CHARTER COMMISSION

May 03, 2021
7:00 PM

MINUTES

Call to Order

Chairperson Nelson called the Charter Commission meeting to order at 7:00 p.m.

Roll Call

Members Present: Commissioners Kelli Brillhart, Donald Findell, Manuel Granroos (arrived at 7:15 p.m.), Nikki Karnopp, Ted Kranz, Rick Nelson, Oluwaseyi Olawore, Courtney Rathke, Barb Reiland, Pam Reynolds, Cynthia Soule, and Avonna Starck

Members Absent: Commissioner Gary Braam, Bruce Nelson, Courtney Rathke, and Val Rolstad

Others Present: Melissa Moore, Admin. Services Coord./Deputy City Clerk/Staff Liaison
Dan Tienter, Finance Director/City Treasurer/City Clerk

Approval of Agenda

MOTION by Commissioner Reynolds, approving the meeting agenda. Seconded by Commissioner Findell.

UPON A ROLL CALL VOTE, ALL VOTING AYE, CHAIRPERSON NELSON DECLARED THE MOTION CARRIED.

Approval of Meeting Minutes

1. Approval of April 5, 2021 Charter Commission Meeting Minutes

MOTION by Commissioner Findell to approve the meeting minutes of April 5, 2021 as presented. Seconded by Commissioner Brillhart.

UPON A ROLL CALL VOTE, ALL VOTING AYE, CHAIRPERSON NELSON DECLARED THE MOTION CARRIED.

Administrative Matters

2. Reappointment of Commissioner Brillhart

It was noted that Commissioner Brillhart is up for reappointment.

Commissioner Brillhart confirmed that she would like to continue to serve.

MOTION by Commissioner Reynolds, to recommend the reappointment of Commissioner Brillhart. Seconded by Commissioner Reiland.

UPON A ROLL CALL VOTE, ALL VOTING AYE, CHAIRPERSON NELSON DECLARED THE MOTION CARRIED.

3. City Charter Commission Presentation, League of Minnesota Cities

Kevin Toskey, League of Minnesota Cities, provided background information on the League of Minnesota Cities and the work his department does related to charter cities. He provided a presentation to the Commission on city government, the differences between statutory cities and charter cities, and understanding charter cities.

Commissioner Kranz referenced the prohibition of residential picketing and asked for more information and whether it is appropriate for cities to add that type of language to their charter.

Mr. Toskey stated that several cities have recently adopted ordinances related to residential targeted picketing. He stated that type of action has been done through Council adopted ordinance rather than City Charter.

Commissioner Karnopp asked why a city would choose to abandon its charter.

Mr. Toskey stated that some of the cities that abandoned their charter did so in the 1980s and he was not able to find that historical information. He stated that in the city he mentioned that is currently considering that option it seems to be political. He stated that things are more certain for statutory cities, but there is less voter control.

Commissioner Karnopp noted that it would seem difficult to enact a charter and therefore she was unsure why those cities would want to relinquish that power. She asked if there is any documentation as to why a judge would deny an appointment to a Charter Commission.

Mr. Toskey stated that he worked with the Anoka County Courts for a number of years and perhaps they do not have the time or resources to look into an appointment and often approve a City or Commission recommended appointment. He stated that perhaps if someone were not a qualified voter or resident of the city they would not be appointed.

Chairperson Nelson asked if members interested in more information should go through Ms. Moore or contact Mr. Toskey directly.

Mr. Toskey replied that his research service is included in the City contract but noted that questions could be passed through City staff.

Old Business

None.

New Business

Ms. Moore recognized that this is the first meeting with Commissioner Olawore as a member.

Future Meeting Topics/Communications

Chairperson Nelson noted that the next meeting is scheduled for October 4, 2021.

Mr. Tienter stated that at that meeting the Commission will go through work planning to discuss upcoming goals and priorities. He stated that as the date nears October, staff will work with Chairperson Nelson to determine how the meeting should be held.

Chairperson Nelson stated that he would anticipate that the guidance would be in place by that time as to how meetings could be conducted.

Adjournment

MOTION by Commissioner Reynolds to adjourn the meeting. Seconded by Commissioner Brillhart.

UPON A ROLL CALL VOTE, ALL VOTING AYE, CHAIRPERSON NELSON DECLARED THE MOTION CARRIED AND THE MEETING ADJOURNED AT 8:16 P.M.

