

APPENDIX A

CITY CHARTER OF RICHFIELD

(Current Version as of February 27, 2004)

RICHFIELD CITY CHARTER

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CITY CHARTER OF RICHFIELD

CHAPTER 1

NAMES, BOUNDARIES, POWERS AND GENERAL PROVISIONS

Section 1.01. Name and Boundaries. The Village of Richfield, 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 Richfield, 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 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 (30) 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 determines 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 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. The Council is composed of a Mayor and four Council Members, all of whom must be registered voters. The offices of Mayor and at-large Council Member must be filled by election at large. The offices of the three district Council Members must be elected from apportioned Council districts in which they reside. The Mayor and the Council Members shall each be elected to a four-year term with Mayor and the Council Member at-large in 1994 and each succeeding four years and the district Council Members elected in 1992 and each succeeding four years. The regular term of an office commences at the first regular or special council meeting in January next following the general election at which balloting for the full term of office occurs, and office holders must serve until their successors are elected and qualified. A candidate for the office of district Council Member must reside while seeking election and while serving in office within the district from which he or she is elected. Within two years after each United States Census the City Council shall by ordinance establish compact and contiguous districts to be apportioned by population as nearly equal as practicable. The three Districts shall be Eastern, Central and Western Richfield with dividing lines generally north and south.
(Amended Bill 1992-10; Bill No. 2003-20)

Section 2.04. Incompatible Offices. No member of the Council shall be appointed City Manager, nor shall any member hold any paid municipal office of employment under the City; and until one year after the expiration of the member's term as Mayor or Council Member, no former member shall be appointed to any paid appointive office or employment under the City which were increased during the Council Member's term in office. (Amended Bill 1990-13)

Section 2.05. Vacancies. Subdivision 1. Existence.

- (1) A vacancy shall exist as of the date of death or resignation of a Council Member.
- (2) As soon as it is determined that a Council Member is ineligible because of any of the following reasons:
 - (i) the failure of any person elected to the Council to qualify on or before the date of the second regular meeting of the Council in the year following the year of election;
 - (ii) the Council Member ceasing to be a resident of the City;

- (iii) a district Council Member ceasing to be a resident of the district which the member represents;
- (iv) continuous absence of the Council Member from the City for more than 90 days;
- (v) conviction of a Council member of a felony whether before or after qualification;
- (vi) any other reason specified by law except those reasons specified in paragraph (1) of this subdivision; or
- (vii) by reason of the failure of the Council Member without good cause to perform any of the duties of a Council Member for a period of 90 days, the Council shall, by resolution at a regular or special Council meeting, declare a vacancy on the Council to exist.

Subd. 2. Procedure Following Vacancy.

- (1) If 90 days or less remain in the Council Member's term after the vacancy, the person elected to that office for the term commencing on January 1 of the next year shall be appointed by the Council to fill the remaining portion of the term at the next regular Council meeting following the declaration of the results of the election with the City Clerk. The appointment shall be the first order of business of such meeting.
- (2) If less than 180 days and more than 90 days remain in the Council Member's term of office after the vacancy, the Council shall appoint an eligible person to fill the vacancy for the unexpired term. If the Council fails to agree upon an appointee to fill the vacancy within 30 days after the vacancy, the Mayor shall appoint a person to fill the vacancy.
- (3) If 180 days or more remain in the Council Member's term of office after the vacancy, the Council shall call a special election to fill the vacancy for the balance of the Council member's term. The special election shall be called at the same Council meeting at which the vacancy is declared to exist or at the next regular Council meeting following the death or resignation of a Council Member, as the case may be. The special election shall be held not less than 30 nor more than 60 days after the Council meeting at which the election is called. The election to fill the unexpired term shall be in accordance with the provisions of Section 4.03, except that there shall be no primary election and the candidate receiving the highest number of votes shall be elected to fill the unexpired term.

The term of the person so elected shall start as soon as the declaration of the results has been filed with the City Clerk and the person has qualified for office. (Amended Bill No. 1992-10)

Section 2.06. The Mayor. Subdivision 1. The Mayor shall be the presiding officer of the Council, except that the Council shall choose from its members a president pro temp 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 and shall exercise all powers and perform all duties conferred and imposed upon the office by this Charter, the ordinances of the City, and the laws of the state. The Mayor 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. The Mayor 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 the Mayor may, with the consent of the Council, take command of the police, maintain order and enforce the law.

Subd. 2. Vacancy in Office of Mayor.

- (1) Existence, Declaration. A vacancy in the office of Mayor shall be declared upon the same grounds and by the same procedure as provided in Section 2.05, subdivision 1, paragraphs (1) and (2) for Council Members.
- (2) Procedure Following Vacancy. Following a vacancy in the office of Mayor, the president pro tem shall assume the duties of Mayor until a Mayor is elected. The president pro tem's duties shall be in addition to that person's duties as Council Member. Such person shall have only one vote with respect to all matters which are voted upon by the Council. If less than 180 days remain in the unexpired term of office following the vacancy in the office of Mayor, the president pro tem assume the duties of Mayor for the unexpired term. If 180 days or more remain in the unexpired term following the vacancy in the office of Mayor, a special election shall be called at the regular Council meeting at which the declaration is made or at the next regular Council meeting following the death or resignation of the Mayor, as the case may be, and the election shall be held not less than 30 nor more than 60 days after the meeting at which the election is called. The election to fill the unexpired term shall be in accordance with the provisions of Section 4.03, except that there shall be no primary election and the candidate receiving the highest number of votes shall be elected to fill the unexpired term. The term of the person so elected shall start as soon as the declaration of the results has been filed with the City Clerk and the person qualifies for office.

