levy special assessments to pay all or any part of the cost of such improvements as are of a local character. The total assessments for any local improvement may not exceed the cost of the improvement, including all costs and expenses connected therewith, with interest. No assessment shall exceed the benefits to the property.

Sec. 8.02. **Assessments for services.** The council may provide by ordinance that the cost of city services to streets, sidewalks, or other public or private property may be assessed against property benefited and collected in the same manner as special assessments.

Sec. 8.03. **Local improvement procedure.** When the city undertakes any local improvement to which the state local improvement code applies, it shall comply with the provisions of that law. The council may by ordinance prescribe the procedure to be followed in making any other local improvement and levying assessments therefor.

CHAPTER 9

EMINENT DOMAIN

Sec. 9.01. **Acquisition of property.** The city may acquire, by purchase, gift, condemnation, or otherwise, any property, either within or without its boundaries, that may be needed by the city for any public purpose. In acquiring property by exercising the power of eminent domain, the city shall proceed according to Minnesota Statutes, Chapter 117 or other applicable law.

CHAPTER 10

FRANCHISES

Sec. 10.01. **Franchises required.** Except as otherwise provided by law, no person, firm, or corporation shall place or maintain any permanent or semi-permanent fixtures in, over, upon, or under any street or public place for the purpose of operating a public utility or for any other purpose, without a franchise therefor from the city. A franchise shall be granted only by ordinance, which shall not be an emergency ordinance. Every ordinance granting a franchise shall contain all the terms and conditions of the franchise. The grantee shall bear the costs of publication of the franchise ordinance and shall make a sufficient deposit with the clerk to guarantee publication before the ordinance is passed.

Sec. 10.02. **Term.** No exclusive or perpetual franchise shall ever be granted. No franchise for a term exceeding twenty years shall be effective until approved by a majority of the electors voting thereon.

Sec. 10.03. **Public hearing.** Before any franchise ordinance is adopted or any rates, fares, or prices to be charged by a public utility are fixed by the council, the council shall hold a public hearing on the matter. Notice of such hearing shall be published at least once in the official newspaper not less than ten days prior to the date of the hearing.

Sec. 10.04. **Power of regulation reserved.** Subject to any applicable law the council may by ordinance reasonably regulate and control the

exercise of any franchise, including the maximum rates, fares, or prices to be charged by the grantee. No franchise value shall be included in the valuation of the grantee's property in regulating utility rates, fares, or prices under any applicable law, ordinance, or regulation or in proceedings for municipal acquisition of the grantee's property by purchase or eminent domain.

Sec. 10.05. **Renewals or extensions.** Every renewal or modification of a franchise, including an existing franchise, shall be subject to the same limitations and shall be granted in the same manner as a new franchise.

CHAPTER 11

PUBLIC OWNERSHIP AND OPERATION OF UTILITIES

Sec. 11.01. **Acquisition and operation utilities.** The city may own and operate any water, gas, light, power, heat, telephone, transportation or other public utility for supplying its own needs for utility service or for supplying utility service to private consumers or other governmental agencies. It may construct all facilities reasonably needed for that purpose and may acquire any existing utility properties so needed. The city shall not acquire or construct any public utility unless the proposition to acquire or to construct it has been incorporated in an ordinance and adopted by the council. Such ordinance shall not be an emergency ordinance.

Sec. 11.02. **Regulations and rates.** The council may by ordinance fix rates, fares, and prices for any municipal utility, prescribe the time and manner of payment for any such service, make such other regulations as may be necessary, and prescribe penalties for violation of such regulations.

Sec. 11.03. **Lease of plant.** The council may by ordinance contract with any person, firm, or corporation for the operation of any municipal utility for a term not to exceed ten years. Such ordinance shall not be an emergency ordinance.

Sec. 11.04. **Sale of public utility.** No public utility owned by the city shall be sold or otherwise disposed of by the city unless the full terms of the proposition of sale or other disposition are embodied in an ordinance approved by a majority of the voters voting thereon at a general or special election. Any sale, lease or abandonment of a water works or light plant shall be subject, in addition, to the requirements of state law.

CHAPTER 12

GENERAL PROVISIONS

Sec. 12.01. **Official publication.** The council shall annually at its first meeting of the year designate a legal newspaper of general circulation in the city as its official newspaper in which shall be published ordinances and other matters required by law to be so published as well as such other matters as the council may deem it in the public interest to have published in this manner.

Sec. 12.02. **Oath of office.** Every elected or appointed officer of the city shall, before entering upon the duties of his office, take and subscribe an oath of office in substantially the following form; "I do solemnly swear (or affirm) to support the constitution of the United States and of this state and to discharge faithfully the duties devolving upon me as . . . (title of office) of the city of _____ to the best of my judgment and ability."

Sec. 12.03. **Official bonds.** The city manager, the city clerk, the city treasurer, and such other officers or employees of the city as may be specified by ordinance shall each, before entering upon the duties of his respective office or employment, give a corporate surety bond to the city as security for the faithful performance of his official duties and the safekeeping of the public funds. Such bonds shall be in such form and amount as the council determines and may be either individual or blanket bonds in the discretion of the council. They shall be approved by the city council and filed with the city clerk. The provisions of state laws relating to official bonds not inconsistent with this charter shall be complied with. The premiums on such bonds shall be paid by the city.

Sec. 12.04. **Official interest in contracts.** Except as otherwise permitted by law, no officer of the city who is authorized to take part in any manner in any contract with the city shall voluntarily have a personal financial interest in or personally benefit from such contract.

Sec. 12.05. **Sale of real property.** No real property of the city shall be disposed of except by ordinance. The net cash proceeds of any sale of the property shall be used to retire any outstanding indebtedness incurred by the city in the acquisition or improvement of the property. Any remaining net proceeds shall be used to finance other improvements in the capital improvement budget or to retire any other bonded indebtedness.

Sec. 12.06. **Vacation of streets.** The council may by ordinance approved by at least five members of the council vacate any street or alley or other public grounds thereof within the city. Such vacation may be made only after published notice and an opportunity for affected property owners and public to be heard, and upon such further terms and by such procedure as the council by ordinance may prescribe. A notice of completion of such proceedings shall be filed with the proper county officers in accordance with law.

Sec. 12.07. **City to succeed to rights and obligations of former city.** The city shall succeed to all the property, rights, and privileges, and shall be subject to all legal obligations of the city under the former charter.

Sec. 12.08. **Existing ordinances continued.** All ordinances and regulations of the city in force when this charter takes effect and not inconsistent with this charter are continued in full force and effect until amended or repealed.

Sec. 12.09. **Pending condemnations, improvements and assessments.** Any condemnation, improvement, or assessment proceeding in progress when this charter takes effect shall be continued and completed under the laws under which such proceedings were begun. All assessments made by the city prior to the time when this charter takes effect shall be collected as if this charter had not been adopted.

Sec. 12.10. **Ordinances to make charter effective.** The council shall by ordinance, resolution, or other appropriate action take such steps as may be necessary to make effective the provisions of this charter.

Sec. 12.11. **Present officers continued.** The present officers of the city shall continue in their respective offices and functions and shall continue

to govern the city under the laws and charter previously in effect until the officers provided for by this charter have been elected and qualify. They shall make such financial and other provisions for the fiscal year 19 ___ as will serve to carry on the government until a government has been set up under this charter, and they shall make provision for the election of the first city council as provided in Chapter 4 of this charter.

Sec. 12.12. This charter becomes effective _____, 19 ___.

100a.5 (Supplement)
July, 1977

SOME COMMENTS ON THE MODEL CHARTER FOR MINNESOTA CITIES

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SOME COMMENTS ON THE MODEL CHARTER FOR MINNESOTA CITIES

General Comments

The model charter is based on the modern drafting principles that a charter should deal only with fundamentals, leaving to the council by ordinance the authority to provide more detailed regulations as they are needed. It is, therefore, much briefer than many older charters.

The model charter provides for the council-manager plan of government since this form is democratic and responsive and provides for efficient management. There are included in Appendix A and B of these comments provisions and suggestions by which strong mayor and administrator plans may be substituted. Charter commissions interested in still other plans may obtain on loan from the League copies of Minnesota city charters containing these variations.

One of the principal virtues of the home rule charter mechanism is that it permits each city to tailor-make its charter to its own individual needs and desires. The model charter should be used, therefore, only as a guide. Used with these comments, it can provide charter commissions with a checklist of sample provisions and questions about policy alternatives.

Each section of the charter is commented on individually in this memorandum. Following these section-by-section comments are appendices dealing with strong mayor and administrator plans and alternative methods of electing councilmen. A list of supplementary memos available from the League is also appended.

Numbering System. Under the decimal numbering system used in this charter, each section in a particular chapter has the number of the chapter followed by a decimal system and the section number, the latter moved to the second place in the case of the first nine sections. This has the advantage not only of indicating to what chapter a section belongs but of allowing amendments to be placed more easily in their logical position in the charter. If the charter commission prefers not to use this system, it should number the sections consecutively from beginning to end. To facilitate easy reference, it is best to avoid the older practice of starting each chapter with section 1.

Section by Section Comments

Section 1. Name and boundaries. Boundaries may not be changed by charter in Minnesota. For reference some charters contain a statement of the existing boundaries of the city, but because annexations change boundaries frequently, such a statement becomes quickly out-of-date and may be misleading.

To make the existing boundaries readily available to the public, some charter commissions may wish to consider adding a provision like this one, slightly adapted from Oregon model charter: "The city clerk shall keep in his office at least two copies of this charter with amendments and in each copy he shall maintain an accurate, up-to-date description of the boundaries. The copies and descriptions shall be available for public inspection at any time during regular office hours."

Sec. 1.02. Powers of the city. Older charters relied on a long list of specific grants in vesting power in the city, but almost all charters recently adopted in this state have included only a broad general grant such as contained in this section. Such a grant is based on the theory that the city should lay claim in its charter to all powers which the home rule provision of the constitution permit the city to assume. It thus permits the city to meet new problems as they arise without the need for a charter amendment granting the specific needed power and it avoids the possibility that by inadvertent omission or ambiguity, more specific grants would be held to deny to the city power which it might have lawfully assumed. Such an omnibus clause is also included in the National Municipal League's model charter.

The all-powers grant assumes that restrictions will be made as needed in other sections dealing with particular matters and that the broad power left to the council to implement charter provisions by ordinance will permit the addition of specific restrictions as needed.

Minnesota Supreme Court decisions generally have given a liberal construction to all-powers grants in city charters. *Park v. City of Duluth*, 134 Minn. 296, 159 N.W. 627 (1916); *State ex re. Zien v. City of Duluth*, 134 Minn. 355, 159 N.W. 792 (1916); *City of Duluth v. Cerveny*, 218 Minn. 551,

16 N.W. (2d) 779 (1944); see 7 Minn. Law Rev. 306.321. The strong statement of intent found in the model charter section should be adequate to assure that the omnibus grant gives the city all municipal power that it might receive through more specific grants.

Sample charter provisions containing a fuller statement of municipal power are available to charter commissions on request.

Sec. 2.01. **Form of government.** Any basic form of government--a strong or weak mayor-council form, the commission plan, or the council-manager form--may be validly included in a home rule charter in Minnesota. The commission plan, which enjoyed a brief period of great popularity in the first two decades of the present century, is now largely passe; it has not been adopted in any Minnesota city since the 1914 St. Paul charter, and has now been abandoned by all but one Minnesota city. Modifications in the model charter to substitute a strong mayor-council plan for the council-manager form are included in Appendix A of these comments.

It is not essential that there be a section like this in the charter since the form is spelled out more explicitly throughout the charter, but the section may be helpful both in informing the voters and in showing the general intention of the charter commission with reference to the form of government.

Sec. 2.02. **Boards and commissions.** This section also states one of the major principles of the council-manager plan that all power is vested in the city council and that this power should not be diluted by the establishment of independent boards with administrative powers over particular functions. Health and library boards are specifically mentioned since these are provided for every city by statute; presumably by charter the city may determine to handle these functions through the council instead. Many council-manager cities in the state have so provided. A similar provision is included in the council-manager plan sections of the code relating to non-home rule cities.

While a few cities with administrative utility commissions have retained them when adopting council-manager charters, it is more consistent with that plan to convert such a commission into an advisory one. The utility function is an important one that involves, in a city with a municipal gas or electric system, a significant part of the city's budget, property, and personnel. To divorce this enterprise from the control of the council and manager seriously curtails the power to direct, coordinate, and set comprehensive policy. Few cities consider a utility commission where the only municipal utilities are water and sewer system.

Sec. 2.03. **Council composition and election.** The size of the council should be adjusted to the size and needs of the city; smaller cities may prefer a five-man council (the size provided by law for statutory cities and in over half the charter cities) while larger cities may wish to increase the size beyond the suggested seven. About a quarter of Minnesota's home rule cities have seven members; only about three have as many as 11.

Many councils serve for two-year terms. Fixing the councilmen's term at that length requires either a shift to annual elections or abandonment of the principle of overlapping terms. If all members are elected at the same time, the chances that winning candidates will receive only a plurality of the votes are substantially increased. One method of meeting this problem, often discussed but seldom used, is the so-called "alley" or "place" system (the plan used for electing judges) under which each council seat is separate from the others for purposes of filings and election. See Appendix C. If the city already has four-year overlapping terms, the exception in the second sentence may be omitted.

While a two-year term for mayor is more common in Minnesota among charter cities and is the general pattern among statutory cities, the trend is toward longer terms for both mayors and councilmen. A few cities with a complete four-year term pattern elect all councilmen and the mayor once every four years. To avoid the possibility of too drastic a turnover at any election, the model follows the more common overlapping term pattern.

The model provides for electing all councilmen at large. There are disadvantages to both the at-large and district or ward systems; the smaller the city the more the advantages on balance favor the at-large system. A League memorandum on the comparative advantages of the two systems is available to charter commissions on request.

Alternate provisions for a ward system and for a combination at large-ward system are included in the Appendix C.

Sec. 2.04. **Incompatible offices.** This prohibition is not required by law but the substance is included in many charters. The National Munici-

pal League model charter extends the one-year prohibition to any compensated appointive city office or employment.

Sec. 2.05. **Vacancies.** If the charter commission prefers to rely on the state statute setting out grounds for a vacancy in public office, which is not otherwise binding on a city with a different charter provision, it may substitute the following for the first sentence: "An elective office becomes vacant upon the occurrence of any one of the conditions stated in Minnesota Statutes, Section 351.02." The grounds stated in the suggested charter provision parallel the statute but are not identical.

Where neglect of duties for a prolonged period may be a problem, the charter commission may wish to add as additional clauses provisions like these appearing in some charters: "is continuously absent from the city for more than three (?) months, fails to perform any of his duties for more than three (?) months." The last clause is not self-administering and the council declaration of a vacancy in such a case may be tantamount to removal from office. Some charters include an additional section authorizing the council to remove an elective officer for stated causes.

If four-year terms are provided, some charter commissions may wish to subject an appointee to the election process if the term still has two years to run when the next election comes along. If this is desired, the last sentence should be rewritten somewhat as follows: "In each such case the council shall by resolution declare the vacancy to exist and shall forthwith appoint a qualified voter to fill the vacancy. If the unexpired term is more than 28 months, the appointee shall serve only until the day for commencement of new terms of office following the next municipal election and until his successor is chosen at that election for the unexpired term." If this alternative is adopted, it will be necessary to require that persons filing for councilman, if the vacancy was in that office, indicate which term is being sought since councilmanic offices for the full term will also be on the ballot.

Sec. 2.06. **The mayor.** Consistent with the council-manager plan, this section contemplates that the mayor will be the ceremonial head of the city and preside over the council but otherwise will have no duties except as a council member. Some recent council-manager charters have attempted to build up the mayor's role as political leader by provisions directing the mayor to make recommendations to the council, including an annual state-of-the-city message.

About half the council-manager cities in the United States provide for council selection of the mayor from council members. No Minnesota council-manager city has followed this practice. There is apparently nothing in the constitution to prevent it, though it might be argued that the statutes imply the direct election of the mayor. (Minn. Stats., Secs. 410.07, 410.16.) The model charter of the National Municipal League begins this section of the charter with the provision, "The council shall elect from its members officers of the city who shall have the titles of mayor and deputy mayor, each of whom shall serve at the pleasure of the council." (The deputy mayor is the equivalent of the president pro tem in the Minnesota model.) If this approach is used, the section on the elective officers of the city (2.03) should be modified accordingly.

Sec. 2.07. **Salaries.** Minn. Stats., Sec. 415.11, permitting the council to fix the salaries of mayor and councilmen by ordinance with certain restrictions applies to home rule charter cities. The existence of the statute is recognized by this section. There is no statute regulating the compensation of administrative officers and employees.

Sec. 2.08. **Investigation of city affairs.** The state law provides for an audit by the state auditor (formerly by the public examiner) only on request of the council or on petition of freeholders. In line with good accounting practice, this section requires an annual audit; however, it leaves to the council the determination of whether the audit should be made by the state or by a public accountant. Some charters limit the latter to certified public accountants.

Sec. 2.09. **Interferences with administration.** The restrictions imposed by this section are intended to preserve the manager's freedom in administrative matters in line with accepted council-manager principles. Like the National Municipal League model charter, the provision recognizes the councilmen's role in discussion, criticism, and advice with reference to appointments and removals.

Earlier charters attempted to impose penalties, including removal from office, for councilman interference in administrative matters, but these have been found unrealistic; they have now been dropped from the NML model.