Respectfully submitted,

Commissioner Karnopp, Charter Commission Secretary

Amanda Staple, Recording Secretary

AGENDA REPORT

Meeting Date: May 3, 2021 **Meeting Type:** Charter Commission

Submitted By: Melissa Moore, Staff Liaison

Title

Approval of April 5, 2021 Charter Commission Meeting Minutes

Background

Attached are the meeting minutes from April 5, 2021 for the Commission's consideration.

Recommendation

Staff recommend the approval of the April 5, 2021 Charter Commission Meeting Minutes.

Attachments and Other Resources

- April 5, 2021 Charter Commission Meeting Minutes

CITY OF FRIDLEY
CHARTER COMMISSION MEETING
APRIL 5, 2021

CALL TO ORDER

Chairperson Nelson called the Charter Commission meeting to order at 7:00 p.m.

ROLL CALL

Members Present: Commissioners Gary Braam, Kelli Brillhart, Donald Findell, Manuel Granroos, Nikki Karnopp, Ted Kranz, Bruce Nelson, Rick Nelson, Courtney Rathke, Barb Reiland, Val Rolstad, and Cynthia Soule

Members Absent: Commissioners Pam Reynolds, and Avonna Starck

Others Present: Melissa Moore, Admin. Services Coord./Deputy City Clerk/Staff Liaison
Dan Tienter, Finance Director/City Treasurer/City Clerk
Deborah Dahl, Director of Community Services and Employee Resources
Alyssa Kruzel, Community Engagement Specialist

APPROVAL OF AGENDA

MOTION by Commissioner Braam approving the meeting agenda. Seconded by Commissioner Brillhart.

UPON A VOICE VOTE, ALL VOTING AYE, CHAIRPERSON NELSON DECLARED THE MOTION CARRIED.

APPROVAL OF MINUTES

1. Approval of March 1, 2021 Charter Commission Meeting Minutes

MOTION by Commissioner Brillhart to approve the meeting minutes of March 1, 2021 as presented. Seconded by Commissioner Braam.

UPON A VOICE VOTE, ALL VOTING AYE, CHAIRPERSON NELSON DECLARED THE MOTION CARRIED.

ADMINISTRATIVE MATTERS

1. New Member Interviews

Ms. Moore introduced Oluwaseyi Olawore who submitted an application for membership. She stated that there was one other applicant that was not able to attend the meeting tonight.

Chairperson Nelson asked why the applicant would like to join the Charter Commission.

Mr. Olawore replied that he would like to make an impact in his community. He commented that the Charter Commission provides regulation of the City and believed that this would be a good place for him to provide his input.

Commissioner Rathke commented that Mr. Olwore's educational background is impressive and asked if he has any relative experience.

Mr. Olawore stated that he works with federal agencies in his occupation and is familiar with writing rules and regulations. He stated that he has written many documents that have been adopted by his previous university.

Commissioner Brillhart commented that Mr. Olawore has been in Fridley for about 11 years and asked what he believes has been the biggest improvement in the community during that time.

Mr. Olawore stated that what someone sees from the outside is not the same what someone sees from the inside. He used the example of speed limits, as someone may want the speed limit on East River Road lowered but recognized that is not a power the City has because it is a County road.

Chairperson Nelson thanked Mr. Olawore for attending and participating in the interview.

Commissioner Rathke commented that Mr. Olawore has an impressive background that is detail oriented and would be a good fit for the Commission. She commented that he has also lived in Fridley for over ten years, which makes him educated about the community.

Commissioners Brillhart and Nelson agreed.

Ms. Moore commented that Mr. Olawore is the Head Election Judge at the location he worked at in 2020 and did a great job. It was also noted that the Charter Commission was his first choice for placement.

Commissioner Rathke commented that Mr. Olawore is well informed, qualified, and wants to serve the community on this Commission.

MOTION by Commissioner Rathke to direct staff to petition to the Judge to recommend that Oluwaseyi Olawore be appointed to the Charter Commission. Seconded by Commissioner Brillhart.

UPON A VOICE VOTE, ALL VOTING AYE, CHAIRPERSON NELSON DECLARED THE MOTION CARRIED.

Commissioner Soule commented that there was another applicant and asked what would happen with that applicant as she was unable to attend.

Mr. Moore commented that she will reach out to that applicant to inform her that the application will be held on file, as it will be recommended to fill the open position with Mr. Olawore.

OLD BUSINESS

2. Chapter 12 Revisions

Chairperson Nelson noted that the changes recommended at the last meeting have been incorporated into the draft included in the Commission packet and provided a breif overview.

Commissioner Brillhart stated that the draft aligns with the changes the Commission recommended and would be happy with the draft as is.