(Amended Bill No. 1992-10)

Section 2.07. Salaries. The Mayor and the members of the Council shall receive payment as set by ordinance. No change in salary shall take effect until after the next succeeding municipal election. 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. (Amended Bill 1982-19)

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. Interference with Administration. The Council may by ordinance establish a 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 except as provided in Chapter 6 of this Charter. Except for the purpose of inquiry, the Council and its member 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. Newly elected members of the Council will assume their duties at the first regular or special meeting of the Council in January following a regular municipal election. Thereafter, the Council will meet at the times each month as established by ordinance or resolution. The Mayor or any two members of the Council may call special meetings of the Council upon at least twelve hours notice to each member of the Council. The notice must be delivered personally to each member or be left at the Member's usual place of residence with some responsible person. Meetings of the Council are public, except as otherwise permitted or required by law. Any person may inspect the minutes and records of the meetings at reasonable times. (Amended Bill 1990-13; Bill No. 2003-20)

Section 3.02. Secretary of Council. The City Clerk shall act as secretary of the Council and shall keep a journal of Council proceedings and such other records and perform such other duties as may be required by this Charter or as the Council may require. The Council shall choose such other officers and employees as may be necessary to serve at its meetings. In the absence of the City Clerk 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. (Amended Bill 1990-13)

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 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. Ordinance, Resolutions and Motions. Except as otherwise provided in this Charter, all legislation shall be by ordinance. The aye and no vote on ordinances, resolutions, and motions shall be recorded. 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 Charter.

Section 3.05. Procedure on Ordinances. The enacting clause of all ordinances must be in the words "City of Richfield does ordain". Every ordinance must be presented in writing. Except for an emergency ordinance, every ordinance must be introduced at a meeting that occurs no less than fourteen (14) days before the meeting at which the ordinance is finally passed. (Amended Bill 1981-33, Bill No. 1998-5; Bill No. 2003-21)

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 unanimous vote of the Council Members present. No prosecution shall be based upon the provisions of any emergency ordinance until 24 hours after 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.

Section 3.07. Procedure on Resolutions. Every resolution shall be presented in writing and, when requested by any member of the Council, shall be read in full before a vote is taken thereon.

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 acting Mayor, attested by the City Clerk, and filed and preserved. 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 after the thirtieth (30) day, exclusive of day of publication, or at such later date as is fixed therein. Every ordinance adopted by the voters of the City shall take effect immediately upon its adoption, or at such a later time as fixed therein. (Amended Bill 1974- 7)

Section 3.10. Amendment and Repeal of Ordinances. Every ordinance repealing a previous ordinance, 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, section, or subdivision thereof shall be amended by reference to the title alone. Such an amending ordinance shall set forth in full each section or subdivision to be amended and shall indicate new matter by underscoring and old matter to be omitted by lining it through. In newspaper publication of ordinances 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. (Amended Bill 1982-4)

Section 3.11. Codification and Publication of Ordinances. The City shall codify and publish an ordinance code in books, pamphlets or continuous reference loose leaf form. 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.

Section 3.12. Manner of Publication of Ordinances. If the City Council determines that publication of the complete text of an ordinance is not worth the expense and that a summary would clearly inform the public of the intent and effect of the ordinance, the Council may by a unanimous vote direct that only the title of the ordinance and a summary be published with notice that printed copies of the ordinance are available to any person during regular office hours at the office of the City Clerk and any other location which the Council designates. Prior to the publication of the title and summary, the Council shall approve the text of the summary and determine that it clearly informs the public of the intent and effect of the ordinance. (Amended Bill 1981-33)

CHAPTER 4

NOMINATIONS AND ELECTIONS

Section 4.01. The Regular Municipal Election. The regular municipal election shall be held on the first Tuesday after the first Monday in November of each even numbered year 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.
(Amended Bill 1994-4)

Section 4.02. Primary Election. On the first Tuesday after the second Monday in September preceding the regular municipal election there shall be a primary election for the selection of two nominees for each elected office at the regular municipal election unless no more than two nominees file for each elective office. 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.
Amended Bill 1975-12, Bill 1994-4)

Section 4.03. Special Elections. The Council may by resolution order a special election and provide all means for holding it. At least two weeks published notice of a special election shall be given in the official newspaper. The procedure of such election shall conform as nearly as possible to that prescribed for other municipal elections.

Section 4.04. Nomination by Petition. All candidates for elective office provided for by this Charter shall be nominated by petition. The name of any registered voter of the City shall be printed upon the ballot as a candidate for an office whenever a petition signed by at least ten registered voters has been filed with the City Clerk in a candidate's behalf within the time period provided by state law for such filings. No registered voter shall sign petitions for more candidates for any office than the number of persons to be chosen for that office at the election; should a signer do so, the signer's signature shall be void as to the petition or petitions last filed. Each petition presented shall be accompanied by a twenty-five dollar (\$25.00) filing fee.
(Amended Bill 1987-8, Bill 1994-4)

Section 4.05. Nomination Petitions. We, the undersigned registered voters of the City of Richfield, hereby nominate, _____ whose residence is _____, for the office of _____, to be voted for at the primary election to be held on the _____ day of _____, 19 ____, and/or the regular municipal election to be held on the _____ day of _____, 19 ____, and we individually certify that we are qualified registered voters and that we have not signed more nomination petitions of candidates for this office than there are persons to be elected thereto.