Sec. 3.01. **Council meetings.** The requirement for public meetings ties in with Minn. Stats.,

Sec. 471.705. Otherwise, charter provisions on regular and special meetings are not restricted by statute. Since the statute is likely to be amended with some frequency, it has seemed desirable merely to recognize its existence in the charter rather than to set it out explicitly. The Minnesota Supreme Court has indicated that the open meeting law requires that an attempt should be made to notify the public in such a manner as the circumstances permit. Published notice is not required, but if it is not given, posted notice seems essential. (*Sullivan v. Credit River Township*, 299 Minn. 170, 217 N.W. 2d 502 (1974). If there are two other places where notices are customarily posted in addition to the city hall, these might be appropriately specified in the rule. It also seems desirable, in the light of the court decision and its rationale, to include a requirement in the rule that written notice of a special meeting be given to the communications media. Since the public meeting law applies to committee meetings, adequate notice must be given of them, too.

Sec. 3.02. **Secretary of council.** The city clerk acts as council secretary in almost all Minnesota cities, but the model permits the use of another officer or employee in the case of special circumstances. There are no statutory requirements.

Sec. 3.03. **Rules of procedure and quorum.** This is a standard provision.

Sec. 3.04. **Ordinances, resolutions, and motions.** If the charter commission desires a more explicit provision on what must be done by ordinance, it might consider the comparable provision of the NML model charter, Section 2.12:

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

(1) Adopt or amend an administrative code or establish, alter or abolish any city department, office or agency;

(2) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;

(3) Levy taxes, except as otherwise provided in Article V with respect to the property tax levied by adoption of the budget;

(4) Grant, renew or extend a franchise;

(5) Regulate the rate charged for its services by a public utility;

(6) Authorize the borrowing of money;

(7) Convey or lease or authorize the conveyance or lease of any lands of the city;

(8) Adopt with or without amendment ordinances proposed under the initiative power; and

(9) Amend or repeal any ordinance previously adopted, except as otherwise provided . . . with respect to repeal of ordinances reconsidered under the referendum power.

Acts other than those referred to in the preceding sentence may be done either by ordinance or by resolution."

The provision in Sec. 3.04 requiring the recording of votes in accordance with statute is intended to refer to the public meeting statute. Since that statute has already been amended twice since its adoption in 1957, it has been thought advisable not to include it in the charter, thus avoiding having the charter provision quickly outdated by amendment of the law. On the other hand, the charter commission may prefer setting it out so that the public and city officials can see in the charter what the applicable statutory requirements are. If this is the case, the following may be substituted for the second sentence of this section:

"The votes of the members on any action shall be recorded. The vote of each member shall be recorded on each appropriation of money, except for payments of judgments, claims, and amounts fixed by statute."

Sec. 3.05. **Procedure on ordinances.** There are no statutory requirements on the subject matter of this section. The state constitution requires three readings on state laws and has a requirement that a state law must deal with a single subject expressed in its title. Some commissions may wish to require three readings on ordinances. Note that there are exceptions for emergency ordinances in the next section. Even without a charter requirement, some councils provide for three readings by council rule.

Sec. 3.06. Emergency ordinances. This section is intended to take care of those rare situations where there isn't time to meet the usual procedural requirements in adopting ordinances. The

stricter the usual requirements (e.g., three readings over three weeks), the more necessary the emergency procedure.

While the council's declaration of emergency is given some weight, the council may not, under such a provision as this, use the emergency clause when there is no emergency.

Sec. 3.07. **Procedure on resolutions.** Since there is no statute restricting the adoption of resolutions, the charter commission is free to provide what it wishes. Usual practice is to permit resolutions to be adopted at the same meeting at which they are introduced.

Sec. 3.08. **Signing and publication of ordinances and resolutions.** Again there are no statutory requirements, except that a state law (Minn. Stats., Sec. 471.62) permits the adoption of statutes, regulations, codes and certain ordinances by reference, as the last sentence recognizes.

Sec. 3.09. **When ordinances and resolutions take effect.** A standard provision; not regulated by statute. The time interval for ordinary ordinances should be long enough to permit circulation of a referendum petition before the effective date, if a referendum provision is included in the charter. If initiative and referendum provisions are omitted from the charter, the last sentence of this section should be deleted.

Sec. 3.10. **Amendment and repeal of ordinances and resolutions.** This provision follows legislative practice. Without some such provision, neither municipal officials nor the public will find it very easy to read a proposed amendment and know what it does to the existing ordinance. There is no statutory requirement on the subject.

Sec. 3.11. **Revision and codification of ordinances.** This section is substantially the same as an enabling statute (Minn. Stats., Sec. 415.02). It is included in the charter for completeness but may be omitted and reliance placed on the statute.

Sec. 4.01. **The regular municipal election.** If the city wishes to continue to elect a justice of the peace, the charter commission may add at the end of the section: "At the regular election there shall be elected, in addition to the mayor and councilmen, one justice of the peace for a two-year term." This is possible under the county court law only if the county court does not hold regular sessions in the city or has not established an ordinance or traffic violations bureau there. (Minn. Stats., Sec. 487.35.) No court may be established by charter.

The uniform election day law allows any city to use the November date set out here as its election date, and a number of cities hold their election on that date. The alternative usually chosen in new charters is the first Tuesday after the first Monday in even-numbered years, thus combining the municipal election with state and national elections.

Those who favor a separate election argue that (1) voters are likely to be better informed on city candidates and issues; (2) focusing attention on municipal problems is much easier when the city election is held separately; (3) consolidated elections may encourage partisanship at the local level; and (4) in a city using paper ballots, ballot counting errors are minimized when a separate election is held.

Those who favor combining the city election with state and national election argue that (1) there will be a much greater participation in city elections by the voters; and (2) the expense of conducting city elections will be substantially reduced. The smaller the turnout and the smaller the interest at separate city elections, the stronger the argument for the combined election--and vice versa. These arguments are discussed more fully in a League memo cited in Appendix D. Since arguments for separating local and state-national elections seem stronger in larger cities, which also tend to be the home rule charter cities, the model suggests the odd-year date. The statutory code for cities without home rule charters uses even-year elections as the standard pattern with an odd-year option, but these cities typically are small.

Separating the city election by holding it in the spring gives rise to the above arguments, too, but in this case there are some additional considerations involving the relation to the tax and budget year. Proponents of the spring election argue that if it is combined with a fiscal year commencing a short time before the election, there will be a completed fiscal year the report on which can be of interest to candidates and voters. Furthermore, the new council will have to operate under the old council's tax levy decisions for shorter time (at least six months) than if the November date is used and councilmen take office in January. If the calendar year is used as the fiscal year, the same is true of the current budget. Proponents of the fall election minimize the budget argument, pointing out that the council has discretion over only a very small part of the budget; fixed charges

(e.g., debt retirement), incremental changes like salary increases and inflation, and tax limitation laws, all leave so little for council discretion that it is not important that the new council must live under the old council's budget for a longer time when fall elections are held. A fall odd-year election means that the voters are asked to go to the polls only once every 12 months. Furthermore, the calendar year has become almost standard as the fiscal year in Minnesota (including all of the non-home rule charter cities) and this is more practicable with a November election.

Practice among Minnesota home rule cities is widely split. About 38 of the 99 home rule charter cities hold elections from February to July, mainly in March through May. Of the rest, 11 hold their elections in December, the others in November. Several of the last still hold annual elections and the others are almost evenly split between even and odd years.

Annual elections seem unnecessarily frequent, though this is still the pattern in more than 30 cities. They do have the advantage of permitting the use of overlapping terms of two or three years. Overlapping terms can be provided with biennial elections only by going to four-year terms, now the pattern in Minnesota's non-home rule cities (about 755), which all hold November elections.

Sec. 4.02. **Special elections.** The subject is covered by state law, Sec. 205.10, and can be omitted from the charter if desired. It is included for the sake of completeness.

Sec. 4.03. **Filing for office.** The state law (Secs. 205.13, 205.15), applicable in the absence of a charter provision, provides for filing for office and fixes the fee at $20 in first class cities, $5 in second and third class cities, and $2 in fourth class cities. The appropriate figures may be changed by local charter.

Under the Minnesota Constitution, any voter 21 years old or older may hold local elective office.

Some charters provide for getting candidates on the ballot by petition (nomination by petition). Sometimes the petition requirement is minimal—ten voters, for example; in other cases it may be substantial enough to discourage insincere or publicity-seeking candidates. Experience in the particular city should indicate whether or not a petition requirement serves a sufficiently useful purpose to justify its inclusion. Generally, Minnesota cities either have no petition requirement or a nominal one. The NML model charter suggests alternative provisions; a sponsor-deposit method in which ten petitioners act as sponsors and the candidate must post a deposit which is refundable if the candidate withdraws or fails to secure a specified percentage of the vote; and a long petition method in which the candidate must have petition signers equal to one per cent of the last vote for governor.

If the charter commission wishes to consider a petition requirement, here is a brief sample provision:

"Sec. 4.03. **Nominations by petition.** All elective officers provided for by this charter shall be nominated by petition. The name of any voter of the city shall be printed upon the ballot as a candidate for an office whenever a petition signed by a number of voters equal to at least _____ per cent of the total number of votes cast at the last regular municipal election has been filed with the city clerk in his behalf at least two weeks before the election and a filing fee of $_____ has been paid. No elector shall sign petitions for more candidates for any office than the number of persons to be chosen for that office at the election; should he do so, his signature shall be valid only as to the first petition or petitions filed. The form of the nomination petition shall be prescribed by the council or, in the absence of council action, by the clerk."

A more stable figure can be obtained by basing the petition requirement upon the number of registered voters at the time the petition is filed.

As in most of the larger cities, a primary election may be held to limit the number of candidates from whom the voters finally make their choice. As long as the charter does not prohibit or provide for a primary election, the council may by ordinance or resolution provide under Minnesota Statutes, Section 205.11 for a primary election to held at least two weeks before the municipal election. An appropriate section may be added either fixing the date or authorizing the council to fix the date at least a prescribed minimum period before the regular election. About a third of Minnesota's home rule charter cities have primary election provisions in their charters. A simple provision for a primary might read as follows:

"Sec. _____. Primary Elections. On a Tuesday at least four weeks in advance of the regular municipal election as determined by the council, there shall be a primary election for the selection of two

nominees for each office to be filled at the municipal election, unless no more than twice the number of candidates to be elected file for any elective office."

If a primary election is provided by charter, the concluding clause of Sec. 4.03 ("or, if there is no primary election, on the municipal election ballot") should be omitted.

Sec. 4.04. **Procedure at elections.** This section permits the council by ordinance to add supplementary provisions for local elections and even, where the state law is not binding, to supersede state law by different provisions. In general, however, the intent is to rely on state law wherever the city can do so. In practice this is what has happened in the Minnesota cities with similar charter provisions.

Chapter 5. **Initiative and referendum.** These devices for popular control over legislation and elective officials came into city government mainly with the introduction of the commission plan and the council-manager plans early in this century. They have been adopted by about a third of Minnesota's home rule charter cities, including most of the cities with recent charters. While many people oppose the use of these devices as being inconsistent with representative government, others strongly favor them as providing checks on councils and levers for accomplishing programs with broad popular support where city officials or the governing body are reluctant to take desired action. A few charters provide for the referendum, by which an election test can be secured on an ordinance which is widely questioned, but not the initiative, by which the people can initiate legislation and secure its passage by the election route in the face of council objection.

Most experts would agree that if these devices are authorized by charter, they should be used sparingly; the council should not be by-passed or over-ruled by the initiative or referendum except in extreme cases. Consequently, procedural requirements, particularly those for petitions, should be difficult--though not, of course, impossible.

Experience in Minnesota indicates that initiative and referendum provisions have been conceived as safeguards against council inaction or abuse and have been used only sparingly in practice.

A third device for popular control, the recall, usually has, in the past, been included in charters containing initiative and referendum provisions. The recall provides a mechanism for shortening the term of an incumbent in cases of strong voter dissatisfaction. A special election is held after the filing of a petition, usually with a more difficult signature requirement than for an initiative or referendum petition, and, if a majority votes to recall the challenged candidate, he is recalled from office and another candidate is chosen by the voters to replace him.

The Minnesota Supreme Court has held that recall is a form of removal and a constitutional provision (Art. XIII, Sec. 2) limits recall elections to those cases where there is malfeasance or nonfeasance in office. *Jacobsen v. Nagel,* 255 Minn. 300, 96 N.W. 2d 596 (1959). So viewed, recall seems impractical since the council cannot be compelled to call a recall election unless the grounds stated do constitute malfeasance or nonfeasance, often not something which can be tested by the election process. No provisions for recall have been included in the model for this reason.

Sec. 5.01. **Initiative and referendum.** This section should be recast, of course, if either of these devices is omitted.

Sec. 5.02. **Petitions.** The charter commission may wish to base the percentage on the number of registered voters. The permanent registration percentage should, of course, be half or less that which is appropriate when the last vote for mayor is used. In either case, the figure should be substantial. The NML model suggests 15% of the number of registered voters at the time of the last city election.

Use of a sponsoring committee is suggested so that there are people to whom the clerk may turn in case of questions or insufficiency. The committee is also given authority to approve an amended ordinance to avoid an election under later sections.

Sec. 5.03. **Determination of sufficiency.** The number of days should be related to the amount of work required in the particular city; perhaps a shorter time may be sufficient in a small city.

Sec. 5.04. **Disposition of insufficient petition.** The sponsoring committee should have a reasonable time within which to make up insufficiencies but the petition should not be allowed to dangle indefinitely.

Sec. 5.05. **Initiative.** The model permits the

council to make changes in the ordinance and still avoid an election if the new version is not disapproved by a majority of the sponsoring committee. Often the proposed ordinance may be poorly drawn and the improvement made by the council amendments will be agreeable to the petitioners, all of whose objectives may have been met by the ordinance as finally adopted. A 4/5 or unanimous approval may be substituted if desired.

Some charter provisions forbid the council from repealing or amending ordinances approved by the people under initiative and referendum provisions and some would bind the council in this way for a brief period, like one year. Because it is difficult to anticipate the effect of changes of circumstances, it seems wiser not to put such restrictions in the charter. Being a popularly elected body, a council is very unlikely to change an initiated or referred ordinance unless the change is clearly acceptable.

Some charters permit petitioners to force a special election if they sign in larger numbers than required to force an election with council option as to time--25 per cent instead of 20 per cent of the voters, for example. No such provision is included in the model, which requires a special election if a regular election is more than 120 days away; the time may be lengthened if preferred or the entire matter may be left to the council.

The exemption of certain ordinances from the initiative and referendum follows the NML model. As the commentary on that charter states, "Neither the initiative nor the referendum should be applicable to the budget, capital program, any ordinance relating to the appropriation of money or the levy of taxes, or, of course, to salaries of city officers or employees, for this would interfere with responsible officials striving to achieve a properly balanced long-range fiscal program." Charter commissions may wish to consider adding other types of ordinances to the list of exclusions; for example, some persons have argued that zoning ordinance changes are not suitable vehicles for city-wide elections under initiative and referendum provisions.

Sec. 5.06. **Referendum.** This has the same exceptions as the section on the initiative. See the last comment.

Any requirement for a special election in certain cases would be out of place in the referendum with the possible exception of a referendum on an emergency ordinance.

Sec. 6.01. **The city manager.** Consistent with council-manager theory, this section makes clear that the manager serves at the pleasure of the council and can be given no fixed term by contract or stipulation. To permit him to get his side of the story before the public in case of removal, he is given the right to a hearing if he has already served for a year, but it is made clear the council still has the unfettered right to remove him after the hearing is held.

A requirement that the manager live within the city after appointment can be added if desired. The section follows the NML model in permitting the manager to live outside the city while in office only with the approval of the council.

Sec. 6.02. **Powers and duties of the city manager.** This section gives the manager the necessary authority to carry out his responsibility as the chief administrative officer of the city. A few cities provide for a chief administrative officer who is subject to greater control by the council, such as a veto power over appointment of department heads. A sample plan of this kind is outlined in an appendix.

Sec. 6.03. **Administrative organization.** Some charters provide for incorporating material on administrative organization and procedure in a comprehensive administrative code and, in some cases, in order to give the code more stability, require an extraordinary majority to adopt or amend it. Under the model as drawn, the council could provide such a comprehensive ordinance approach if it wished but no special procedural restrictions would apply. Former versions of this model required the adoption of an administrative code, but the requirement was so often honored in the breach that it has been dropped.

Departmental organization is sometimes spelled out in charters, particularly in larger cities. The model assumes, however, that this should be left to subsequent council action. If departments are to be established by charter, they should be provided for in general terms without a detailed listing of functions of divisional organization.

Sec. 6.04. **Subordinate officers.** The model explicitly provides only for one administrative officer, the city clerk, in addition to the manager. There will be others in every city, but it seems desirable to leave the administrative structure as flexible as possible. Under the model, offices could be abolished or combined without restriction.

Sec. 6.05. **Purchases and contracts.** Many Minnesota charters require that contracts in excess of a stipulated amount may be made only after competitive bidding. The amounts are now specified by the uniform contracting law, Minn. Stats. Sec. 471.345 ff., and since those dollar amounts are subject to statutory change with inflation and changed conditions, it seems wise merely to refer to the law in the charter.

Older versions of this charter used as the maximum figure for the manager's authority to make purchases without advance council approval the figure fixed as the maximum amount of a contract that could be let without bids. If that principle were followed here, the figure would be $10,000, the amount above which competitive bids would be required under the uniform contracting law.

Sec. 7.01. **Council to control finances.** The authority contained here is included in the omnibus grant in Sec. 1.02 but it is included here to call specific attention to the council's role with respect to finances. It can be omitted if desired.

Sec. 7.02. **Fiscal year.** The calendar year is the year most commonly used in Minnesota, is consistent with a November election schedule, and coincides with the property tax year. Tax-anticipation borrowing may be necessary, however, to a greater extent than if a July 1 date were used for the commencement of the fiscal year as in the state and federal governments. See also comments on Sec. 4.01 relating to the date of election.