Commissioner Karnopp asked and received confirmation that this is the typical process to amend the Charter.

Mr. Tienter identified a few changes in capitalization and punctuation that staff found when reading through the draft.

The Commission agreed that those changes were nonsubstantiative and could be incorporated into the draft.

MOTION by Commissioner Braam to approve the changes to Chapter 12 as presented. Seconded by Commissioner Karnopp.

UPON A VOICE VOTE, ALL VOTING AYE, CHAIRPERSON NELSON DECLARED THE MOTION CARRIED.

NEW BUSINESS

None.

FUTURE MEETING TOPICS/COMMUNICATIONS

Mr. Tienter noted that at the next meeting a representative from the League of Minnesota Cities will be present to complete the training. It was confirmed that Mr. Olawore could attend the next meeting.

Ms. Moore provided an overview of the appointment process and commented that she believed Mr. Olawore could be appointed prior to the next meeting.

3. Parks Master Plan Presentation

Ms. Dahl presented the Parks Master Plan to the group.

Commissioner Rathke commented that she received the postcard about the park in her neighborhood. She stated that the phrase "challenge playground" element was used and asked for input from staff on what that would be.

Ms. Dahl replied that could be described as a ninja warrier obstacle course items. She commented that there are teens in that area that would most likely use that type of equipment.

Chairperson Nelson asked if the projected cost includes inflation.

Mr. Tienter commented that this stage the plan has not been phased and does not include inflation.

Commissioner Brillhart asked if there are plans to improve the water quality as well. She commented that the water quality of Moore Lake needs to be improved and she would think that should happen if the parks on the sides of the lake are being improved.

Ms. Dahl commented that there is an Environmental Planner for the City working with the Watershed District to address those issues, separately from the Parks Master Plan.

Commissioner Karnopp commented that she has noticed that the City and School District do not appear to work closely together. She believed that engaging the School District could provide additional opportunities for the entities to work and plan together.

Ms. Dahl commented that the City met with the School District one year ago in order to have those programming and planning discussions. She stated that the City has a liaison at the School District and has monthly meetings related to parks maintenance. She stated that they have also reached out to other stakeholder groups, such as sports associations, in order to refresh those relationships and engage those groups.

Chairperson Nelson asked if there has been discussion related to the opportunity that could be provided through National Night Out. He stated that perhaps there could be brochures made available with this information that could be passed out at the different events.

Ms. Kruzel commented that she has begun discussions with public safety staff related to Night to Unite, but explained that they most likely use the 2022 Night to Unite events to engage the community.

Ms. Dahl commented that staff is reaching out to block captains and faith-based organizations in order to engage members of the community throughout the process.

Commissioner Braam asked if there has been discussion about petitioning the legislature to grant a small increase in its sales tax to support these improvements.

Mr. Tienter stated that they did discuss other possible funding sources in the past. He stated that the State Legislature modified the process a few years ago to include a referendum and projects

would need to have a regional signficiance, therefore the parks projects would not be eligible as most of the improvements are proposed for neighborhood parks.

Commissioner Kranz commented that district and state tournaments are good for use of the parks and also provide benefit to local businesses. He noted that in the past the City hosted many tournaments and asked if there is a desire to pursue that type of activity again.

Ms. Dahl commented that the City used to have over 132 teams of softball players locally while there have been 10 to 12 teams in the past few years. She commented that there has been a decline in use and therefore that is part of the process to reassess the needs and field use. She stated that they have engaged an organization that brings in national tournaments and staff will continue to work with that group to continue to build the tournament capacity. She stated that when you host tournaments you need concessions and crowd control and there has not been much interest from community groups that used to provide those services in the past. She commented that there has been a lot of interest in cricket, lacrosse, and soccer. She noted that some of the field space may be coverted for that type of activity.

Chairperson Nelson thanked Ms. Dahl for the presentation.

Ms. Dahl commented that staff would welcome additional input in the future.

ADJOURNMENT

MOTION by Commissioner Brillhart to adjourn the meeting. Seconded by Commissioner Karnopp.

UPON A VOICE VOTE, ALL VOTING AYE, CHAIRPERSON NELSON DECLARED THE MOTION CARRIED AND THE MEETING ADJOURNED AT 8:36 P.M.

Respectfully submitted,

Commissioner Karnopp, Charter Commission Secretary

Amanda Staple, Recording Secretary

AGENDA REPORT

Meeting Date: May 3, 2021 **Meeting Type:** Charter Commission

Submitted By: Melissa Moore, Staff Liaison

Title

Reappointment of Commissioner Brillhart

Background

Commissioner Brillhart's appointment to the Charter Commission expires in September, 2021. The Commission does not meet again until October, so her reappointment must be addressed at this month's meeting.