Name

Street and Number

_____, being duly sworn, deposes and says that he or she is the circulator of the foregoing petition paper containing _____ signatures, and that the signatures appended thereto were made in his or her presence and are the signatures of the persons whose names they purport to be. (Amended Bill 1990-13)

Signed: _____

Subscribed and sworn to before me this _____ day of _____, 19____,

Notary Public

This petition, if found insufficient by the City Clerk, shall be addressed to

_____ at _____ (address).

I hereby indicate my willingness to accept the office of _____ if elected.

Signed: _____

Section 4.06. 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 12 o'clock noon of the day after the last day for filing, cause his or her 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. (Amended Bill 1990-13)

Section 4.07. Canvass of Elections. The Council must meet and canvass the election returns at the next regular or special Council meeting immediately following any regular, primary or special election but in no event later than the time prescribed by state law, and must make full declaration of the results as soon as possible, and file a statement thereof with the City Clerk. This statement must include: (a) the total number of good ballots cast; (b) the total number of spoiled or defective ballots; (c) the true vote for each candidate, with an indication of those who were elected or nominated; (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 must forthwith notify all persons elected or nominated of their election or nomination. In case of a tie vote, the Council must determine the result by lot. The City Clerk is the final custodian of the ballots. (Amended Bill 1975-12; Bill No. 2003-21)

Section 4.08. Procedure at Elections. The City Council may by ordinance adopt such rules and regulations as may be necessary or desirable to regulate the conduct of elections subject to the provisions of this Charter and the laws of the State of Minnesota when applicable.

CHAPTER 5

INITIATIVE, REFERENDUM AND RECALL

Section 5.01. Powers Reserved by the People. The people of Richfield reserve to themselves the powers, in accordance with the provisions of this Charter, to initiate and adopt any ordinance, except an ordinance appropriating the money or authorizing the levy of taxes, to request such an ordinance when passed by the Council to be referred to the registered voters for approval or disapproval and to recall elected public officials. These powers shall be called the initiative, referendum and recall, respectively. (Amended Bill 1982-20)

Section 5.02. 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 the committee from paying for legal advice and from incurring any expense not to exceed \$400.00 for stationery, copying, printing, and notarial fees. Any violation of the provisions of this section is a misdemeanor. (Amended Bill 1992-10)

Section 5.03. Further Regulations. The Council may provide by ordinance such further regulations for the initiative, referendum or recall, not consistent with this Charter, as it deems necessary. (Amended Bill 1982-20)

Section 5.04. Initiation of Measures. Any five registered voters may form themselves into a sponsoring committee for the initiation of any ordinances except any ordinance appropriating money or authorizing the levy of taxes. 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 thereof.

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 registered voters equal to at least five percent of the total number of registered voters at the time of the last regular 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 registered voters:

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

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

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

(At the end of the list of signatures shall be appended the Affidavit of the circulator mentioned above.)

Section 5.06. Filing of Petition 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 that 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 five percent (5%) of the total number of registered voters at the time of the last regular election. If the petition is found to be insufficient or irregular, the City Clerk shall at once notify one or more of the sponsoring committee of that fact, certifying the reasons for the finding. The committee shall then be given thirty (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, it shall be filed by the City Clerk in the City Clerk's office and each member of the committee shall be notified of that fact by the City Clerk. 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 special election.
(Amended Bill 1990-13)

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 registered voters which they constitute, and the Council shall at once read the ordinance and may refer it to an appropriate committee. 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 sixty-five (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 sponsors, the proposed ordinance shall be submitted by the Council to a vote at the next regular municipal election, but if the numbers of the signers of the petition is equal to at least fifteen percent (15%) of the total number of registered voters at the time of the last regular municipal election, the Council shall call a special election upon the measure. Such special election shall be held not less than thirty (30) nor more than forty-five (45) days from date of final action on the ordinance by the Council or after the expiration of sixty-five (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 four-fifths (4/5) of the sponsoring committee 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.

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 votes on any such ordinance are 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 voters voting on the question shall prevail to the extent of the inconsistency.

Section 5.09. Amendment or Repeal. Any ordinance adopted by the vote of the people cannot be repealed or amended except by the vote of the people or by the unanimous vote of all members of the Council.

Section 5.10. Initiation of Charter Amendments. Nothing in this Charter shall be construed as in any way affecting the right of the registered voters under the constitution and statutes of Minnesota to propose amendments to this Charter.

Section 5.11. The Referendum. If prior to the date when an ordinance takes effect a petition signed by qualified registered voters of the City equal in number to ten percent (10%) of the total number of registered voters at the time of the last regular election is filed with the City Clerk requesting that any such ordinance be repealed or submitted to a vote of the registered voters, the ordinance shall thereby be prevented from going into operation. The Council shall thereupon reconsider the ordinance at its next regular meeting, and by majority vote either repeal or affirm the ordinance as passed. If the ordinance is affirmed, 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 on the ordinance is opposed to the ordinance, it shall not become effective; but if a majority of the voters favor the ordinance, it shall go into effect immediately or on the date therein specified.

Section 5.12. Referendum Petition. The requirements laid down in Sections 5.04 and 5.05 above as to the formation of committees, the form of petitions and signature papers, for the initiation of ordinances shall apply to the referendum but with such changes as may be necessary.