Sec. 7.03. **System of taxation.** The authority given to the council by this section presumably is included in the omnibus grant of Sec. 1.02, but it is included here as fortification in view of the strict view taken by some courts of grants of local tax authority. Local income and sales taxes have both been pre-empted by the state except in those cities already having them, and few taxes are suitable for levy and collection by cities, particularly small cities and those in metropolitan areas, but the charter provision will minimize questions of adequate authority for a city where some non-property tax source must be found to supplement other city income; any tax ordinance would, of course, be subject to a referendum on petition if initiative and referendum provisions are included in the charter.

As drawn, the section imposes no property tax limit beyond that mandatorily imposed on the city by state law. It is legally possible to include a more restrictive limit by charter, but this does not seem wise.

Sec. 7.04. **Submission of budget.** The September 1 date for submission of the proposed budget to the council in the absence of a local budget calendar is suggestive; it gives the council about five weeks to consider and adopt the budget. If this is not enough time, an earlier date can be substituted. More flexibility is given by authorizing the council to establish a budget calendar by ordinance. This is the approach taken in the 1970 St. Paul charter. Dates for earlier steps in the budget process, such as the submission of budget recommendations by department heads to the manager, can always be provided by the manager himself without an ordinance.

The budget section is flexible about the type of budget to be submitted. It would allow the council to require a program budget, but it would not make this a charter requirement. A detailed classification of revenues, expenditures and specific funds would be left to ordinance or administrative rule to the extent that it is not prescribed by state law. The state auditor (formerly the public examiner's office) has the function of prescribing a uniform system of accounting and reporting by cities (Minn. Stats. Sec. 215.08, 215.10, 215.13, and 6.46), a fact which necessarily influences the development of local budgeting and accounting systems.

It is sometimes argued that if all funds are subjected to the budgetary process, including bond issues voted by the people and special assessment projects initiated by petition of benefited property owners, proceeds of a bond issue authorized by the people earlier in the year could not be spent until the following January after it had been included in the annual budget; similarly a petition of property owners for a local curb and gutter project signed up in April could not result in construction until the following year. The provisions on budgeting are not quite this rigid, however, since the council is authorized by Sec. 7.08 to add to the budget where anticipated income exceeds estimates, and in these cases, income from bond issues would have been added. If the charter commission decides that the provisions of the model might give a problem in this connection, it might consider adding a provision like this one contained in a few local charters: "The council may in its discretion permit elimination from the budget estimates of expenditures of bond issue funds, utility funds, and special assessment funds."

The complete financial plan involves three parts: the current operating budget, the five-year capital program coordinated with the annual

budget, and the annual budgets of city-owned utilities. The model charter section would permit indicating only the surplus or deficit in utility operations in the budget itself on the assumption that this makes possible a better understanding of the city's fiscal picture and plans.

Sec. 7.05. **Capital program.** This section is intended to compel long-range planning of capital improvements and to relate that planning to the current budget. It seems desirable to provide for submission of this program at an earlier date than the budget to force independent and careful study of the long-range program and its implications for current financing. Adoption of the program by August 15 allows half a month to get actual capital expenditures for the next year into the capital outlay section of the proposed annual budget before it is submitted on September 1. Dates may easily be changed to conform to local needs.

Following the NML model, the League model requires that the capital program include estimated operating and maintenance costs of proposed capital projects. It would be hoped that this might force more realistic facing up to the long-term financial implications of proposed capital projects.

Sec. 7.06. **Council action on budget.** If it is thought that September 1 is too late, an earlier date may be substituted, as in Sec. 7.04. The earlier the date, the longer must be the manager's projections in preparing his proposed budget.

The council is free to make whatever changes it wishes in the manager's proposed budget except that it may not provide for expenditures in excess of anticipated income. Under state law, it may not reduce the levy for debt service below that necessary for amortization; that levy will have been made for the entire period of each bond issue before the bonds are sold and the council cannot forego the levy without providing substitute debt service money. (Minn. Stats. Sec. 475.61.)

The October 10 date for certifying the annual tax levy to the county auditor is prescribed by statute (Minn. Stats. Sec. 275.07). The date for council adoption of the budget keys in with the levy certification date.

The model will permit the council to make lump sum appropriations for each department and agency, and thus leave more discretion to the manager in the execution of the budget, but it would also authorize the council to make its budget decisions in more detail. The provision follows the comparable statute applicable to council-manager plan non-home rule cities. (Minn. Stats. Sec. 412.711.)

Sec. 7.07. **Enforcement of the budget.** These are standard provisions to assure that the budget is complied with. Some charters provide for systems under which the manager makes quarterly allotments to assure that the full appropriation for an item is not spent in the first part of the year when the need continues through the year. The model does not include such a provision on the theory that it may be too cumbersome for small cities and that where it is needed, the system can be instituted by the city manager or by the council without having a specific provision in the charter. While the restrictions included in the section are intended to insure that the city lives within the budget and expenditures conform to the budget plan, the section does not contain the requirement, common in past charters, that every disbursement must be made by check. It would thus permit use of "checkless" payrolls which have been utilized by several cities recently.

While it is common practice to require all claims to be approved by the council, it is doubtful that council approval provides any necessary or desirable safeguards where the charter has adequate budgetary and accounting controls. This section, taken with Section 6.05 on purchases and contracts, authorizies an alternative that seems preferable: permitting the manager to make all purchases and contracts without such a routine check whenever the amount involved is less than a specified figure and requiring larger contracts to be entered into by the council itself. A similar statutory provision applies to non-home rule cities operating under the council-manager plan. (Minn. Stats. Sec. 412.691.)

Sec. 7.08. **Alterations in the budget.** This section is intended to assure that necessary changes can be made in the budget during the year but only to the extend warranted by the income-expenditure picture. Council action would be required to authorize increases and transfers and the council would be permitted to require reductions. The NML charter would require transfers between departments to be made by the council but would permit the manager to transfer within the department as a necessary administrative tool.

This model does not contain a provision like the NML model providing that unencumbered appropriations lapse at the end of the year. If the charter commission believes that it is not

sufficient to leave this to the manager and council through the budget adoption and modification process, a provision for lapse should be added. It has been omitted because of the abuses and extravagances that automatic lapse provisions can encourage. If a lapse provision is included, it should treat appropriations for capital projects differently. The NML provision permits these to continue unless no expenditure has been made on the project for three fiscal years. Supporters of the lapse provision argue that without such a requirement, the city's appropriation in each succeeding year would be added and that the practice would encourage the building of surpluses within departments, thus increasing the problem of administrative control.

Sec. 7.09. Funds. Most older charters contain a detailed list of funds which the city is required to keep. Some funds are required by statute, like a bond sinking fund and improvement fund, some will be required when revenue is dedicated to a particular purpose, and fund needs will change quickly. It has seemed better not to enumerate prescribed funds in the charter but to leave their establishment to the council. The NML charter contains no section on funds.

Sec. 7.10. City indebtedness. The state statutes, Chapter 475, contain a complete bond code setting out a debt limit, authorized purposes for the issuance of bonds, and a procedure for issuing bonds. The charter does not need to contain a provision on the debt limit (beyond referring to the state law) unless the intent is to decrease the limit that would otherwise apply. The state procedure is adequate and in large part prescribed for home rule charter cities as well as others; in this respect the charter need only make a decision on election requirements for bond issuance. The state law authorizes a home rule charter city to issue bonds for any capital purpose unless forbidden by charter; consequently, nothing is needed beyond a reference to the law unless the charter commission wishes to propose further limitations.

On the election question, the model follows the general practice of requiring popular approval of bond issues except those permitted by law or charter, like tax anticipation certificates, most local improvement bonds, and bonds to pay judgments. A few charters go farther and would merely subject bond issues to the referendum process; thus an election would be required only if a referendum petition were filed. A compromise might require a referendum without petition on larger issues.

Sec. 7.11. Anticipation certificates. Some such provision is necessary to provide money to meet current needs before taxes or aids are collected and turned over to the city. The model departs from the city code in permitting issuance of certificates in the amount of anticipated aids in addition to the amount of the levy; some charters limit the amount to 90 per cent of the levy or less. The interest maximum of 7% imposed by statute now seems to prevent lower charter minimums for public obligations (Minn. Stats. Sec. 475.55). No provision on the interest rate is included in the charter.

Sec. 7.12. Emergency debt certificates. This section permits borrowing to meet unforeseen emergencies but requires the debt to be repaid in three years. A 1973 state law (Ch. 61) permits any city to issue three-year certificates to finance extraordinary expenditures arising "by reason of any natural disaster or other public emergency." The charter provision also permits issuance of these certificates when receipts become insufficient from some unforeseen cause. If the state law is considered sufficient, the charter provision may be omitted or recast to refer to the statutory authority.

It is sometimes argued that in cities with a background of sound fiscal practice, the council should be able to make simple bank loans to finance relatively minor capital improvements without going through the formalities of a bond issue or issuing certificates of indebtedness under the limited conditions provided by this section. Councils of third and fourth class cities and councils of non-home rule cities are authorized by statute to acquire property by contract for deed or conditional sales contract (Minn. Stats. Secs. 465.71, 412.221, Subd. 2), but this authority is not suitable for financing construction of a building on a lot so acquired, for example.

Charter commissions wishing to consider broadening the authority granted by the model might look at the following, adapted from several existing Minnesota charter provisions: "Whenever the council by resolution deems it necessary, it may borrow money from a bank in the city for the purpose of financing any authorized capital improvement, but the aggregate amount of all such loans outstanding at one time shall not exceed one-third of one per cent of the assessed valuation of all taxable property in the city, and each such loan shall be payable within a maximum period of five years." The assessed valuation limit is based on the provision on installment purchases in the city code; it may, of course, be changed,

or a different type of maximum substituted, or, if the charter has referendum provisions, the loan might be subjected to a referendum on petition. Since any such loan would constitute an "obligation" of the city within the meaning of the state debt code, a levy for its retirement would have to be made before the loan could be made. (Minn. Stats. Sec. 475.61.)

Sec. 8.01. **Power to make improvements and levy assessments.** This authority is presumably embraced in the powers granted by Sec. 1.02 but is included here because of the strict construction that many courts have given to special assessment authority. This rule that the total assessments may not exceed the cost and that individual assessments may not exceed the benefit simply states a constitutional requirement.

Sec. 8.02. **Assessments for services.** A number of current services listed in the state local improvement code (Minn. Stats. Ch. 429) may be financed in the same manner as special assessments. The model charter provision is stated in more general terms to include services that may not be covered by the code.

Sec. 8.03. **Local improvement procedure.** The state local improvement code applies to every home rule charter city unless the charter provides for making the improvement under the charter. The code also permits the charter to make the code exclusive. Because the code is a good law that is almost universally used for local improvements outside the largest cities, and because the bonds it authorizes are much more readily marketable than obligations issued for local improvements under a charter, the model charter proposes to make the local improvement code exclusive; however, if there are any local improvements not covered by the state law, this provision empowers the council to provide for them by local ordinance.

Sec. 9.01. **Acquisition of property.** The eminent domain authority in the first sentence parallels a provision in state law applying to all municipalities. (Minn. Stats. Sec. 465.01.) The second sentence requiring use of the state eminent domain procedure is now also a statutory requirement. (Minn. Stats. Sec. 117.011.)

Sec. 10.01. **Franchises required.** This section requires a franchise before any permanent or semi-permanent structure may be placed in or on streets or public places. It thus applies not only to public utilities but to any other purpose on the grounds that granting any such privilege should be subject to careful safeguards. The chapter could be limited to public utilities by eliminating the phrase "or for any other purpose" at the end of the first sentence.

Requiring the use of non-emergency ordinances for franchises subjects each franchise to the possibility of a referendum on petition before it goes into effect.

The provision on payment of the cost of publication of the franchise ordinance by the grantee is found in many charters, but even without it the council may require this as a condition of granting the franchise. The cost is, of course, not significant.

Telephone companies are regulated by the state and not subject to local franchise provisions. The phrase "Except as otherwise provided by law" is intended to recognize this exception, as it would recognize electric and gas utilities, too, if they were in the future to be made subject to state regulation.

Sec. 10.02. **Term.** State law (Minn. Stats. Sec. 410.09) prohibits perpetual franchises and requires exclusive franchises, which are limited to 25 years, to be approved by the voters. There is no statutory limit on the term of a non-exclusive franchise but a charter may impose such a limit. In general, the term of a franchise should be long enough to attract offers from the best utility interests and short enough to give the municipalities the right to make a change if the utility is not run to the satisfaction of the general public. The model recognizes that in rare cases a long franchise might be justified, but it is sufficiently questionable to require approval of the voters. Franchises of 20 years or less would be subject to referendum only on petition.

In considering this section, the charter commission should bear in mind the fact that a state law authorizes any city, irrespective of franchise or charter terms, to acquire a utility at the end of any five-year period following the granting of a franchise by paying the purchase price determined in proceedings similar to a condemnation. A maximum of 20 years, without a required vote, as suggested in this section of the model charter seems reasonable, but some charter commissions may wish to lengthen this period to 25 or 30 years.

Sec. 10.03. **Public hearing.** A public hearing is not required by law but seems desirable on a matter of such long-term importance. As drawn, the section applies only to franchises granted to public utilities but it can be extended to other

franchises as well by making the first clause read, "Before any franchise is adopted."

Sec. 10.04. **Power of regulation reserved.** A state law (Minn. Stats. Sections 454.041-.043) allows third and fourth class cities to fix electric and gas rates by ordinance and regulates the procedure. This has been held to supersede conflicting charter provisions. *Western States Utilities Co. v. City of Waseca,* 242 Minn. 302,65 N.W. (2d) 255, (1954). The model charter section would make clear that the city has the authority to regulate rates by ordinances even though, if the city is a third or fourth class city, the state law imposes limits on the exercise of the city's authority. It must be conceded, however, that rate regulation by ordinance has not been very effective, particularly in dealing with large utility systems serving many municipalities.

A franchise may contain provisions for the payment to the city of a franchise fee, which typically is fixed at a percentage of gross earnings within the city, but as a franchise fee it is a contract stipulation that must be agreeable to the parties. A few charters contain provisions requiring the payment of such a fee. The desirability of such a provision is debatable since in practical effect it becomes a charge upon utility consumers for the benefit of the taxpayers, but some would support such a provision on the same basis that they would support a tax on utility earnings. St. Paul's charter contains a typical provision of this kind: "Every corporation or person exercising any franchise . . . shall pay to the city a franchise fee in a sum equal to at least five percent of the gross earnings derived or accruing from the exercise or enjoyment within the city of the franchise. This section shall apply to every franchise granted prior to the adoption of this charter and to every other franchise unless the ordinance granting it exempts the grantee and others holding through or under them from the franchise fee."

Sec. 10.05. **Renewals or extensions.** While it is arguable that renewals should be for a shorter term, it seems wiser to leave this matter to the council, subject to the same restrictions as apply to original franchises.

Sec. 11.01. **Acquisition and operation of utilities.** The general authority stated here is presumably included in the comprehensive grant of power in Section 1.02. The section would subject any proposed acquisition or construction of a utility to a referendum on petition under the referendum provisions of the charter. If the charter commission wishes to provide a referendum in every case, something like the following might be substituted for the last sentence: "The city shall not acquire or construct any public utility unless the proposition to acquire or construct it has been approved by a majority of the electors voting on the proposition at a general or special election."

Sec. 11.02. **Regulations and rates.** This section is included to round out the municipal utility grant of authority. It can be omitted if desired.

Sec. 12.01. **Official publication.** In a city with more than one legal newspaper of general circulation, the requirement for annual designation means that the people are assured that all official publications of the city will be in that paper for at least a year. In rare circumstances, it may permit the city to secure bids or otherwise negotiate on price. The provision makes clear also that city publication need not be confined to matters that are legally required to be published.

Sec. 12.02. **Oath of office.** The oath given here is substantially that provided by Article 5, Sec. 8 of the state constitution and is required to be administered to any public officer by Minn. Stats. Sec. 358.05. It is included here for convenient reference and to name certain specific officers to whom the oath requirement applies.

Sec. 12.03. **Official bonds.** This section requires bonds of certain specific officers who can be expected to have access to city funds and it gives the council discretion as to the form of the bond.

Sec. 12.04. **Official interest in contracts.** This section in effect merely refers to the applicable state law, which applies only to those officers who have a discretionary part in the making of a contract. Some charters go beyond this provision to prohibit or regulate other contracts not within the scope of the state law. The 1971 St. Paul charter, for example, adds this language to the provision of the model section: "Any city officer or employee who has a direct or indirect financial interest in (1) any contract with the city not prohibited by the foregoing provision or any law or (2) any other matter with the city, shall make known that interest and shall refrain from voting upon or otherwise participating in his capacity as a city officer or employee in the making or performance of such contract or in taking official action on such matter. Any city officer or employee who willfully conceals such a financial interest or willfully violates the requirements of this section shall be guilty of malfeasance in office or position and shall forfeit his office or

position. Violation of this section with the express or implied knowledge of the person or corporation contracting with the city shall render the contract voidable by the city council or by a court of competent jurisdiction."

Sec. 12.05. **Sales of real property.** The requirement that sales be by ordinance presumably subjects the sale to the right of referendum on petition. If the charter commission thinks this is an unnecessary procedure in the light of the particular city's experience, the sentence may be omitted. The other provisions assume that since a capital asset is being sold, proceeds ought to be put to a capital use, with priority to paying off any debt attributable to the acquisition or improvement of the property sold.

Sec. 12.06. **Vacation of streets.** A street or alley vacation may have such drastic consequences for people directly affected and in some cases the general public that an extraordinary vote of the council and a public hearing are made requisites by this section. Some charters make a petition of a majority of abutting property owners a prerequisite, but such a requirement on occasion may prevent a vacation where an overriding public interest justifies the project. The words "other public grounds" permit vacation of utility easements, etc.