A referendum petition shall read substantially 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 registered voters:

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

The undersigned qualified 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 a vote of the voters for their approval or disapproval.

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

(At the end of the list of signatures shall be appended the Affidavit of the circulator mentioned above)

Section 5.13. 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.

Section 5.14. The Recall. No less than 25 registered voters may form themselves in a committee for the purpose of bringing about the recall of any Council Member including the Mayor. If the committee seeks the recall of a district Council Member, the registered voters constituting the committee shall be from the Council Member's district. The committee shall certify to the City Clerk the name of the Council Member whose removal is sought, a statement of the grounds for removal in not more than 250 words, and their intention to bring about his or her 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.

The grounds as set forth in the recall petition must be predicated on one or more charges of malfeasance, nonfeasance or both. For this purpose the word "malfeasance" means the performance of an act by a Council Member in his or her official capacity that is wholly illegal and wrongful and the word "nonfeasance" means the neglect or refusal, without sufficient excuse, to do that which it is the Council Member's legal duty to do so.

Section 5.15. Recall Petitions. The petition for the recall of any Council Member shall consist of a certificate identical to that filed with the City Clerk together with all the signature papers and affidavits thereto attached. All the signatures need not be on one signature paper, but the circulator of every 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 _____ office as _____ which recall is sought for the reasons set forth in the attached certificate. This movement is sponsored by the following committee of registered voters eligible to vote on candidates for that office.

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

The undersigned registered voters, all being eligible to vote on candidates for that office, understanding the nature of the charges against the Council Member herein sought to be recalled, desire the holding of a recall election for that purpose.

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

(Amended Bill 1982-20)

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

Section 5.16. Filing of Petition. Within thirty (30) 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 petition within the next five (5) days and if the clerk finds it irregular in any way, or finds that the number of signers is less than twenty-five percent (25%) of the total number of registered voters eligible to vote on candidates for that office at the last preceding regular municipal election, the City Clerk shall so notify one or more members of the committee. The committee shall then be given ten (10) 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, the clerk shall notify all the members of the committee to that effect and shall file the petition in the City Clerk's office. No further action shall be taken thereon.

Section 5.17. Recall Election. If the position or amended petition is 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. If the Council Member sought to be recalled does not resign within ten (10) days after having been given such notice, the Council shall, at its next meeting occurring more than ten (10) days after the receipt by

the Council of the recall petition, by resolution, provide for the holding of a special recall election not less than 30 nor more than 45 days after such meeting, but if any other election is to occur within sixty (60) days after such meeting, the Council may in its discretion provide for the holding of the recall election at that time. If the special recall election involves a district Council Member, the recall election shall be conducted only within the district of such Council Member. If it involves several district Council Members, the election shall be conducted only within the districts of such Council Members. If it involves a Council Member who is elected at large, the election shall be a City-wide election.

Section 5.18. Procedure at Recall Election. The City Clerk shall include with the published notice of the election the statement of the grounds for recall and also, in not more than 500 words, the answer of the Council Member concerned in justification of his or her course in office. The election shall be conducted as far as possible, in accordance with the usual procedure in municipal elections.

Section 5.19. Form of Recall Ballot. The form of the ballot at such election shall be: "Shall _____ be recalled?" The name of the Council Member whose recall is sought and his or her office shall be in blank. The electors shall be permitted to vote separately "Yes" or "No" upon this question. If a majority of those voting on the question of recall vote in favor of recall, the official shall be thereby removed from office. (Amended Bill 1992-10)

Section 5.20. Procedure to Fill Vacancy. In the event that a Council Member is recalled by the electors or resigns after a petition has been filed for his or her recall, the vacancy shall be filled in the following manner:

If less than six months remain in the Council Member's term of office at the time of the recall election or at the time of resignation in response to a recall petition, as the case may be, the vacancy shall be filled by the remaining members of the City Council for the unexpired term pursuant to Section 2.05.

If six months or more remain in the Council Member's term at the time of such recall or resignation, the Council shall call a special election to fill the vacancy for the balance of the Council Member's term. Such election shall be called within ten (10) days after such recall or resignation, and the special election shall be held not less than thirty (30) nor more than sixty (60) days after the meeting at which the election is called. Candidates to fill the unexpired term shall be nominated in the usual way and the election shall be conducted as far as possible in accordance with procedures in municipal elections except that there shall be no primary election and the candidate receiving the highest number of votes for the office shall be elected to fill the unexpired term. (Amended Bill 1992-10)

Section 5.21. Term. The term of the candidate selected by the voters at the regular or special election to fill the unexpired term shall start as soon as the declaration of the results has been filed with the City Clerk, and the person has qualified for office. (Amended Bill 1992-10)

CHAPTER 6

ADMINISTRATION OF CITY AFFAIRS

Section 6.01. The City Manager. The City Manager shall be the chief executive and head of the administrative branch of the City government and shall be chosen by the Council solely on the basis of training, experience, and administrative qualifications. The City Manager shall be appointed for an indefinite period and may be removed by the Council at any time; but after serving as Manager for one year, the Manager may demand written charges and a public hearing before the date of final removal takes effect. Written charges, if demanded, shall be furnished a reasonable time before the public hearing. After such hearing, if one is demanded, the Council shall have unlimited discretion either to reinstate the Manager or make 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 the Manager's absence, disability, suspension, or while the office of the Manager is vacant. (Amended Bill 1990-13; Bill No. 2003-22)

Section 6.02. Powers and Duties of the City Manager.

Subdivision 1. Subject to the provisions of this Charter, any Council regulations consistent therewith, and any other applicable laws, the City Manager shall control and direct the administration of the City's affairs. The City Manager shall have the powers and duties set forth in the following subdivisions: (Amended Bill 1990-13)

Subd. 2. The City Manager shall see that this Charter and the laws, ordinances and resolutions of the City are enforced. (Amended Bill 1990-13)

Subd. 3. The City Manager 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. The Director of Public Safety, having administrative and supervisory control over the police and other non-civil-service divisions of the Department of Public Safety, is not under the jurisdiction of the police and fire civil service commission of the City. Appointment or removal of department heads shall be made final only upon a majority vote of the Council. (Amended Bill 1981-35; Bill No. 2003-21)

Subd. 4. The City Manager shall exercise control over all departments and divisions of the City administration created by this Charter or by the Council. (Amended Bill 1990-13)

Subd. 5. The City Manager shall recommend to the Council for adoption such measures as he or she may deem necessary for the welfare of the people and the efficient administration of the City's affairs. (Amended Bill 1990-13)

Subd. 6. The City Manager shall attend all meetings of the Council with the right to take part in the discussion, but not to vote; but may not attend any meeting at which the Council is considering his or her dismissal. (Amended Bill 1990-13)

Subd. 7. The City Manager shall keep the Council fully advised as to the financial condition and needs of the City, and shall prepare and submit to the Council the annual budget. (Amended Bill 1990-13)

Subd. 8. The City Manager shall prepare and submit to the Council for adoption an administrative code incorporating the details of administrative procedure, and from time to time shall suggest amendments to such code. (Amended Bill 1990-13)

Subd. 9. The City Manager shall perform such other duties as may be prescribed by this Charter or by law or required by ordinance or resolutions adopted by the Council. (Amended Bill 1990-13)

Section 6.03. Departments of Administration. The Council may create such departments, divisions and bureaus for the administration of the City's affairs as it may deem necessary, and from time to time alter their powers and organization. It shall, together with the City Manager, prepare and enact a complete administrative code in the form of an ordinance, which may be amended from time to time 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 6.04. Right of City Manager and Other Officers in Council. The City Manager, the heads of all departments and such other officers of the City as may be designated by vote of the Council, shall be entitled to seats in the Council, but shall have no vote therein. The City Manager shall have the right to take part in the discussion of all matters coming before the Council, except as provided in Section 6.02, Subdivision 6, and the department heads and other officers shall be entitled to take part in all discussions of the Council relating to their respective offices, departments or agencies.

Section 6.05. Purchases and Contracts. Every contract for the sale or purchase of merchandise, materials or equipment, or the alteration thereof, or for the construction, alteration, repair or maintenance of real or personal property, where the amount involved is more than the dollar amount contained in Minnesota Statutes, Section 471.345, Subd. 3 shall be let only by the City Council upon the recommendation of the City Manager to the lowest responsible bidder. The Council may, however, reject any and all bids. Subject to the provisions of the Charter, and other applicable law, the Council may by ordinance or by resolution adopt further regulations for making of bids and letting of contracts. (Amended Bill 1987-21, Bill 1996-5)

Section 6.06. Repealed. (Bill 1996-5)

CHAPTER 7

TAXATION AND FINANCES

Section 7.01. Council to Control Finances. The Council controls the financial affairs of the City. The Council must provide for (i) the prompt collection of revenues, (ii) the preservation of assets, (iii) the auditing of City accounts, and (iv) the safekeeping and proper disbursement of public monies. (Amended Bill No. 2003-23)

Section 7.02. Fiscal Year. The fiscal year of the City is the calendar year. (Amended Bill No. 2003-23)

Section 7.03. System of Taxation. Subject to the state constitution, and except as forbidden by it or by state law, the Council may provide by resolution, preceded by notice and public hearing, for a system of local taxation. In the taxation of real and personal property the system of local taxation must conform as fully as possible to state law in the valuation of property and the collection of the taxes. (Amended Bill No. 2003-23)

Section 7.04. (Repealed, Bill No. 2003-23)

Section 7.05. Preparation and Submission of Annual Budget. At a special budget meeting of the Council on or before September 15, the City Manager must submit to the Council a proposed budget and a budget message in the form and containing the information specified in Section 7.06. In preparing the budget and the budget message, the Manager must obtain from City department heads information regarding (i) proposed expenditures for the ensuing fiscal year, and (ii) capital projects and capital expenditures proposed to be undertaken in the ensuing budget year and in the following four fiscal years. The Council must hold one or more informational meetings on the proposed budget at which the public may provide comments and may thereafter revise the proposed expenditures and capital projects contained in the proposed budget document. (Amended Bill 1990-13; Bill No. 2003-23)

Section 7.06. Form of Annual Budget. Subdivision 1. The budget must contain a financial plan for the ensuing fiscal year. The financial plan must include: (i) a budget message, (ii) a general summary of the financial plan, (iii) estimates of revenues applicable to proposed expenditures, and, (iv) proposed expenditures. Proposed expenditures may not exceed proposed revenues. Proposed expenditures for the general and special revenue funds must (i) be listed by organization, unit or activity, and (ii) be in parallel columns opposite the major and minor object of the expenditure showing the amount of expenditure for the last fiscal year, the amount estimated for the current fiscal year and the proposed expenditure for the ensuing fiscal year. The revenues attributable to each general and special fund must be presented in a similar manner. The statement of revenues must include the source of and amount of miscellaneous revenues, the amount of surplus of prior fiscal year revenues, and the amount of revenues raised by property taxes in the prior fiscal year and estimated to be raised in the current fiscal year. (Amended Bill 1990-13; Bill No. 2003-23)