Sec. 12.07. **City to succeed to rights and obligations of former city.** This section, the next section, and the substance of Sec. 12.09 are largly covered by state law (Minn. Stats. Sec. 410.15). They are put here for completeness and to avoid a source of possible concern to the voters.

Sec. 12.10. **Ordinances to make charter effective.** This is a standard provision merely expressing the duty of the council to take the necessary steps to put the charter into effect.

Sec. 12.11. **Present officers continued.** This section is included to call attention to the fact that some provisions will be needed to secure an orderly transition to the new government. As drawn, the section assumes that except for the provisions relating to the election of a mayor and council, the new charter will not take effect until the new officers are elected and take office. Alterations will be required if a different schedule is contemplated for getting the charter into effect.

This section is related, of course, to the effective date provisions of Sec. 12.12.

Sec. 12.12. **Effective date.** Under the local government constitutional amendment of 1958 and Minn. Stats. Sec. 410.11, the charter becomes effective 30 days after adoption unless the charter fixes a later date. In many cases, the effective date section must be more complex, sometimes even fixing different effective dates for different parts of the charter. For example, if the charter changes the form of government, and increases or decreases the size of the council, the charter might make the main body of the charter effective when the new council takes office (or at an even later specified date) but make the election sections effective early enough to get the right officers chosen. This section should be spelled out carefully in the light of all circumstances.

Omissions from Charter

There are many subjects on which the model charter contains no provisions. Included among these are the following:

1. **Intergovernmental relations.** Some charters, including the model charter of the National Municipal League, contain a section authorizing the city to perform its functions jointly or in cooperation with other political subdivisions, states, and the United States. The subject seems amply covered by the intermunicipal or joint powers act, Minn. Stats. Sec. 471.59.

2. **Provisions establishing department heads, department structure, and other offices.** Apart from naming the city manager and clerk, the charter does not establish any administrative structure for the city. It has seemed more desirable to leave this to ordinance. Occasionally a charter commission will feel required by the politics of the local situation to continue some or all of the existing departments by name. This should be resisted for its inflexibility, but in any event it is best neither to define functions nor to set up the structure of named departments.

3. **Planning.** Except for the provisions on capital programming, the model charter omits all mention of planning, not because it is not an important subject but because the comprehensive planning law, Minnesota Statutes, Section 462.35, et. seq., seems adequate for the purpose. Charter provisions might be considered only in special circumstances: if a planning commission were to be required, not merely permitted; or its composition were to be fixed by charter; or if the charter were to make a choice among the alternatives otherwise permitted by the planning law. Should there be, for example, a board of zoning adjustments and appeal separate from the planning commission? Should its decisions be binding in any cases or merely recommendatory? Should the

council as well as the planning commission adopt the comprehensive plan? Unless the charter commission has strong views on any of these matters, it seems advisable to rely only on the planning law for local powers and responsibilities for planning. Implementation would then be left to the council.

4. **Charter commission membership.** Minn. Stats. Sec. 410.05, Subd. 1, authorizes a city to provide in its charter for fixing the size of the charter commission at seven to fifteen members, but apparently this may be done only by charter amendment, not the original charter. A city adopting a new or revised charter in the same manner as an original charter, as it is permitted to do under Minn. Stats. Sec. 410.24, ought to be able to include in it a section on charter commission size if it wishes since it could have adopted the section as a separate amendment and there is only a technical difference between the two situations.

Any section on this subject submitted as part of a revised charter or a separate amendment must recognize that, if the existing commission consists of fifteen members, the four-year terms of seven or eight members will be expiring at one time and the terms of the others will be expiring two years later. A city proposing to cut its charter commission to the minimum of seven might draft the amendment to decrease the number to eleven at the end of the first expiring terms and to seven two years later. The district judges would then appoint four instead of eight and three instead of seven.

5. **Annexation procedure.** Contrary to the situation in some other home rule states, a Minnesota city may not by charter annex land or regulate the procedure for annexation. This is exclusively a legislative matter in this state.

6. **Tort liability.** At one time cities could by charter curtail their tort liability by requirements for written notice of defects before the cause of accident arose. Such provisions have been made invalid by statute and the principles of municipal liability for torts are now embodied in state law applying to all municipalities (Minn. Stats. Ch. 466).

7. **Modification of special laws.** If there are any special laws applying only to the city, they should be examined to see how they square with the proposed charter. Where consistent with the charter, their provisions may be incorporated in the charter; if not, the charter commission should consider specifically superseding them. The Minnesota Constitution, Article XI, Section 2, authorizes a city by charter to modify or supersede a special law (But this does not prevent the legislature from adopting a later special law on the same subject). At any rate, it seems advisable to examine existing special laws in the light of the charter and to mention them specifically in the charter to avoid any difficulties of interpretation later. A simple section like the following should be adequate to replace special laws with charter provisions:

"Sec. 12.____. **Laws superseded.** The following laws specially applicable to the city are superseded by the provisions of this charter and made inapplicable to the city:

Laws 1947, Ch.____, relating to the tax levy of the city.

Laws 1957, Ch.____, as amended by Laws 1961, Ch.____, establishing the municipal election day.

If any special laws are to be continued, a section to accomplish this objective might read:

"Sec. 12.____. **Laws continued.** The following laws applicable to the city are expressly continued in effect and made a part of this charter, except that if any enumerated law denies to the city a power granted by this charter, this charter shall prevail to that extent:

Laws 1965, Ch.____, establishing a system of police pensions in the city.

Laws 1971, Ch.____, authorizing a bond issue for the construction of a city hospital without regard to the city's debt limit."

8. **Procedure for charter amendments.** The procedure by which the charter can be amended or revised is prescribed by Constitution and statute and, contrary to the situation in some states, no different provisions may be validly provided in the charter itself. As a matter of information to the people in showing that the charter is amendable by established procedures, some charters include a simple provision like the following:

"Sec. 12.____. **Charter amendments.** This charter may be amended or revised in any manner provided by law."

The statutory procedure is too detailed and it is subject to too frequent change to make it feasible to include all the statutory provisions in the charter.

9. **Veterans' preference.** State law (Minn. Stats. 197.45-.46) provides for veterans' preference in local government employment. These provisions may not be modified by a home rule charter. The only relevance of the statute for local charter commissions is in considering the establishment by charter of a formal civil service system. Veterans' preference may have a more substantial impact upon appointments and promotions in the city service if the city has "civil service" with a formal examination system than if it does not.

10. **Board of equalization.** Minnesota Statutes, Section 274.01 provides that the council of every city shall serve as a board of review of property tax assessments except where the charter provides for a board of equalization. Thus no section is needed in the charter on this subject unless the city wishes to provide for a board different from the council. A few cities do so, some using a committee of the council, some a board of designated city officers (sometimes including one or two councilmen); rarely, it is a board made up of lay citizens with special knowledge and experience. While the model charter omits any mention of this subject, an appropriate section can be added after Section 7.03 on the tax system if a special board of equalization is desired.

Appendix A

Alternate Provisions for a Strong Mayor-Council Plan

The conventional strong mayor-council plan places in the mayor substantially all the responsibility given the city manager in the model charter but provides for the kind of separation of powers between the executive and legislative found in the federal and some state governments. Thus the mayor is not given a position on the council but he is given a veto power over council legislation. Since he is an independently elected official, he is not as directly responsible to the council as the manager, who is a council appointee.

Because the elective system gives no assurance that the mayor elected under the strong mayor plan will have any professional or administrative competence, some such plans (Duluth and St. Cloud, for example) include charter provisions for a professional assistant to the executive under the mayor's control and supervision. Sample provisions of this kind are included in this appendix.

The strong mayor plan has the same merit as the council-manager plan in focusing administrative responsibility in a single executive and it appeals to those who believe that the chief executive of the city should be directly accountable to the people. Inherent in the system, however, is the possibility of executive-legislative conflict that may continue until it is resolved by the voters. Some recent charters have attempted to provide an alternate form in which the mayor is made president of the council and is given a stronger position of politicial leadership than under the traditional council-manager plan but management is placed in the hands of an administrator under the council, an administrator whose authority may be somewhat more circumscribed than the authority of a manager. See Appendix B for outlines of a model plan for such a mayor-council administrator form.

To provide a strong mayor plan, Chapter 6 on administration of city affiars will have to be rewritten. The initial section might then be begun as follows:

"Sec. 6.01. (assuming the charter commission does not want to put these provisions in a different chapter preceding the chapter on the council) Mayor's powers and duties. Subdivision 1. The executive power shall be vested in the mayor. Subject to the provisions of this charter and ordinances consistent therewith, he shall control and direct the administration of the city's affairs. Without limiting the generality of the foregoing, he shall have the powers and duties set forth in the following subdivisions:"

The other subdivisions can be taken (and renumbered) from Subdivision 2 and following subdivisions of the model charter, Section 6.02, with these exceptons:

Subdivisions 5 and 6 as renumbered would read:

"Subd. 4. He shall gave the right to attend council meetings and may take part in the discussion, but he shall not vote.

"Subd. 4. He shall make recommendations to the council and deliver messages to the council and the people, including a comprehensive message on the state of the city as soon after the beginning of his term as practicable."

New subdivisions might then be added before the last subdivision to read:

"Subd. 8. He shall appoint and may remove such professional and clerical assistants as the council may provide for his office."

"Subd. 9. He shall approve or veto ordinances and resolutions as provided in this charter.

"Subd. 10. He shall appoint, with the advice and consent of the council, members of such

advisory boards and committees as are established by him or by the council. Such members shall be removable as provided in the instrument establishing the board or committee."

The NML model suggests as an adequate brief provision on a professional assistant to the mayor, instead of or integrated with subdivision 8 above, the following:

"There shall be a city administrator (administrative assistant, or other title) who shall be appointed by and may be removed by the mayor. He shall be the principal managerial aide to the mayor and shall perform such duties as may be assigned to him by the mayor."

A few charters attempt to spell out the responsibilities of the administrative assistant in more detail, though this practice seems questionable as tending to insulate the assistant from the control of the mayor, who is intended to be responsible for the proper conduct of the city's affairs. Furthermore, mayors differ in their administrative style and, as the responsible executive, each mayor ought to be able to use the assistant in the way which suits him best. The St. Cloud charter adds minimal provisions to the NML type of suggestion. Under the St. Cloud provision, the administrative assistant is to be appointed "upon the basis of his qualifications" and to "devote his full time and undivided attention exclusively to his duties as Administrative Assistant; he may hold a position as the head of one or more municipal departments; he shall be responsible for the faithful and lawful performance of his duties solely to the Mayor, who shall be responsible for the acts of his appointee."

The Duluth charter spells out the duties of the administrative assistant in greater detail while attempting to keep the mayor's executive responsibility undiluted. Pertinent provisions of the Duluth charter include the following with reference to the responsibilities of the administrative assistant:

"Section 19 . . . The Administrative Assistant shall be the Mayor's principal assistant. He shall be appointed solely on his ability to perform the duties and functions of his office, as set forth in this charter, and shall have had, during the ten years immediately preceding his appointment, at least five years of successful experience as an executive or administrator such as would qualify him for the performance of these duties.

. . . The Administrative Assistant, under the supervision of the Mayor and subject to direction by the Mayor, shall supervise the heads of all departments, except the City Attorney; appoint, with the approval of the Mayor and the Council, and remove, with the approval of the Mayor, the heads of all departments; inform himself and keep the Mayor advised concerning the activities of all offices, departments and boards and make, or cause to be made, investigations and studies of the internal organization and procedure of any office or department, and may require such reports from any of them which he deems necessary; prescribe accepted standards of administrative practice to be followed by all offices and departments; prepare the annual operating and capital budgets, and supervise the execution of budget ordinances; make information available to the Mayor, the Council and the public concerning the current status of the financial affairs of the City and all offices, departments and boards receiving appropriations from the City; attend meetings of the Council at its request, and make available such information as it may require; perform all other duties required of him by this charter, or

by ordinance or assigned to him in writing by the Mayor.

"The Mayor, by prior written notice directed to the Administrative Assistant, may relieve the Administrative Assistant of any duties, powers or responsibilities granted the Administrative Assistant by the terms of this charter. Such written notice, signed by the Mayor, shall be filed with the City Clerk as a document of public record.

Sec. 21. At the head of each department there shall be an officer of the city, who shall have control and direction of the department subject to the general supervision of the Administrative Assistant. The head of each department shall, with the approval of the Administrative Assistant, have the power to appoint and remove all officers and employees of the department subject to the Civil Service provisions of this charter. Two or more departments may be headed by the same individual and the Administrative Assistant may head one or more departments, and heads of the departments may also serve as chiefs of divisions thereof as may be established by ordinance, upon recommendation by the Mayor. . .

The administrative assistant in Duluth, as is usual in such plans, is appointed by, and serves at the pleasure of, the mayor. He is, however, forbidden to take part in any municipal election campaign, and the council may remove him, on proof and after notice and hearing, for a violation of this prohibition.

The veto power included in conventional strong mayor charters and referred to in the suggested subdivision 9 above can be incorporated in a rewritten Section 3.08 as follows:

"Sec. 3.08. **Signing, filing, presentation to mayor, veto.**

Subdivision 1. **Presentation to mayor.** Every ordinance or resolution passed by the council shall be presented to the mayor within five business days after its passage for his approval or rejection. Within five business days after presentation, the mayor shall either sign the measure or return it to the council with a communication in writing stating his disapproval and the reasons therefor. If he neither signs nor vetoes the measure within five business days, it shall be deemed approved.

Subd. 2. **Item veto.** Any ordinance or resolution shall be approved or vetoed by the mayor in its entirety, except that any item in a measure appropriating money may be approved or vetoed.

Subd. 3. **Reconsideration and overriding veto.** Any ordinance or resolution or part of an appropriation measure which has been vetoed may be reconsidered by the council and shall become law if passed by an affirmative vote of at least five members within 30 days of the veto. Any ordinance or resolution or any part of an appropriation measure which has been reconsidered by the council and repassed shall be deemed approved."

The provision for five votes to override the veto assumes a seven member council. The figure should probably be four if the council consists of five members, six if it consists of nine.

The material in the quoted section above may be split into several sections if preferred and following sections renumbered accordingly.

If the strong mayor plan is to be included, the charter commission must go through the model carefully to adapt it throughout to the strong mayor concept. Section 2.03 should exclude the mayor from the council and provide an odd number of council members. Section 2.06 on the mayor should be omitted if a section like the quoted Section 6.01 in this appendix is included; instead of the sentence in Section 2.06 on the president pro tem, there should be included a provision for choosing both a president and a president pro tem from the council members. The mayor should be substituted for the manager at appropriate places throughout the charter.

Appendix B

Alternate Plan for City Administrator Under the Council

Some charter commissions, fearful that the council-manager plan vests too much authority in the manager but recognizing the need for direction of the city's administration by a single appointed executive under the council, have provided for such an officer in the charter or included a charter provision authorizing the council to appoint one. In either case duties are spelled out in much the same way as the duties of a manager. Principal exceptions are in (1) requiring approval by the council of appointments and removals made by the administrator (or even providing for council appointments and removals on recommendation of the administrator); (2) sometimes giving the administrator less control over preparing and administering the budget; (3) sometimes giving the council the duty of approving all purchases and contracts regardless of size; and (4) sometimes denying the administrator jurisdiction over certain departments.

When charter authority for an administrator (sometimes given a different title, like coordinator, executive assistant, administrative assistant) is merely permissive, the charter sometimes allows the council to set up the position by ordinance, sometimes requiring a popular vote first (which makes the step almost as difficult procedurally as using a charter amendment for the purpose). In some cases the charter does not spell out the duties but merely authroizes the council to do so by an ordinance consistent with the charter. In some charters, abolition of the position, once established by the council, would require approval of the voters; in others, either there are no restrictions on the council's authority in this respect or the council must act by ordinance subject to usual charter referendum provisions.

The more the authority of the administrator is diluted from conventional manager-plan responsibilities, the less likely it will be that the plan achieves the objectives of providing central control and supervision with proper responsibility both in the administrator and the council.

In any city in which the council is responsible for the executive departments (as in former villages) and the mayor is given no executive authority, the council may itself, without specific charter provision, provide for an administrator with supervision and control of the administration--subject, of course, to the ultimate responsibility of the council. A number of statutory cities have established this plan either by enlarging on the responsibilities of the clerk or givng these duties to a separate administrator.

Any charter commission wishing to include provisions for an administrator in the charter may secure representative actual charter provisions from the League on request.

Appendix C

Alternate Plans for Electing Councilmen

The model charter provides for election of all members of the council at large. This is the system used by virtually all former villages and about a third of the home rule charter cities in Minnesota. Slightly more than a third elect all their councilmen by wards (districts) and the rest use a combination system.

The provisions of Minnesota charters and the arguments for and against the ward system may be found in a League memo, "The Ward System of Election of City Councilmen", available to charter commissions on request. The arguments will not be reviewed here. It may be said as a generalization, however, that the smaller the city, the stronger the arguments against the ward system.

Where a substantial number of councilmen is elected together, voters often complain about their inability to focus their opposition on particular candidates, or to give effective support to one candidate except by "bullet voting", i.e. casting a ballot for the favored candidate and not voting for anyone else. The practice of bullet voting, if followed extensively, may result in the election of several candidates with only a plurality of the votes, even where the field of candidates has been narrowed by a primary election. To avoid these and other problems, some charter commissions may wish to consider applying the so-called "alley" (or "place") system, now used for judges in Minnesota, to council races. A sample provision of this kind is included in this appendix along with a sample plan for election by wards and another for a combination system. The "alley system" can be applied also to the at-large candidates under the combination plan. The more at-large positions to be filled at the same election, the more dissatisfaction there is likely to be with the usual free-for-all type of contest where each candidate runs against the whole field.

Election by Separate Position ("Alley System" or "ABC Filing")

Sec. 4.04. (Sec. 4.04 of model to be renumbered 4.05 if this section is included.) **Council positions.** No later than _____, 19___, the city council shall designate each council seat, whether occupied or not, by a separate letter of the alphabet and assign each incumbent to one of the seats. Each council seat so designated shall be a separate office for each subsequent city election. Any incumbent member of the council filing for re-election shall be a candidate only for that office of which he is the incumbent. Each person filing for the office of councilman shall state in his affidavit of candidacy which designated council seat he is a candidate for. Incumbency shall not be indicated on the ballot.

Election by Wards

Sec. 2.03. **Council composition and election.** The council shall be composed of a mayor, who shall be elected at large, and six councilmen who shall be elected by wards. Each councilman shall be a resident of the ward from which he is elected and shall serve for a term of four years and until his successor is elected and qualifies, except that at the first election held after the adoption of this charter the three councilmen-elect from the even-numbered wards shall serve for four years and the other three councilmen-elect shall serve for two years. The mayor shall serve for a term of four years and until his successor is elected and qualifies.

Comment: A possible alternate to the

exception in the second sentence might read: "except that at the first election held after the adoption of this charter, the three councilmen-elect having the highest ratio of votes to the number of registered voters in their wards shall serve for four years and the other three councilmen-elect shall serve for two years." Of course, if the city already has a biennial election system, four-year overlapping terms, and a ward system with the same number of councilmen, the exception is unnecessary. If all councilmen are to be elected at the same election, the overlapping term provisions should, of course, be omitted.

Sec.____ (Section can be inserted after sec. 2.03 or in chapter 4 of model) Wards.

Subdivision 1. **General requirements.** The council shall by ordinance adopted not later than _____, 19__, divide the city into wards. Wards shall be as equal in population as practicable and each ward shall be composed of compact, contiguous territory. Each councilman shall be a resident of the ward from which he is elected, but a change in ward boundaries does not disqualify a councilman from serving for the remainder of his term.

Subd. 2. **Redefining ward boundaries.** The council by ordinance may redefine ward boundaries after any regular municipal election. Within six months after the official certification of each federal decennial or special census, the council shall either confirm the existing ward boundaries as conforming to the standards of subdivision 1 or redefine ward boundaries to conform to those standards. Any ordinance establishing new ward boundaries shall apply to the first election held at least six months after adoption of the ordinance. If the council fails to take either action within the time required, no further compensation shall be paid to the mayor or councilmen until the wards of the city are redefined as required by this charter. No division or redivision of the city into wards shall be made until the council has held a public hearing on the proposed ordinance after one week's published notice.

Sec. 4.03. **Filing for office.** (There should be added to this section or at some other place the following sentence.) In addition to the candidates for offices to be filled by election at large, only the names of the candidates for councilman in one ward shall appear on the ballots for that ward.

Sec. 2.04. **Vacancies.** (The phrase "ceases to reside in the city" should have added to it some such phrase as "or, in the case of a councilman, the ward from which he was chosen." To avoid awkwardness, the sentence might then be broken by semicolons or numbers separating the various clauses.)

Comment: If there is no need for as many wards as there are councilmen, it may be more desirable to provide some at-large councilmen rather than provide for two or three councilmen from each ward. If the charter commission does decide to have two councilmen from a ward, overlapping terms within the ward should be provided under a four-year term system.

Some charters provide other methods to assure that redistricting is done as required. Even without any charter method of enforce-

ment, mandamus action can be brought to compel compliance with charter requirements.

Original ward boundaries may be included in the charter if the charter commission prefers; however, unless there is clear agreement on the matter, putting the original wards in the charter may be a source of substantial controversy in the charter campaign. If the city already has appropriate ward boundaries, they may be continued initially by a simple provision.

It is common practice to refer to ward councilmen as aldermen. The term can be substituted throughout the charter if the charter commission prefers.

Combination Ward-At-Large System

Sec. 2.03. **Council composition and election.** The council shall be composed of a mayor and six councilmen. The mayor and two councilmen shall be elected at large, and four councilmen shall be elected by wards. Each ward councilman shall be a resident of the ward from which he is elected and shall serve for a term of four years and until his successor is elected and qualifies, except as provided in this section. At the first election held after the adoption of this charter, the two councilmen-elect from the even-numbered wards shall serve for four years and the other two ward councilmen-elect shall serve for two years; and of the two councilmen elected at large, the one receiving the highest vote shall serve for four years and the other successful candidate shall serve for two years. The mayor shall serve for a term of four years and until his successor is elected and qualifies.

Comment: A city interested in the alley system may incorporate those provisions into this section for the at-large members if all are to be elected at once. The system may not have much appeal, even to its advocates, where only two are to be elected at any election.

The comment on Section 2.03 of the ward system alternative is also pertinent here.

Sec. _____. Wards. Substantially the same as in the ward system alternative. References to "councilman" or "alderman" should read "ward councilman" or "ward alderman" in appropriate places.

Sec. 4.03. Filing for office. Substantially the same as in the ward system alternative.

Sec. 2.05. Vacancies. Same as in the ward system alternative, except the substitution of "ward councilman" or "ward alderman" for "councilman."

Ward Filings with At-Large Election

A few cities in the country, including St. Cloud and possibly others in Minnesota, attempt to give ward representation with city-wide responsibility by allowing voters throughout the city to determine who shall be the ward councilman from each ward. Any voter may file for ward councilman but he competes only against other candidates living in his ward and the person among such candidates with the highest vote is elected even though his total vote might be smaller than an unsuccessful candidate in another ward.

There is some doubt about the constitutionality of this system in Minnesota. An 1891 special law adopting this plan for St. Paul was held unconstitutional as a violation of Article 7, Section 7 of the Minnesota Constitution. *State ex rel Childs v Holman*, 58 Minn. 219, 59 N.W. 1006 (1894). That section makes any voter "eligible to any office which now is, or hereafter, shall be elective by the people in the district wherein he shall have resided 30 days previous to such election, except as otherwise provided in this Constitution." The Court with one of the five judges dissenting, said that the special law added to the constitutional qualifications and this the legislature had no right to do. The case has been weakened as authority, however, because the local government amendment adopted in 1958 as Article XI of the constitution specifically states, "The legislature may provide by law for . . . local government units and their functions . . . for their officers, including qualifications for office, both elective and appoint-

ive", a fairly clear implication that the legislature may now add to the qualifications for local elective offices. It is at least arguable that a home rule charter, when not prohibited by law, may do whatever the legislature might have done with reference to municipal government, including its officers.

A variant of this plan is used in several local governments throughout the country, including Oakland, Cal. and Dade County, Florida. Under this scheme, the primary election is by districts but everyone votes at large on the district candidates in the general election and each district's top vote-getter is elected.

The St. Cloud plan can be included in the model charter by inserting substantially the following provisions:

Sec. 2.03. **Council composition and election.** The council shall be composed of a mayor, who shall be elected at large, and six councilmen. There shall be one councilman from each of the six wards who shall be chosen by all the voters of the city from candidates who reside in his ward. Each councilman shall serve for a term of four years and until his successor is elected and qualifies, except that at the first election held after the adoption of this charter, the three councilmen-elect from the even-numbered wards shall serve for four years and the other three councilmen-elect shall serve for two years. The mayor shall serve for a term of four years and until his successor is elected and qualifies.

Comment: The comment on Section 2.03 of the ward system alternative is also pertinent here.

Sec. ____. Wards. (Same as in the ward system alternative, p. 31.)

Sec. 2.05. Vacancies. (Same as in model that the phrase, "ceases to reside in th city" have added to it some such phrase as "or, in the case of a councilman, the ward for which he was chosen." To avoid awkwardness, the sentence might then be broken by semicolons or numbers separating the various clauses.)

The St. Cloud charter has a partial at-large system. Of the seven councilmen, four are "resident members" and three are members at large. The resident members must meet ward residence qualifications.

Appendix D

Selected League Memos of Interest to Charter Commissions

As part of its Information Service, the League of Minnesota Cities has available to municipal officials, including charter commission members, numerous memos and reports on a wide variety of municipal topics. Among those dealing with problems of interest to charter commissions are the following, listed by title and file number:

100a.1	Advantages and Disadvantages of a Home Rule Charter
100a.3	Minnesota Home Rule Charters Adopted Since 1920
100a.7	Principles and Problems of Charter Making
100a.8	Sources of Assistance to Charter Commissions
100c.1	Home Rule Charter Commission Procedure
130b1.3	Competitive Bidding Requirements - Notes
130d.1	Official Interest in Contracts
140a.1	Council Composition and Method of Election in Minnesota Cities
140a.2	The Ward System of Election of City Councilmen
180a.3	November City Elections - Odd or Even Years?
180h.1	Charter Provisions for Primary Elections
215d2.1	Debt Limits in Minnesota Cities
335b.1	Adoption of Codes by Reference
335c.1	Codification of Municipal Ordinances
369.3	The City Administrator
390e.1	Charter and Election Data on Minnesota Municipalities
390e.5	Form of Government of Home Rule Charter Cities in Minnesota
390e.8	Pros and Cons of Council-Manager Plan
415h1.1	Civil Service Systems and Merit Systems in Minnesota Municipalities
415h2.1	Merit System - Notes and Ordinances
415i.2	Some Statutory and Charter Provisions on the Removal of Elective Officers in Minnesota Units of Local Government
470a.1	Purchase and Sale of Real Property by Municipalities
515a1.3	Local Improvement Guide

Rev:
SGP:glb
7/77

SENT WITH PRELIMINARY AGENDA 4/27/84

Council minutes of 4/17/84.

Council minutes of 4/24/84.

Variance requests from Lincoln Companies for new retail center; Planning Comm. minutes of 4/23/84.

Planning Comm. minutes of 4/9/84.

Memo from Building Insp. re variance to sideyard setback.

Notice of Public Hearing for Impr. No. 64-B, Douglas Drive, 27th to 42nd.

Memo from City Attny. of 4/26 re parking ord. amendment; copy of ordinance.

Letter from Mary & Nancy's, Inc. re extension of bond requirements for one yr. at Mr. Bob's.

Res. revoking municipal state aid street for Winpark Drive.

Lease agreement with N.W. branch of Am. Red Cross for Thorson Comm. Center.

Letter from HRC re removal of James Brown.

HRC.minutes of 3/26 & 4/23/84.

Notice from PERA re Pension Equity Act.

Agreement betw. Rosenthal & Rondoni and City for legal services.

Budget time line.

Park & Rec. Adv. Comm. agenda for 5/2/84.

Zoning book additions.

SENT WITH AGENDA 5/1/84

Letter from Douglas Drive Family Physicians of 4/30 re Impr. 64-B.

Letter from Justice Realty, Inc. of 4/27/84 re Impr. 64-B.

Request for Proposals--Bass Lake Road/Becker Park Multiple Family Housing.

Letter of Resignation from Perry Miller from HRC.

COUNCIL AGENDA

May 1, 1984

Pursuant to due call and notice thereof, the regular meeting of the Crystal City Council was held on May 1, 1984, at 7:00 P.M., at 4141 Douglas Drive, Crystal, Minnesota. The Secretary of the Council called the roll and the following were present:

Councilmembers	Staff
✓ Herbes	✓ Irving
✓ Rygg	✓ Kennedy
✓ Schaaf	✓ Olson
✓ Pieri	✓ Sherburne
✓ Meintsma	✓ Peterson
✓ Aaker	✓ Deno
✓ Smothers	✓ Ahmann

✓ The Mayor led the Council and the audience in the Pledge of Allegiance to the Flag.

The minutes of the regular Council meeting of April 17, 1984 and the Special Meeting of April 24, 1984 were approved, with the following exceptions: _____

_____

_____.

CONSENT AGENDA

1. Set 7:00 P.M., or as soon thereafter as the matter may be heard, May 15, 1984, as the time and date for the public hearing at which time the City Council will sit as a Board of Adjustments and Appeals to consider a variance in the side street side yard setback to build an 18'x15' deck at 4701 Louisiana Avenue North.

2. Set 7:00 P.M., or as soon thereafter as the matter may be heard, May 15, 1984, as the time and date for the public hearing at which time the City Council will sit as a Board of Adjustments and Appeals to consider a variance in the side street side yard setback and also a variance to allow parking stalls to be 9' in width, and to allow a reduction of 212 stalls of the required 589 for the Lincoln Companies proposed retail center in the redevelopment project on Bass Lake Road and West Broadway.

CONSENT AGENDA (continued)

Moved by Councilmember _____ and seconded by Councilmember _____ to remove items _____, and _____ from the Consent Agenda. Motion Carried.

Moved by Councilmember A and seconded by Councilmember H to approve the Consent Agenda. Motion Carried.

REGULAR AGENDA

1. It being 7:00 P.M., or as soon thereafter as the matter could be heard, Mayor Meintsma declared this was the time and date as advertised for a public hearing, at which time the City Council will sit as a Board of Adjustments and Appeals, to consider a request from Lyle Tauer, for a variance to Section 515.07, Subd. 5(c) 1, to build a 24'x30' detached garage on the front half of the lot at 6820 - 32nd Avenue North. The Mayor asked those present to voice their opinions or to ask questions concerning the variance. Those present and heard were:

Moved by Councilmember A and seconded by Councilmember Sm to approve as recommended by and based on the findings of fact of the Planning Commission, the authorization to grant a variance, pursuant to Section 515.07, Subd. 5(c) 1, to allow the construction of a 24'x30' detached garage on the front half of the lot at 6820 - 32nd Avenue North, the south 167' of the East 100' of the West 205' of Auditor's Subdivision #110, except road, as requested in Variance Application #84-7A by Lyle Tauer.

Motion Carried.

Moved by Councilmember _____ and seconded by Councilmember _____ to (deny) (continue until _____ the discussion of) Variance Application #84-7A to allow the construction of a 24'x30' detached garage on the front half of the lot at 6820 - 32nd Avenue North. Motion Carried.

2. It being 7:00 P.M., or as soon thereafter as the matter could be heard, Mayor Meintsma declared that this was the time and date as advertised for the public hearing, at which time the City Council will sit as a Board of Adjustments and Appeals, to consider a request from Phillip S. Garon for a variance of 10.3' in the required 40' rear yard setback to build a 12'x16' porch at 5900 Medicine Lake Road. The Mayor asked those present to voice their opinions or ask questions concerning the variance. Those present and heard were:

Moved by Councilmember S and seconded by Councilmember H to approve the authorization to grant a variance, pursuant to Section 515.13, Subd. 4a, to allow the construction of a 12'x16' porch which will encroach 10.3' in the required 40' rear yard setback at 5900 Medicine Lake Road, as requested in Variance Application #84-12T by Phillip S. Garon. Motion Carried.

Moved by Councilmember _____ and seconded by Councilmember _____ to (deny) (continue until _____ the discussion of) Variance Application #84-12T to allow the construction of a 12'x16' porch which would encroach 10.3' in the required 40' rear yard setback at 5900 Medicine Lake Road. Motion Carried.

3. It being 7:00 P.M., or as soon thereafter as the matter could be heard, Mayor Meintsma declared that this was the time and date as advertised for the public hearing, at which time the City Council will sit as a Board of Adjustments and Appeals, to consider a request from John Knoff, for a variance of 2' in the required 5' side yard setback to build a 6'10" x 18' addition to his kitchen at 3549 Orchard Avenue North. The Mayor asked those present to voice their opinions or ask questions concerning the variance. Those present and heard were: John Knoff Chair.

5'10"x18'

Moved by Councilmember Roy and seconded by Councilmember A to approve, as recommended by and based on the findings of fact of the Planning Commission, the authorization to grant a variance pursuant to Section 515.13, Subd. 3 a)1) to allow the construction of a 6'10"x18' addition to the kitchen which would encroach 2' in the required 5' side yard setback at 3549 Orchard Avenue North, as requested in Variance Application #84-9T by John Knoff. Motion Carried.

Moved by Councilmember _____ and seconded by Councilmember _____ to (deny) (continue until _____ the discussion of) Variance Application #84-9T to allow the construction of a 6'10"x18' addition to his kitchen which would encroach 2' in the required 5' side yard setback at 3549 Orchard Avenue North.

Motion Carried.

4. It being 7:00 P.M., or as soon thereafter as the matter could be heard, Mayor Meintsma declared this was the time and the date as advertised for the public hearing, at which time the City Council will consider Improvement No. 64-B, road improvements for Douglas Drive from 27th Avenue North to 42nd Avenue North. The Mayor asked those present to voice their opinions or ask questions concerning the road improvement on Douglas Drive from 27th Avenue North to 42nd Avenue North. Those present and heard were: H.C. Dave Schmidt 1985 Vern Benzlinger Ricards Dave Castro 6319-36th Ave N. Adam Kramer 6318-36th Ave Harold Sherman-owner Eq. D.D. Harry Trebilcock 6410-36th Roy Rasmussen- m/m Al Achenpar-6326-36th Richard Dempsey 3219 DD Vern Klinkner 6310-36th Ave Richard Leaf 6310-36th Ave Perry Colher 36th Ave N. Reno Sciattos-Reno's Hardware Mary Lou Leaf 6310-36th Jim Price-Justice Realty Rick Herman-Medicine Shop-36th & D.D. Jerry Duran 3538 DD Bob Hart 3901 DD Ray Bordham 4849 DD Betty Lund 6403-36th Jim Cornell Frank Nicholay 6423-36th

① Moved by Councilmember S and seconded by Councilmember Sm to adopt the following resolution, the reading of which was dispensed with by unanimous consent:

RESOLUTION NO. 84-

RESOLUTION ORDERING STREET IMPROVEMENT PROJECT NO. 64-B

① St. Cons. Co. 64-B Pro. Res. adopted

By roll call and voting aye: ____, ____, ____, ____, ____, ____, ____; voting no: ____, ____, ____; absent, not voting: ____, ____. Motion Carried.