Subd. 2. The Budget Message. The budget message may be submitted by the Manager as a separate document but it must accompany the budget. The message must contain the following elements: (Amended Bill No. 2003-23)

(i) Current operations. The budget message must explain the budget. The message must contain an outline of the proposed financial position of the City for the ensuing fiscal year and the important features of the financial plan of the City. The message must give reasons for major changes in expenditures and revenues from the prior fiscal year and explain the rationale for major changes, if any, from previous financial policies of the City. (Amended Bill 2003-23)

(ii) Capital Improvements. The message must contain a description of pending and proposed capital projects together with estimates of the costs of those projects and the sources of funds to be used to pay for them. (Amended Bill 2003-23)

(iii) Capital Program. The message must contain, or have attached to it, a Capital Project Plan for the four fiscal years following the fiscal year of the budget. The Capital Project Plan is to be prepared by the Manager after consultation with the department heads and any informational meetings conducted under Section 7.05. (Amended Bill 1990-13; Bill No. 2003-23)

(iv) Miscellaneous. The Manager must attach to or include in the budget message supporting schedules, exhibits and other data believed by the Manager to be appropriate and informative. (Amended Bill No. 2003-23)

Section 7.07. Adoption of Budget. At the conclusion of the special budget meeting the Council must set a public hearing on the budget to be held after published notice not less than seven nor more than 14 days after the date of publication. The budget must be kept available to the public in the Clerk's office. The public hearing on the budget must be conducted in a way to give interested persons an opportunity to be heard. The Manager must explain the various elements of the budget as fully as is deemed necessary by the Council. The budget resolution must set out the total established for each fund and department with such other information deemed necessary by the Council. The budget resolution must also state the amount of property and other taxes to be levied to fund the budget. (Amended Bill No. 2003-23)

Section 7.08. Enforcement of the Budget. The Manager must enforce the provisions of the budget. The Manager may not authorize or approve any expenditure unless an appropriation has been made in the budget resolution and there is an available unencumbered balance of the appropriation sufficient to pay the liability to be incurred. An officer or employee of the City may not place an order or make a purchase except for the purposes authorized in the budget. An obligation incurred by a person in the employ of the City for a purpose not in the approved budget or for an amount in excess of an amount appropriated in the budget resolution or in excess of available monies in a fund of the City is a personal obligation of the person incurring the expenditure. (Amended Bill 1990-13; Bill No. 2003-23)

Section 7.09. Altering or Adjusting the Budget. After the budget has been adopted the Council may not increase the amounts fixed in the budget resolution, by the insertion of new items or otherwise, in an amount more than the estimated revenues unless the actual receipts exceed the estimates and then not more than the actual receipts. The Council may, by resolution reduce the sums appropriated for any purpose by the budget resolution. Within three months following the close of the fiscal year, the Council, at the request of the Manager, may transfer unencumbered appropriation balances for that fiscal year from one office, department or agency to another within the same fund. Appropriations lapse at the end of the budget year to the extent that they have not been expended or encumbered. (Amended Bill No. 2003-23)

Section 7.10. Emergency Appropriation in Budget. The Council may include an emergency appropriation as a part of the budget but not more than three percent of the total operating appropriations made in the budget for that year. A transfer from the emergency appropriation to another appropriation may be made by resolution on recommendation of the City Manager or a member of the Council. The funds so appropriated may be used only for the purposes designated by the Council. (Amended Bill No. 2003-23)

Section 7.11. Disbursements. How Made. Except as otherwise provided in this section, disbursements of City funds may be made only by check bearing the actual or facsimile signature of the Manager and the treasurer. A check may not be issued unless the claim to which it relates specifies the purpose for which the disbursement is made and the fund upon which it is drawn, and the claim has been supported by an itemized bill, payroll, or time sheet approved and signed by the responsible City officer who vouches for the correctness and reasonableness of the claim. The Council may by ordinance make further regulations for the safe-keeping and disbursement of the funds of the City, including, the disbursement of funds for the payment of bills and obligations by electronic means. (Amended Bill No. 2003-23)

Section 7.12. Funds to be Kept. There must be maintained in the City treasury the funds provided for in this section. (Amended Bill No. 2003-23)

Subdivision 1. General Fund. The General Fund is established for the payment of general government expenses and those obligations that the City deems proper. Into this fund are to be paid monies not otherwise provided by statute, ordinance or this Charter to be paid into any other fund. (Amended Bill No. 2003-23)

Subd. 2. Liquor Special Revenue Fund; Other Special Revenue Funds. A Liquor Special Revenue Fund is established into which are to be paid (i) net revenues (i.e., gross revenues less costs of operation, maintenance and pledged revenues) of the municipal liquor store, (ii) proceeds of special tax levies to support the fund, and (iii) other special revenues so designated by the Council. Expenditures from the Liquor Special Revenue Fund may be made only as authorized by the budget resolution. Monies in the fund may be expended for capital improvements only if authorized by ordinance. The Council may by resolution establish other special revenue funds and provide for the expenditure of those funds. (Amended Bill No. 2003-23)

Subd. 3. Utility; Enterprise Funds. One or more utility or public service enterprise funds are to be established into which are to be paid (i) the gross revenues of the appropriate utility or enterprise, (ii) the proceeds of the sale of assets of the utility or enterprise, and (iii) the proceeds of bonds or other obligations issued for the purposes of the utility or enterprise. Out of each fund are to be paid the costs, including the financing costs of the purchase, construction, operation, maintenance and repair of the utility or enterprise and other revenues as directed by the budget resolution. Separate funds must be established and kept for each separate utility or enterprise. (Amended Bill No. 2003-23)

Subd. 4. Trust and Agency Funds. There are to be established one or more trust and agency funds for the care and disbursement of money received and held by the City as trustee or custodian or in the capacity of an agent for individuals or other governmental units. (Amended Bill No. 2003-23)

Subd. 5. Discretionary Fund. A Discretionary Fund is established for payment of reasonable and necessary expenses, not otherwise payable by the City as compensation, incurred by the Mayor and Council Members for the benefit of the City. Appropriations to and expenditures from this fund are in the amounts fixed in the budget resolution. The Council may by resolution establish the purposes and procedures for the making of disbursements from this fund, including disbursements made without previous Council authorization and those disbursements are subject to audit and allowance by the Council. (Amended Bill 1968-16, Bill 1990-13; Bill No. 2003-23)

Subd. 6. In addition to the foregoing funds, there may be maintained in the City treasury, (i) one or more working capital or revolving funds, for financing self-sustaining activities not accounted for through other funds; and (ii) such other funds as may be required by law, ordinance or the Charter. (Amended Bill No. 2003-23)

Subd. 7. Council may make interfund loans by resolution where permitted by law except from Trust and Agency funds. (Amended Bill No. 2003-23)

Section 7.13. Accounts and Reports. The accounts of the City must be maintained on an accrual or modified accrual basis in accordance with generally accepted governmental accounting standards and procedures. The Manager must submit such reports as are necessary to keep the Council fully informed of the financial condition of the City. Once each year on or before June 30, the City Manager must submit a complete financial report of the City for the preceding fiscal year ending December 31, a summary of which must be published in the official newspaper. The Manager, under the direction of the Council, on or before June 30, must prepare at least one comprehensive public information report of the financial affairs of the City. The Manager must distribute the report to the persons and organizations and in the manner deemed advisable by the Manager. (Amended Bill No. 2002-2; Bill No. 2003-23)

Section 7.14. City Indebtedness. Except as provided in Sections 7.15 and 7.16, obligations may not 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, obligations may not be issued and sold without the approval of the majority of the voters of the City voting on the question at a general or special election. Before submitting a question to the voters under this Section, the Council must conduct at least one public hearing on the question preceded by published notice not more than 28 days nor less than 14 days prior to the hearing. (Amended Bill No. 1993-7; Bill No. 2003-23)

Section 7.15. 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 may not exceed 90% of the total current taxes for the fund uncollected at the time of issuance. Certificates may 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 must be irrevocably pledged for the redemption of the certificates in the order of their issuance against the fund. (Amended Bill No. 2003-23)

Section 7.16. 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 should subject the City to the necessity of making extraordinary expenditures, the Council may by resolution issue and sell on such terms and in such manner as the Council determines emergency debt certificates to mature within three years. A tax sufficient to pay principal and interest on such certificates must be levied as required by law. The resolution authorizing an issue of such emergency debt certificates must state the nature of the emergency and be approved by a majority of all the members of the Council. (Amended Bill No. 2003-23)

Section 7.17. State Budget Procedure. If state law specifies a schedule and procedure for the adoption of the budget and levy of taxes that is different from that provided in sections 7.05 through 7.07 of this charter, the schedule and procedure in state law supersedes the schedule and procedure in this charter. (Added Bill No. 2003-23)

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 for all or any part of the cost of such improvements as are of a local character, pursuant to the laws of the State of Minnesota.

Section 8.02. 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 cost of any service 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. 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.

Section 8.04. Approval by Ordinance. Any capital improvement on City owned property which has an estimated cost exceeding \$500,000.00 or expenditures for design or engineering costs exceeding \$75,000.00 must be approved by ordinance after a public hearing.
(Added, Bill No. 1998-5)

Section 8.05. Notice of Public Hearings. Notice of public hearings required by Section 8.04 shall be published at least twice in the official newspaper within fourteen (14) 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. This notice must contain the estimated costs of the capital improvement. (Added, Bill No. 1998-5)

CHAPTER 9

EMINENT DOMAIN

Section 9.01. 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. Easements for slopes, fills, 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 near as may be possible 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.
(Amended Bill No. 1994-4)

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, within seventy (70) days of such final determination, pay the amount 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.

Section 9.04. City May Abandon Proceedings. The City may dismiss all or part of the property being acquired in a condemnation proceeding so long as the dismissal is filed with the proper court prior to the expiration of the time for an appeal or before entry of judgment if an appeal has been taken. The City shall pay all reasonable costs and expenses incurred by the condemnee including attorney's fees.

Section 9.05. 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, franchise values 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 semipermanent 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 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.

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 (10) 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 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 thereafter 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 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 violation 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 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 ordinance, which shall not be an emergency ordinance. In no case shall such contract be for a longer term than ten (10) 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 said sale or other disposition thereof, together with the price to be paid therefor, shall be embodied in an ordinance approved by a majority of the registered voters voting thereon at a general or special election.

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 Council may determine.