② A

③ Sm Moved by Councilmember ____ and seconded by Councilmember ____ to (deny) (continue until _____ the discussion of) Improvement No. 64-B, Road Improvements for Douglas Drive from 27th Avenue North to 42nd Avenue North.

④ Motion Carried.

5. The City Council considered fees for parking permits as part of the revised parking ordinance. Derick Sonkup 4736 ① Mr. Dean Patricia Mackey 3501 Kyle Roy Mackey 3501 Kyle Mr. Walgrave 4553 Xenia Judy Watson-4725 Xenia

② A

6. Dan Gallagher, the architect for the North Fire Station, appeared before the City Council to make a presentation on his plan for the new North Fire Station.

Res. next 84-29

7. The City Council considered a letter from Mary and Nancy's, Inc., (Mr. Bob's) regarding a year's extension of their bond requirements.

Moved by Councilmember ___ and seconded by Councilmember ___ to approve a one-year extension on the bond requirements, as requested by Mary and Nancy's, Inc., 6014 Lakeland Avenue North. Motion Carried.

Moved by Councilmember ___ and seconded by Councilmember ___ to (deny) (continue until _____ the discussion of) a one-year extension on bond requirements, as requested by Mary and Nancy's, Inc., 6014 Lakeland Avenue North. Motion Carried.

8. The City Council considered a resolution revoking the municipal state aid street designation to Winpark Drive from 32nd Avenue to 475' north of 32nd Avenue.

Moved by Councilmember ___ and seconded by Councilmember ___ to adopt the following resolution, the reading of which was dispensed with by unanimous consent:

RESOLUTION NO. 84-

RESOLUTION REVOKING MUNICIPAL STATE AID STREET

By roll call and voting aye: ____, ____, ____, ____, ____, ____, ____; voting no: ____, ____, ____, ____; absent, not voting: ____, ____, ____. Motion carried, resolution declared adopted.

Moved by Councilmember ___ and seconded by Councilmember ___ to (deny) (continue until _____ the discussion of) consideration of resolution revoking municipal state aid street designation to Winpark Drive from 32nd Avenue to 475' north of 32nd Avenue. Motion Carried.

Certified

9. The City Council considered a lease with the Northwest Branch of the American Red Cross for Room 116 at Thorson Community Center.

Moved by Councilmember H and seconded by Councilmember Jn to approve the lease of Room 116 at Thorson Community Center for the Northwest Branch of the American Red Cross. Motion Carried.

Moved by Councilmember ____ and seconded by Councilmember ____ to (deny) (continue until _____ the discussion of) the approval of a lease with the Northwest Branch of the American Red Cross from Room 116 at Thorson Community Center. Motion Carried.

10. The City Council considered the First Reading of an ordinance revising the animal ordinance to include pigeons.

no

Moved by Councilmember ____ and seconded by Councilmember ____ to adopt the following ordinance:

ORDINANCE NO. 84-

and further, that the second and final reading by held on May 15, 1984. Motion Carried.

11. The City Council considered the recommendation of the Human Relations Commission to vacate the seat held by James Brown on that commission.

no

Moved by Councilmember ____ and seconded by Councilmember ____ to vacate the seat held by James Brown as a member of the Human Relations Commission. Motion Carried.

Moved by Councilmember ____ and seconded by Councilmember ____ to (deny) (continue until _____ the discussion of) vacating the seat held by James Brown on the Human Relations Commission. Motion Carried.

12. The City Council considered the resignation of Perry D. Miller from the Human Relations Commission.

Letter sent 5/3/84

Moved by Councilmember A and seconded by Councilmember Ry to accept the resignation of Perry D. Miller from the Human Relations Commission, and further, to direct the City Manager to send him a letter of thanks and appreciation.

Motion Carried.

13. The City Council considered a tentative labor agreement with Local No. 320 (Communications Clerks).

Moved by Councilmember Ry and seconded by Councilmember Am to adopt the following resolution, the reading of which was dispensed with by unanimous consent:

RESOLUTION NO. 84-

A RESOLUTION RELATING TO A CONTRACT
WITH LOCAL NO. 320 (COMMUNICATIONS CLERKS)

By roll call and voting aye: _____, _____, _____, _____, _____, _____, _____; voting no: _____, _____, _____, _____; absent, not voting: _____, _____, _____.

Motion Carried.

Moved by Councilmember _____ and seconded by Councilmember _____ to (deny) (continue until _____ the discussion of) the labor agreement with Local No. 320 (Communications Clerks).

Motion Carried.

Moved by Councilmember A and seconded by Councilmember C to approve the list of license applications. Motion Carried.

Moved by Councilmember A and seconded by Councilmember H to adjourn the meeting. Motion Carried.

APPLICATIONS FOR LICENSE

May 1, 1984

SIGN LICENSES:

Andy's Instant Shoe Repair	11.25	B & R Transmission	11.25
Clark Oil & Refining	176.00	The Barbers	11.25
Crystal Cleaners	11.25	Bill's Economy Glass	11.25
Duke's Auto Body	33.75	Bungalow Liquor	28.87
Dumarks Garage	33.75	Bungalow Restaurant	41.92
Embers, Inc.	52.27	Country Kitchen	22.98
Greatclips, Inc.	11.25	Crystal Marine	22.50
Kentucky Fried Chicken	90.00	Douglas Drive Pharmacy	22.50
Midway Uniform	22.50	Fire Control Extinguisher	11.25
MN Foam & Products Co.	11.25	Golden Skillet	22.50
Northside Appliance	11.25	Gourmet Pizza	45.00
Northwestern Bell	22.50	J's Pizza	33.75
Orbit Glass Co.	22.50	Jerry's Barber Shop	11.25
Quality Auto Clean Ctr.	11.25	Kidsmart	33.75
Rapid Oil Change	22.50	Lamplighter Apartment	11.25
S & K Appliances	22.50	Melrose Floor Company	11.25
Adventures In Video	11.25	Motor Parts	45.00
Adventures In Video	22.50	Naegele Outdoor Advert.	593.13
Arby's Restaurant	85.12	Nicklow Bros.	71.31
Arnolds Hamburger Grill	41.61	Norling Motors	33.12
Carl's Tire Service	78.75	Northside Cleaners	11.25
Chalet Liquor City U.S.A	22.50	Office Terrace	37.11
Crystal Care Center	11.25	Panache Coat Factory	11.25
Crystal Doctors Park	22.50	Payless Shoe Company	11.25
Crystal Shopping Ctr.	12.36	Pilgrim Cleaners	33.75
Fashion Fabrics	11.25	Suburban Motel	64.11
H & R Block Tax Service	11.25	Superamerica	11.25
Iron Horse	36.48	Superamerica	33.75
Jiffy Lube	33.75	Tax Consultants	11.25
Lesco, Inc.	22.50	Tri Way Realty	11.46
Maxwell Aircraft Service	34.86	United Properties	11.25
Mr. Bob's Inc.	17.19	Village Builders	11.25
Paddock Bar & Lounge	48.22	Waterbed Room	33.75
Photo Time	33.75	Eugene F. Welter	11.25
Pro-Air Aviation	36.48	Woodbridge Apt.	33.75
Royal Crown Motel	11.25	The Barbers	11.25
Sinclair Marketing, Inc.	83.18	Crystal Barbers	22.50
Spa Petite	22.50	Carpet Remnant King	31.26
Stevenson Edwards & Assoc.	11.25	Crystal Medical Center	78.75
T. L. Systems Corp.	11.25	Far View Company	23.61
Tally Ho Cafe	32.47	Frame Yourself	11.25
Thunderbird Aviation	67.71	Douglas Court Apt.	11.25
Vera Slater Beauty School	22.50	Norcostco, Inc.	31.80
Welcome Furniture	22.50	The Spool Cabinet	11.25
Adair Liquors	56.25	Task Force, Inc.	11.25
Anderson Floral	11.25		
Anthony's Shopping Center	34.56		

APPLICATIONS FOR LICENSE

May 1, 1984

FOOD ESTABLISHMENT - Itinerant ($27.50 1st day, $11.00 each addnl day)

Little Audrey's Popcorn, one day only May 13, 1984
At Crystal Airport.

FOOD ESTABLISHMENT - Exempt

Crystal Babe Ruth Baseball League, 62nd and Regent.

POOL - Outdoor ($66.00)

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Winnetka Village Apts, 7710 36th Ave.No.

POOL - Indoor ($110.00)

Lamplighter Apts, 2900 Douglas Drive (2)

SIGN HANGERS ($66.00)

Lawrence Signs, Inc.
William N. Miller dba Suburban Sign Company

SIGN LICENSES CONT.:

Brownberry Ovens	45.00
MCC Investments	14.02
Metropolitan Gold & Silver	11.25
MN Ohio Oil Corp.	11.25
MN Ohio (Douglas Drive)	22.50
Parnell Cleaners	56.25
Reno's Hardware	22.50
The Great Northwestern Hair	15.00
Thompson Air Inc.	11.25
Twin Lake North Condominium	22.50

April 27, 1984

Councilmembers:

The major item for Tuesday night's meeting, I am certain, will be the public hearing on Douglas Drive. As you may or may not know, we have had the plan on the wall in the Engineering Department since the public hearing was set and many people have come in to view it. All sorts of comments have been made, more specifically, about 36th Avenue. There have been enough comments made so that we are fairly certain people will be present for the public hearing. The County personnel will be here to assist and present their plan.

There are some items of note on the rest of the agenda, but none that should take a great deal of time. The meeting should go somewhat as follows:

The minutes of the regular meeting of April 17, 1984 and the minutes of the Special meeting (work session) of April 24, 1984, are enclosed for your review.

Consent Agenda

ITEM	SUPPORTING DATA
1. Set Public Hearing for consideration of a request from John Malerich for a variance to build an 18'x15' deck at 4701 Louisiana Ave. N.	None.
2. Public Hearing to consider a request by Lincoln Companies for variances in setback requirements and parking requirements for the proposed retail center in the redevelopment project on Bass Lake Road and West Broadway.	Copy of various requests; Planning Commission minutes of Special meeting of 4/23/84.

The two items on the Consent Agenda merely set public hearings but I want to call your attention to Item #2 which is for the variances requested by Lincoln Properties for the retail center in the Bass Lake Road/Becker Park project. I have included copies of the various requests and a copy of the minutes of the Planning Commission Special meeting at which they recommended approval of the variances with some changes. The changes they made were agreed to by the developer.

2. (Continued)

Because of the placement of Douglas Drive, in order to miss Carl's property on the south, the need for the 2' setback variance may be eliminated. As yet, the actual precise placement of Douglas Drive has not been made. Hopefully, that will be accomplished prior to the public hearing so that you will have benefit of that information when you make your decision.

The regular meeting should go as follows:

Regular Agenda

1. Public Hearing to consider a request from Lyle Tauer for a variance to Section 515.07, Subd. 5 c)1), to build a 24'x30' detached garage on the front half of the lot at 6820 - 32nd Ave. N.	Planning Commission minutes of 4/9/84, item 5.
2. Public Hearing to consider a request from Phillip S. Garon for a variance to add a 12'x16' porch which would encroach 10.3' in the required 40' rear yard setback at 5900 Medicine Lake Road.	None.
3. Public Hearing to consider a request from John Knoff for a variance to build a 6'10"x18' addition to his kitchen which would encroach 2' in the required 5' side yard setback at 3549 Orchard Ave. N.	Planning Commission minutes of 4/9/84, item 9; memo from Building Inspector.

It is my understanding that we gave you a copy of Don Peterson's memo on this item when we set the public hearing, and we have also included it in this packet.

There is some concern that the addition could be made without a variance and that at the present time there is no conflict with the next-door neighbor, but the next-door neighbor has a right to build up to 5' off his property line without a variance and this does reduce the fire protection provided for, with the 5' setback. Staff's opinion is that you should consider this very seriously before making a decision.

4. Public Hearing to consider Improvement No. 64-B, Douglas Drive from 27th Avenue N. to 42nd Avenue North.	Notice of Public Hearing.

As I indicated earlier, we expect people in to discuss this proposal with you. County staff will be present.

5. Consideration of fees for parking permits as part of the revised parking ordinance. — Memo from City Attorney of 4/26/84; copy of ordinance.

I would like to call your attention to read very thoroughly the additional information that was put in the amendment. You may or may not be in agreement with what is written there. Discussion should be held on that before this is published. We certainly want to have exactly what you want in there. At this time we're not clear. I am sure it all can be clarified on Tuesday evening.

6. Consideration of a letter from Mr. Bob's Liquors, Inc. regarding a year's extension of their bond requirements. — Letter from Mr. Bob's Liquors, Inc. dated 4/12/84.

Either Nancy or Mary will be in to present their reasons.

7. Consideration of a resolution revoking the municipal state aid street designation to Winpark Drive from 32nd Ave. to 475' north of 32nd Ave. — Copy of resolution.

Winpark Drive was designated on the state aid list to accommodate New Hope. New Hope has dropped their designation. Only one-half of the street cannot be designated, so we are recommending you drop ours.

8. Consideration of a lease with the Northwest branch of the American Red Cross for Room 116 at Thorson Community Center. — Copy of lease.

9. Consideration of the First Reading of an ordinance revising the animal ordinance to include pigeons. — None.

Dave is not certain that he will have an amendment drafted for the animal ordinance regarding pigeons, but he will make every effort to do so. If it is not ready on Tuesday evening, we can just drop the First Reading and do it at the next meeting.

10. Consideration of the recommendation of the Human Relations Commission to remove James Brown as a member of that Commission. — Letter from Human Relations Commission re James Brown.

11. Consideration of a tentative labor agreement with Local #320 (Communications Clerks). — Comparison of other Communication Clerks in the area.

The tentative settlement with Local #320 was reached somewhat in line with settlements with other Unions, plus those with non-organized employees. A settlement

11. (Continued)

reached would require a 9% across-the-board increase on all steps, plus an additional $20 on each step and a change in severance pay from 1/4 of the unused sick leave to 1/3 of the unused sick leave. The additional $20 takes into consideration there will be no increase in City participation in the medical health policies.

That should take care of the agenda as we see it now. I have included some additional items for your information. I call your attention to Item #4--budget time line. We thought it may be helpful if the Council knows what time line we use as staff in the preparation of the budget. The items included are:

1. Human Relations Commission minutes of 3/26/84 and 4/23/84.
2. Notice from PERA re Pension Equity Act.
3. Copy of legal services agreement between Rosenthal & Rondoni, Ltd., and the City of Crystal.
4. Budget time line.
5. Park & Rec. Adv. Comm. agenda for 5/2/84.
6. Zoning book additions.

See you Tuesday.

J A C K

da
enc.

P.S. Dan Gallagher, the architect on the Fire Station, was in and is ready to make his presentation on his plan for your approval. As I have indicated to some of you, Dan's estimates are much higher than what the planners had told us the costs would be some two years ago. We will discuss that with you on Tuesday evening. Dan will have all the supporting data to pass out Tuesday evening.

APPLICATIONS FOR LICENSE

May 1, 1984

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APPLICATIONS FOR LICENSE

May 1, 1984

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Thompson Air Inc.	11.25
Twin Lake North Condominium	22.50

April 30, 1984

Dear Councilmembers:

All day Friday I was sure I had forgotten something for the preliminary agenda, and while I was shaving this morning I realized I forgot to tell you that I fully intended to have one bond and financial consultant in to make a presentation, per your request at the last regular Council meeting.

The representative of the firm that will be in is out of town for the first part of this week and could not attend Tuesday night's meeting. He will, however, be available and present for the May 15 meeting.

See you tomorrow night.

J A C K

da

DUE DATE: NOON, WEDNESDAY
APRIL 25, 1984

MEMO TO: John T. Irving, City Manager

FROM: John A. Olson, Assistant City Manager

ACTION NEEDED MEMO: From the April 17, 1984, Council Meeting

The items listed below are the actions requested by the City Council at their regular Council meeting of April 17, 1984. These items should be taken care of by noon, Wednesday, preceding the next regularly scheduled Council meeting and returned to the Assistant City Manager for his review.

CONSENT AGENDA

DEPARTMENT	ITEM	
ASST. CITY MGR.	1.	Set public hearing to consider a request for a variance at 6820 - 32nd Avenue North. ACTION NEEDED: Place item on May 1, 1984, Council Agenda. ACTION TAKEN: Item placed on May 1, 1984 Council Agenda.
BLDG. DEPT.		ACTION NEEDED: Notify affected property owners. ACTION TAKEN: Person notified.
ASST. CITY MGR.	2.	Set public hearing to consider a request for a variance at 5900 Medicine Lake Road. ACTION NEEDED: Place item on May 1, 1984, Council Agenda. ACTION TAKEN: Item placed on May 1, 1984, Council Agenda.
BLDG. DEPT.		ACTION NEEDED: Notify affected property owners. ACTION TAKEN: Property owners notified.

Consent Agenda (continued)

DEPARTMENT	ITEM	
ASST. CITY MGR.	3.	Set public hearing to consider a request for a variance at 3549 Orchard Avenue North. ACTION NEEDED: Place item on May 1, 1984, Council Agenda. ACTION TAKEN: Item placed on May 1, 1984, Council Agenda.
BLDG. DEPT.		ACTION NEEDED: Notify affected property owners. ACTION TAKEN: Property owners notified.
ASST. CITY MGR.	4.	Set public hearing to consider a request for tentative approval at 4615 Hampshire Avenue North (St. James Addition). ACTION NEEDED: Place item on May 15, 1984, Council Agenda. ACTION TAKEN: Item to be placed on May 15, 1984, Council Agenda.
CITY ENGINEER		ACTION NEEDED: Notify affected property owners. ACTION TAKEN: Notice to be published 5-3-84.

REGULAR AGENDA

BLDG. INSPECTOR	1.	Consideration of setting surety and authorizing issuance of building permit for a 50'x120' addition at the Crystal Shopping Center. ACTION NEEDED: Issue building permit subject to signed agreement. ACTION TAKEN: Permit issued.
CITY ENGINEER	2.	Set surety in the amount of $5,000 for building permit approval at Brunswick Methodist Church, 6122 - 42nd Avenue North. ACTION NEEDED: Receive bond and sign agreement. ACTION TAKEN: Receipt of bond and agreement pending.

Item 2 (continued)

DEPARTMENT	ITEM	
BLDG. INSPECTOR		ACTION NEEDED: Issue building permit subject to receipt of bond and signed agreement. ACTION TAKEN: Permit issued.
CITY MANAGER	3.	Appearance by Wayne Burggraaff regarding bonds and financial services for the Bass Lake Road project. ACTION NEEDED: Contact one other bond and financial service for pricing and a proposal. ACTION TAKEN: Additional bond consultant contacted to appear at May 15, 1984 meeting.
ASST. CITY MGR.	4.	Consideration of Second Reading of an ordinance changing the parking ordinance in the City of Crystal. ACTION NEEDED: Place item on May 1, 1984, Council Agenda for consideration of fees for permit. ACTION TAKEN: Second Reading placed on May 1, 1984, Council Agenda.
CITY CLERK		ACTION NEEDED: Delay publishing of ordinance until fees are set for permits. ACTION TAKEN: Noted.
CITY ATTORNEY		ACTION NEEDED: Revise wording of ordinance to incorporate the amendments regarding the banning of parking between December 1 and March 31 from 3 a.m. to 6 a.m. and special permits after that. ACTION TAKEN: Under revision.
BLDG. DEPT.	5.	Consideration of a request for a building permit for five 4-plexes at 3335-37-39-41-43 Nevada Avenue North. ACTION NEEDED: Issue building permits. ACTION TAKEN: Permits issued.

DEPARTMENT	ITEM	
CITY ATTORNEY	6.	Consideration of a request from Lee Rogers concerning the keeping of pigeons in the City. ACTION NEEDED: Revise ordinance to include pigeons. ACTION TAKEN: Under revision.
HEALTH DEPT.		ACTION NEEDED: Comment on the keeping of pigeons in the City and any necessary health rules and regulations which would apply. ACTION TAKEN: No comments at this time.
BLDG. DEPT.	7.	Consideration of waiver of fee for portable sign for the MS Society Airlift May 7 through May 13. ACTION NEEDED: Issue permit with waiver of fee. ACTION TAKEN: Waiting for application.
PARK & REC. DIRECTOR	8.	Consideration of a request from the New Hope-Crystal Aquatic Club for the use of the Municipal Pool on July 28 and 29. ACTION NEEDED: Notify Aquatic Club of Council approval. ACTION TAKEN: Notified 4-23-84.
PARK & REC. DIRECTOR	9.	Consideration of a request to use Welcome Field for a softball tournament June 2 and 3. ACTION NEEDED: Notify Westphal American Legion Post of Council approval of use of field. ACTION TAKEN: Applicant present at meeting.
CITY MANAGER		ACTION NEEDED: Discuss with American Legion Post the subject of blocking off Welcome Avenue for ease of pedestrian crossing. ACTION TAKEN: Under discussion.

DEPARTMENT	ITEM	
FINANCE DEPT.	10.	Consideration of a resolution allocating funds from PIR for Curb Improvement Project #63-C. ACTION NEEDED: Allocate funds from PIR, Part B. ACTION TAKEN: Allocation noted from PIR.
CITY ENGINEER		Consideration of a resolution awarding bid for Improvement Project #63-C. ACTION NEEDED: Notify low bidder of Council approval. ACTION TAKEN: Sent 4-18-84.
CITY ENGINEER	11.	Consideration of bids for street maintenance materials. ACTION NEEDED: Notify low bidders of Council approval. ACTION TAKEN: Sent 4-18-84.
CITY ENGINEER	12.	Consideration of bids for bleachers. ACTION NEEDED: Notify low bidders of Council approval. ACTION TAKEN: Sent 4-18-84.
CITY ENGINEER	13.	Consideration of awarding contract to Midwest Paving Management for the evaluation of pavement. ACTION NEEDED: Notify company of Council approval. ACTION TAKEN: Sent 4-18-84.
CITY CLERK	14.	Consideration of Second Reading of an ordinance relating to transient merchants. ACTION NEEDED: Publish ordinance with the adjusted fees. ACTION TAKEN: Sent for publishing.

DEPARTMENT	ITEM	
CITY MANAGER	15.	Consideration of the resignation of Kevin Lytle from the Park & Recreation Advisory Commission. ACTION NEEDED: Send letter of thanks and appreciation. ACTION TAKEN: Letter sent 4-18-84.
	16.	Consideration of a memo from the Park and Recreation Advisory Commission regarding Crystal Green Addition. ACTION NEEDED: No action.
CITY MANAGER	17.	Consideration of setting a special meeting with the HRA to discuss projects and problems. ACTION NEEDED: Notify HRA of Council setting tentative date of May 3 for a meeting. ACTION TAKEN: HRA to be consulted on May 7, 1984 meeting with Council.
CITY CLERK	18.	Licenses. ACTION NEEDED: Issue licenses. ACTION TAKEN: Licenses issued.

ORDINANCE NO. 84-6
AN ORDINANCE

RELATING TO PARKING OF MOTOR VEHICLES:
AMENDING CRYSTAL CITY CODE,
SUBSECTION 1310.07.

THE CITY OF CRYSTAL DOES ORDAIN:

Section 1. Crystal City Code, Subsection 1310.07, is amended to read:

1310.07. Parking Times. Subdivison 1. General Rule. A vehicle may not be parked within the City on any public street or alley ~~for a continuous period of time in excess of six hours~~ between the hours of 3:00 a.m. and 6:00 a.m. on any day ~~nor on the north side of Bass Lake Road between Elmhurst Avenue and Hampshire Avenue for a continuous period of time in excess of two hours between the hours of 8:00 a.m. and 7:00 p.m. on any day except Sunday~~. A truck may not be parked on any public street, avenue, alley, or other public way for a continuous period of more than two hours unless actually engaged in loading or unloading in the due course of business. For purposes of this Section, the term "truck" means a self-propelled motor vehicle not operated on rails, having capacity of one and one-half tons or more, or any tractor or trailer or combination thereof.

Subd. 2. Parking: Temporary Permits. During the period from April 1 to November 30 the City Manager is authorized to issue temporary permits for the parking of a vehicle on a street between the hours of 3:00 a.m. to 6:00 a.m. when in his judgment special circumstances exist justifying the issuance of the temporary permit and the purposes of this section will not be impaired thereby. The permit shall be issued for a specific motor vehicle at a specific residential dwelling unit and shall be prominently displayed in the interior of the vehicle. A temporary permit issued under this subsection is not transferable to another vehicle. One temporary permit may be issued under this subsection without a fee. The fee for the issuance of additional temporary permits under this section is $10.00 for each permit.

Sec. 2. This ordinance is effective in accordance with Crystal City Code, Subsection 110.11.

_____
Mayor

Attest:

_____
Clerk

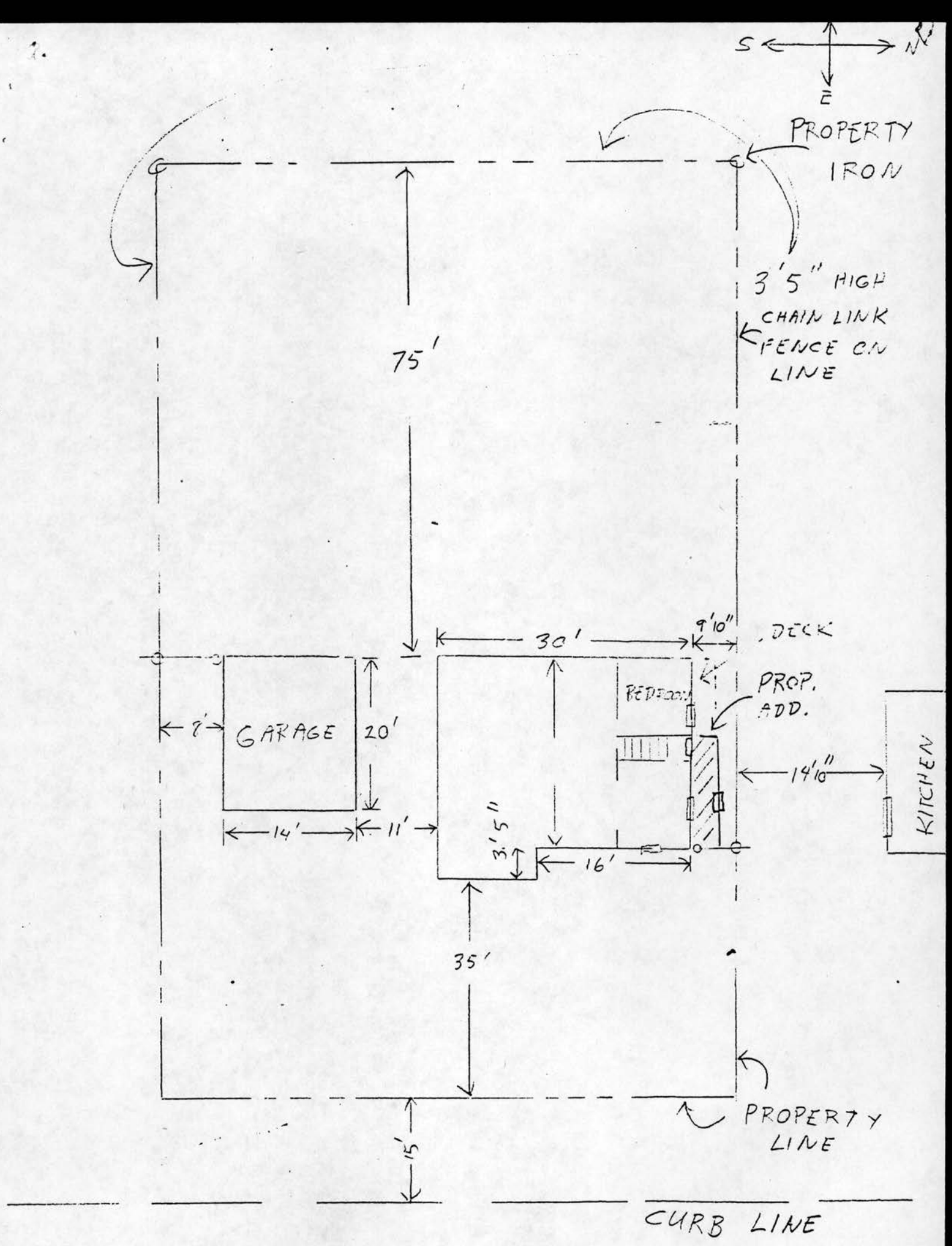
M E M O R A N D U M

TO: Jack Irving, City Manager

FROM: Don Peterson, Building Inspector

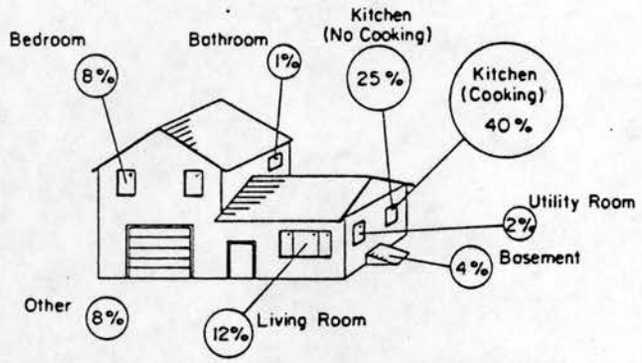
RE: Variance to side yard setback

At last nights Planning Commission Meeting, Variance #84-9T for a two foot encroachment in the required five foot side yard setback, was approved on a split vote. I was surprised at the approval for various reasons. The first and most obvious one is the establishment of a precedent. Secondly, the applicant does have enough room to add eight feet to the front without the need to go through the variance proceedings. This was pointed out to the applicant by my assistant, Bill Barber, when he was reviewing the application. Lastly, the kitchen represents the most hazardous fire area of the single-family dwelling. Enclosed is an excerpt from Fire Protection Planning Report and a copy of the applicant's site plan. If the City Council does decide to grant the variance request, it is my desire that they condition it by the omitting of the window. My reasoning is that the neighbor could also ask for a similar variance and the risk of fire spreading from one dwelling to the other would be lessened to some degree by omitting the window.



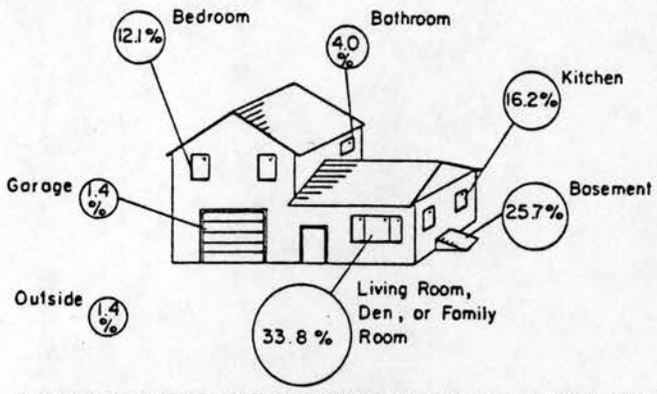
INT. LOT SITE PLAN 3549 ORCHARD AVE.

Fig. 1 Where Fires Start
(All household fires: fatal and non-fatal)



Derived from *"Highlights of the National Household Fire Survey."* U.S. Department of Commerce, National Fire Prevention and Control Administration.

Fig. 2 Where Fatal Residential Fires Start



From *"A Study Of Fatal Residential Fires,"* NFPA No. FR72-1, 1972.
© 1972 National Fire Protection Association.

houses is gaining acceptance as new building systems bring down costs. Using noncombustible building materials in a single-family dwelling offers several advantages. One is energy conservation. Concrete and masonry add thermal mass that helps lower fuel bills and reduce required levels of insulation. Passive solar designs that take advantage of this mass effect, as well as earth sheltered housing, are now quite popular. Another advantage is firesafety. Noncombustible materials will not add fuel to a fire nor support combustion in concealed spaces. They do not generate toxic gases or smoke and will act to confine and limit fire to the area of origin.

This report will examine the firesafety problems found in single-family homes and suggest ways to improve firesafety through proper design and construction. It will also explore new materials and systems that are making the use of firesafe noncombustible materials easier and less costly.

Where, When, How of Dwelling Fires

The first step will be to examine fire-loss statistics and the characteristics of residential fires. The "how" or causes of dwelling fires are presented in Table 2. Heating is the leading cause of fire, smoking the leading cause of deaths, cooking the leading cause of injuries, and arson the leading cause of property loss.

The time when dwelling fires are likely to occur is related to the leading causes. Most heating fires, for instance, occur between the hours of 5:00 a.m. and 3:00 p.m. and again between 6:00 p.m. and midnight. Cooking fires usually occur in late afternoon hours between 3:00 p.m. and 6:00 p.m. Arson fires are started after midnight to about 5:00 a.m. when detection is least probable. Fatalities usually occur at night when the occupants are asleep and are not immediately alerted to fire, smoke, and toxic gases spreading throughout the dwelling.

Where do dwelling fires start? These data are presented in Fig. 1, which was taken from the 1974 report, "Highlights of the National Household Fire Survey."[1] Data on the origin of fatal residential fires, presented in Fig. 2, were taken from the 1972 report, "A Study of Fatal Residential Fires."[2] Fig. 1 indicates that 65% of all fires start in the kitchen. Next is the living room with 12%. However, Fig. 2 shows nearly 40% of fatal fires begin in the living room, den, or family room, and the basement accounts for almost 26%. Although only 4% of all fires start in the basement, they are responsible for nearly 26% of all fatal fires. This indicates the severe danger associated with fire in basements.

Table 1. Federal Emergency Management Agency Estimates of Fire Loss by Type of Occupancy—1981

Causes	Fires	Deaths	Injuries	Property Loss
Dwellings	52%	64%	50%	27%
Apartments	14%	17%	16%	7%
Mobile Homes	3%	9%	3%	14%
Other Residential	2%	4%	4%	2%
Total Residential	71%	94%	73%	50%
Other Structural	29%	6%	27%	50%
	100%	100%	100%	100%
Total Structural	1,003,775	6,491	27,685	$5,910,593,000

Table 2. Federal Emergency Management Agency Estimates of 1981 Causes of Fire Losses in Dwellings

Causes	Fires	Deaths	Injuries	Property Loss
Heating	30.6%	12.5%	14.3%	17.5%
Cooking	14.5%	5.4%	19.8%	5.8%
Incendiary/Suspicious	9.9%	8.4%	7.8%	18.5%
Smoking	5.7%	25.5%	14.3%	6.4%
Electrical Distribution	7.0%	6.6%	6.4%	10.5%
Other	32.3%	41.6%	37.4%	41.3%
	100.0%	100.0%	100.0%	100.0%
Total Dwelling	522,175	4,144	13,851	$1,602,693,000

Basement Fires

The large number of fatalities resulting from basement fires should be a major consideration in

Mr. Bob's Liquors, Inc.
6014 Lakeland Ave., No. Crystal, Mn. 55428

4-12-84

Honorable Mayor and Council members.

At this time we would like to apply for a one year extension for our parking lot, which was supposed to begin this spring.

Financially due to weather conditions this past winter and the economy, we find ourselves unable to begin the project as early as planned.