CHAPTER 12

CODE OF ETHICS

Section 12.01. The term "public official" shall include all elected officials, the City Manager, and all members of boards or commissions, as are authorized under this Charter.

Section 12.02. No public official shall misuse such position to secure special privileges or exemptions for such person or any other person.

Section 12.03. No public official shall directly or indirectly receive or agree to receive, any compensation, gift, reward or gratuity in payment for the performance of his or her official duties except as may be provided by law.

Section 12.04. No public official shall enter into any contract with the City which is prohibited by law. Any public official who has a proprietary interest in an entity doing business with the City shall make known that interest in writing to the City Council and the City Clerk.

Section 12.05. Any public official who in the discharge of said official's duties would be required to take an action or make a decision which would substantially affect such official's financial interest or those of a business with which such official is associated, unless the effect on such official is no greater than on any other citizens or other members of such official's business classification, profession, or occupation, shall take the following actions:

- a. A written statement shall be prepared which will include the name, address, office held, action presenting the potential conflict of interest, the nature of the financial interest, the person notified of the potential conflict of interest, the official's signature and the date;
- b. Said person shall deliver copies of the statement to the City Clerk and to the official's immediate superior, if any;
- c. If a potential conflict presents itself and there is insufficient time to comply with the provisions of clauses "a" and "b" of this section, the public official shall verbally inform the City Clerk and the official's superior of the potential conflict. The official shall then file a written statement with the City Clerk within one week after the potential conflict presents itself which statement shall state the reason for the delay.

Section 12.06. Any intentional failure to file such statement or any intentional filing of a false written or verbal statement or any intentional omission of any required information in any required statement shall be unlawful and shall be referred by the City Clerk or the public official's immediate superior to the City Attorney for appropriate action. (Amended Bill 1978-14)

CHAPTER 13

MISCELLANEOUS AND TRANSITORY PROVISIONS

Section 13.01. 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 13.02. Oath of Office. Every officer of the City shall, before entering upon the duties of office, take and subscribe an oath of office in substantially the following form: "I do solemnly swear (or affirm) to support the Constitution and laws of the United States and of the State of Minnesota and the Charter and ordinances of the City of Richfield and to discharge faithfully the duties devolving upon me as (Mayor, Council Member, City Manager, etc.) of the City of Richfield to the best of my judgment and ability." (Amended Bill 1990-13, Bill 1996-6)

Section 13.03. 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 or her 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 or her 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 premiums on the bonds shall be paid by the City. (Amended Bill 1990-13)

Section 13.04. 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 13.05. Vacation of Streets. The Council may by ordinance vacate any street or alley or part 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 procedures shall be filed in accordance with law. (Amended Bill 1978-14)

Section 13.06. City to Succeed to Rights and Obligations of Former Municipality. The City of Richfield shall remain vested with and continue to have, hold, and enjoy all property, property rights, rights of action, and rights of every kind, privileges and immunities now belonging to or pertaining to the City of Richfield, and shall be subject to all liabilities which exist against said City on said date of Charter. The municipal liquor stores which have been established in the City of Richfield shall continue and may be operated by the City in the same manner as before the adoption of this Charter. Nothing in this Charter shall be construed as limiting in any manner such continuance or restricting in any way the addition of new stores or relocation of existing stores.

Section 13.07. Present Officers to Hold Office Till When. The present officers of the City shall continue in their respective offices and functions until their successors are chosen and qualify, and shall continue to govern the City in the usual manner. They shall make such financial and other provisions as will serve to carry on the government until a government has been set up under this Charter.

Section 13.08. 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 Richfield operating under home rule Charters, and not inconsistent with the provisions of this Charter, shall apply to the City of Richfield, and shall be construed as supplementary to the provisions of this Charter. The extra session laws of 1961, Chapter 28, shall not be applicable to the City of Richfield and are of no legal effect upon adoption of this Charter.

Section 13.09. Existing Ordinances and Resolutions Continued. All ordinances, resolutions and regulations of the municipality 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 13.10. Pending Condemnations and Assessments. Any condemnation or assessment proceeding in progress when this Charter takes effect shall be continued and completed under the laws which such proceedings were begun. All assessments made by the municipality 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 13.11. Disposition of Fines and Penalties. All fines, forfeitures and penalties received for the violation of any ordinance shall be paid into the City treasury. Every court or officer receiving such monies, within thirty (30) days thereafter, shall make return thereof under oath and shall be entitled to duplicate receipts for the amount paid. One of the receipts shall be filed with the City Clerk.

Section 13.12. 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. (Amended, Bill 1978-14)

Section 13.13. Fines and Penalties. (Added, Bill No. 2002-1)

Subdivision 1. The council may establish by ordinance a procedure for imposing an administrative penalty for any violation of the City Code or a City ordinance. The procedure must provide that any person charged with an administrative penalty will receive notices of violations and an opportunity to be heard by a neutral party, which may be the city council. The procedure may authorize the City to use the services of a non-City employee to decide whether an administrative penalty should be imposed. (Added, Bill No. 2002-1)

Subd. 2. The City Council may provide by ordinance that unpaid administrative penalties be collected as a special assessment against property which was the subject matter, or related to the subject matter, of the penalty or against the property which was the location of an activity, proposed use, delivery of City service, or other circumstances that resulted in the penalty. The ordinance must provide that the City will first attempt to obtain voluntary payment of the penalty. The ordinance must also provide that notice and an opportunity to be heard will be given to the property owner listed on the official tax records before the penalty is assessed. (Added, Bill No. 2002-1)