We also find that a new roof is needed and we were unaware of this when we purchased the bar.

We would appreciate your consideration in this matter.

Best regards,

Nancy Snyder
Barry Sahlen

WAGE RATES

DISPATCHER

EMPLOYER	'83 MIN	'83 MAX	'84 MIN	'84 MAX
Burnsville	1236	1577		
Crystal	1208	1502	(1337	1657 Proposed)
Cottage Grove	1221	1342		
St. Louis Park	1208	1620	1280	1717
West St. Paul	1149	1396	1206	1465
Golden Valley	1269	1648	1333	1731
New Hope	1269	1648	1333	1731
Brooklyn Center	1286	1636	1350	1717
Richfield	1235	1647	1377	1781
[1]Maplewood	1286	1563	1263	1579
Robbinsdale	1218	1455	1279	1528
Hopkins	1266	1545		

1-Maplewood established a longevity program of 3%-5%-7%-9% effective 1-1-84

LeFevere
Lefler
Kennedy
O'Brien &
Drawz

A Professional
Association

2000 First Bank Place West
Minneapolis
Minnesota 55402

Telephone 612-333-0543

Clayton L. LeFevere
Herbert P. Lefler
J. Dennis O'Brien
John E. Drawz
David J. Kennedy
John B. Dean
Glenn E. Purdue
Richard J. Schieffer
Charles L. LeFevere
Herbert P. Lefler III
Jeffrey J. Strand
Mary J. Bjorklund
John G. Kressel
Dayle Nolan
Cindy L. Lavorato
Michael A. Nash
Brian F. Rice
Lorraine S. Clugg
James J. Thomson, Jr.
James M. Strommen
Mary C. Nielsen

April 26, 1984

Mr. John T. Irving
City Manager
City of Crystal
4141 Douglas Drive North
Crystal, Minnesota 55422

Re: Parking Ordinance

Dear Jack:

Enclosed you will find a redrafted copy of the parking ordinance which the Council acted on at its last regular meeting.

I think the text carries out the intention of the Council as I understand it. I also understand that the fee for the permit will be agreed upon at Tuesday's meeting.

Yours very truly,

David J. Kennedy

David J. Kennedy

DJK:caw
Enclosure

ORDINANCE NO. 84-6

AN ORDINANCE

RELATING TO PARKING OF MOTOR VEHICLES:
AMENDING CRYSTAL CITY CODE,
SUBSECTION 1310.07.

THE CITY OF CRYSTAL DOES ORDAIN:

Section 1. Crystal City Code, Subsection 1310.07, is amended to read:

1310.07. Parking Times. Subdivision 1. General Rule. A vehicle may not be parked within the City on any public street or alley ~~for a continuous period of time in excess of six hours~~ between the hours of 3:00 a.m. and 6:00 a.m. on any day ~~nor on the north side of Bass Lake Road between Elmhurst Avenue and Hampshire Avenue for a continuous period of time in excess of two hours between the hours of 8:00 a.m. and 7:00 p.m. on any day except Sunday~~. A truck may not be parked on any public street, avenue, alley, or other public way for a continuous period of more than two hours unless actually engaged in loading or unloading in the due course of business. For purposes of this Section, the term "truck" means a self-propelled motor vehicle not operated on rails, having capacity of one and one-half tons or more, or any tractor or trailer or combination thereof.

Subd. 2. Parking: Temporary Permits. During the period from April 1 to November 30 the City Manager or his designee is authorized to issue temporary permits for the parking of a vehicle on a street between the hours of 3:00 a.m. to 6:00 a.m. when in his judgment special circumstances exist justifying the issuance of the temporary permit and the purposes of this section will not be impaired thereby. The permit shall be for a period of not more than seven consecutive days and may be renewed by the City Manager or his designee for additional periods not exceeding seven days. The permit shall be issued for a specific motor vehicle and shall be prominently displayed in the interior of the vehicle. A temporary permit issued under this section is not transferable to another vehicle. The fee for the issuance of a temporary permit under this section is $ for each permit or renewal thereof.

Sec. 2. This ordinance is effective in accordance with Crystal City Code, Subsection 110.11.

_____
Mayor

Attest:

_____
Clerk

DAN GALLAGHER ARCHITECTS
3609 GETTYSBURG AVE. N. • MINNEAPOLIS, MN 55427 • PHONE: 542-8259

PROBABLE COST ESTIMATE
Based on Preliminary Design
Date: May 1, 1984

The Probable Cost Estimate Range was arrived at after analyzing four (4) sources of information as follows:

1. Updating cost of South Fire Station built in 1974 to today's cost:

1974	1983 (last quarter)
$234,000.00	$461,845.00

Existing South Fire Station includes the following:

Ground Floor	-	6,512 square feet
Mezzanine	-	2,713 square feet
Basement	-	2,713 square feet
		11,938 square feet

2. New North Fire Station Probable Cost Estimate based on information from Dodge Construction Systems Costs--McGraw Hill Information Systems:

Ground Floor	-	7,336 square feet
Mezzanine	-	2,736 square feet
		10,072 square feet x $52.50/sq. ft. = $528,780.00

3. New North Fire Station Probable Cost Estimate based on Preliminary Design Material Take-off:

General:	$420,000.00	(includes site work)
Mechanical:	80,000.00	
Electrical:	40,000.00	
	$540,000.00	$540,000.00

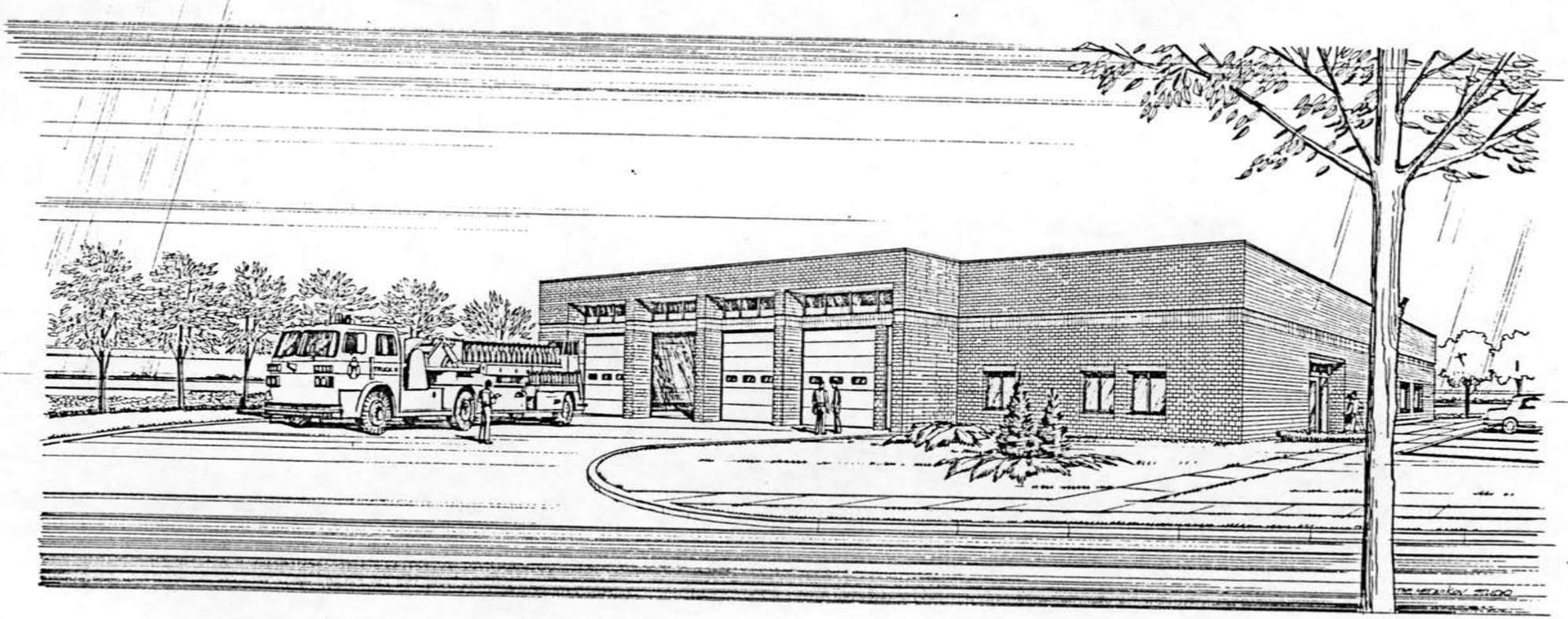
4. New North Fire Station Probable Cost Estimate based on square footage costs:

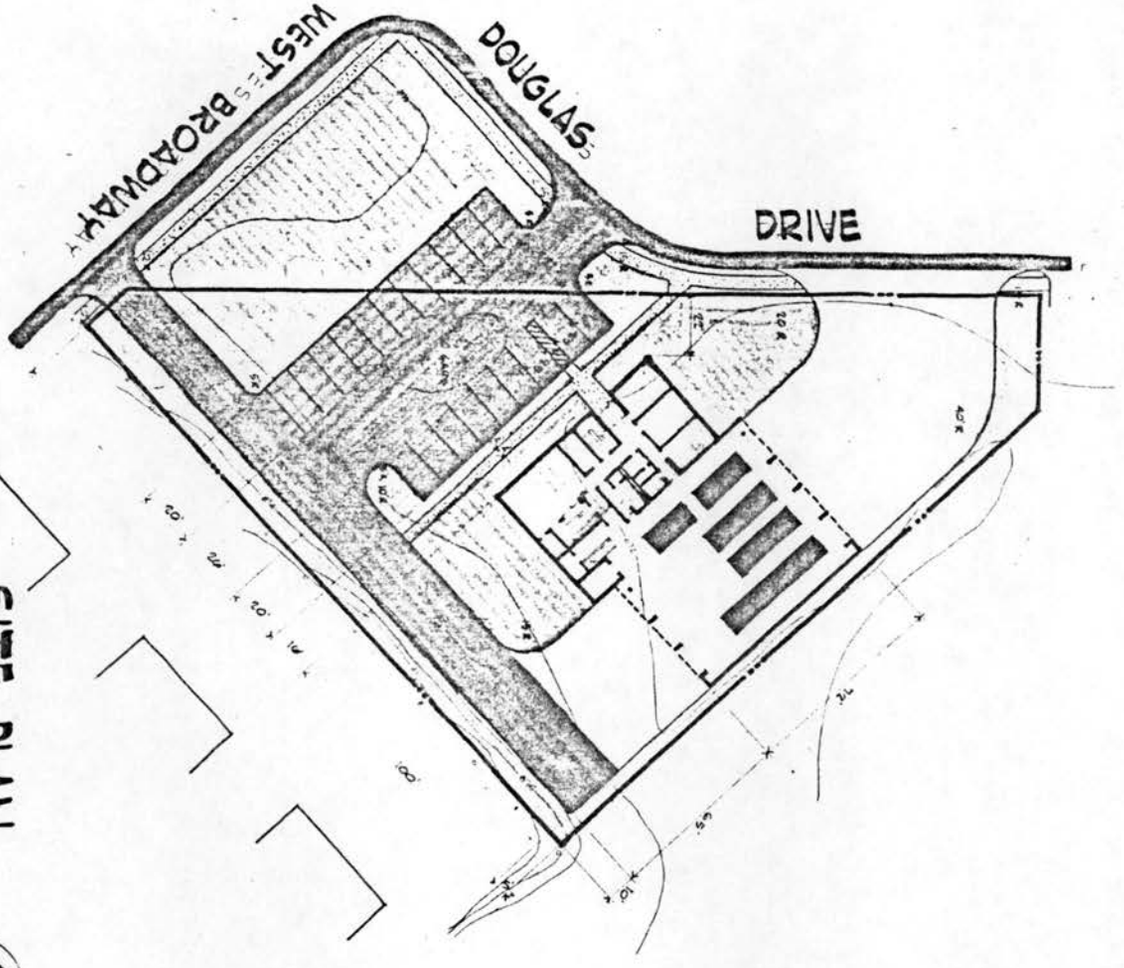
Office/Lounge Area:	2,736 sq. ft. x $65.00/sq. ft. =	$177,840.00
High Bay (Apparatus):	4,600 sq. ft. x $45.00/sq. ft. =	207,000.00
Mezzanine:	2,736 sq. ft. x $25.00/sq. ft. =	68,400.00
		453,240.00
Site Work:		65,000.00
		$518,240.00

PROBABLE COST ESTIMATE RANGE:

$500,000.00 - 550,000.00

DPG:mk





SITE PLAN

0 20 40 80

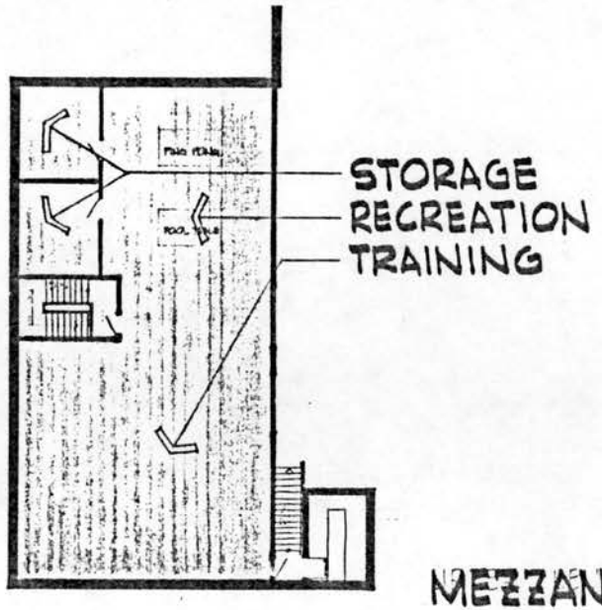
SCALE: 1"=20'-0"

NORTH

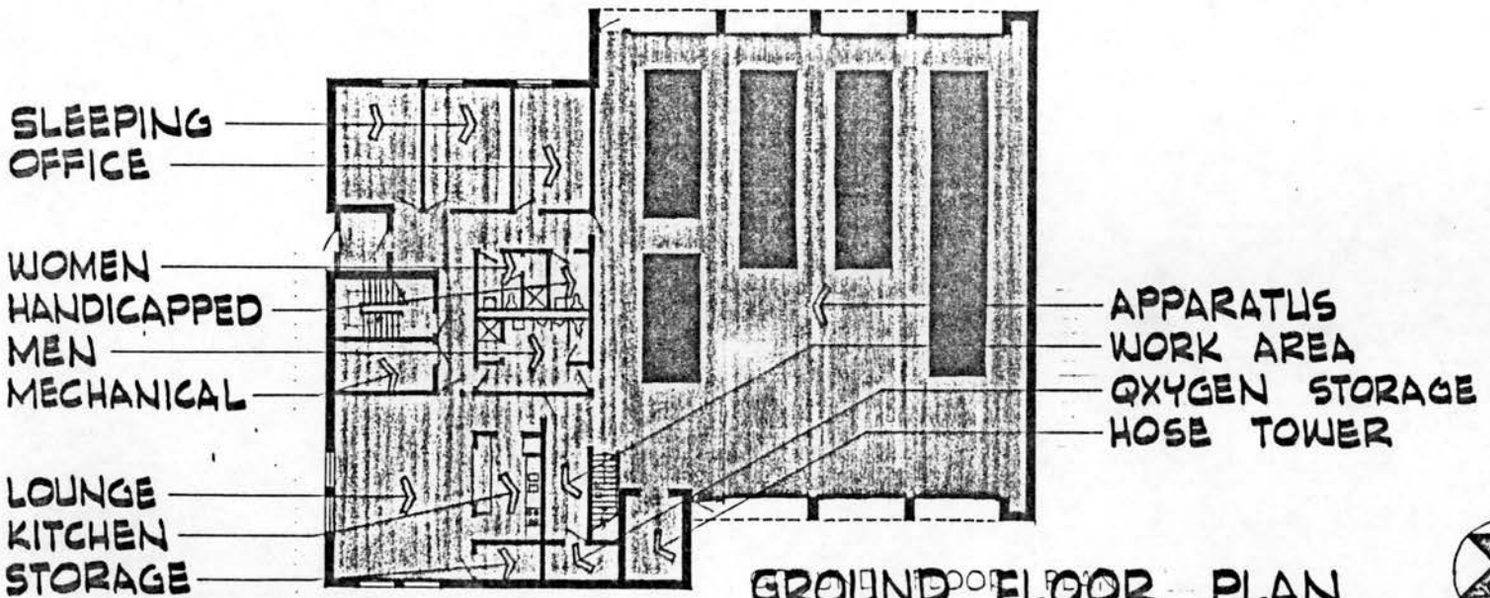
NORTH FIRE STATION
CRYSTAL MINNESOTA

GALLAGHER ARCHITECTS
MINNEAPOLIS, MINNESOTA

4-10-84
5-1-84



MEZZANINE FLOOR PLAN



GROUND FLOOR PLAN

SCALE: 1/8" = 1'-0"

GALLAGHER ARCHITECTS
MINNEAPOLIS, MINNESOTA

NORTH FIRE STATION
CRYSTAL, MINNESOTA

May 2, 1984

Dear Councilmembers:

In the rush of trying to close the meeting last night, I failed to inform you that a copy of the Request For Proposal for Multiple Family Housing on the Bass Lake Road/Becker Park project was in your packet.

I want to call your attention to the fact that Figures 1 through 4 may be changed in its final printed form. They will be changed to reflect what has transpired since these pictures were originally drafted. If you have mislaid the RFP, please contact me and we will provide you with another copy so that you have the benefit of reading them before they go out to proposed developers.

J A C K

da
enc.

P.S. I have also failed to include in your packet an invitation to the 4th anniversary celebration at Thorson Senior Center, which I have now enclosed.