Recommendation

Staff request the listed Commissioners consider a motion to reappointment Commissioner Brillhart, if she wishes.

Attachments and Other Resources

- None

AGENDA REPORT

Meeting Date: May 3, 2021 **Meeting Type:** Charter Commission

Submitted By: Daniel Tienter, Staff Liaison

Title

City Charter Commission Presentation, League of Minnesota Cities

Background

At the March 1, 2021 meeting, the Charter Commission (Commission) provided consensus to invite a representative of the League of Minnesota Cities (LMC) to the May 3, 2021 meeting to discuss home rule municipalities and city charters generally. Through their Charter Assistance Program, LMC provides education and guidance to charter cities in several areas, including:

- General powers of a home rule charter city;
- Advantages and disadvantages of a home rule charter;
- Essentials of a good home rule charter;
- Adopting and amending a home rule charter; and
- Functions of a charter commission.

Kevin Toskey, a staff attorney for LMC, will provide general information in each of these areas, as well as a brief history of charter law in Minnesota and Fridley. As mentioned during the previous meeting, the presentation will provide useful background information for new commissioners and a helpful reminder for experienced commissioners. As part of the services provided by LMC, they also produce an informational memorandum about home rule charter cities in Minnesota (Exhibit A).

Please note that LMC provides viewpoint–neutral information and does not opine on any particular charter, unless requested by the City and/or Commission. However, Mr. Toskey plans to familiarize himself with the City Charter prior to the presentation.

Recommendation

None at this time; information only.

Attachments and Other Resources

- Exhibit A: The Home Rule Charter City
- Exhibit B: Statutory Reference for Charter Cities/Potential Charter Cities
- Exhibit C: Original Fridley Charter (1957)

LEAGUE of MINNESOTA CITIES

HANDBOOK FOR MINNESOTA CITIES

Chapter 4
The Home Rule Charter City

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LEAGUE of MINNESOTA CITIES

HANDBOOK FOR MINNESOTA CITIES

Chapter 4
The Home Rule Charter City

Understand the authority to form a home rule charter city, charter city powers and the ways it may be organized. Contrast charter cities to those operating under the statutory city code. These broad categories are the two basic types of city organization available in Minnesota.

RELEVANT LINKS:

Minn. Const. art. XII, § 4.
Minn. Stat. ch. 410.

I. Home rule in Minnesota

The Minnesota Constitution permits the Legislature to establish home rule charter cities, counties, and other units of local government. State statutes enacted under this constitutional authority authorize cities to adopt home rule charters. Any city may adopt a home rule charter. Of the 853 cities in the state, 107 are currently operating under a voter-approved home rule charter.

See Part VIII – *Conflicts with state law*.

Home rule charter cities can exercise any powers in their locally adopted charters as long as they do not conflict with state laws. Conversely, charter provisions can specifically restrict the powers of a city. As a result, voters in home rule cities have more control over their city's powers.

II. Distinction between home rule charter and statutory cities

Minn. Stat. ch. 412.

The major difference between home rule cities and statutory cities in Minnesota is the kind of enabling legislation from which they gain their authority. Statutory cities derive their powers from Chapter 412 of Minnesota Statutes, commonly known as the statutory city code ("city code"). Home rule cities obtain their powers from a home rule charter. The distinction between home rule cities and statutory cities is one of organization and powers, not differences in population, size, location, or other physical features.

See Part IV – *The charter commission*.
Minn. Stat. § 410.33.
Minn. Stat. ch. 412.

Despite this distinction, home rule charter cities are often interested in the statutory city code. For example, a charter commission will often review Chapter 412 when drafting amendments to the charter. In addition, when a charter is silent on a matter addressed in the statutory city code (or other general law), the home rule charter city can generally use that statutory authority as well.

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RELEVANT LINKS:

Statutory cities are sometimes interested in home rule charters themselves. This may occur when problems arise that cannot be solved under the statutory city code. When a statutory city finds itself in such a situation, it can either request that the Legislature change the city code (or adopt a special law for that specific city), or it can become a home rule city with a charter provision that provides the necessary authority.

III. The home rule charter

Home rule charters are, in effect, local constitutions. State laws give cities a wide range of discretion to draft charters that will meet the specific needs of the community.

A. Forms of city organization

Minn. Stat. § 410.16.
Handbook, *Local Government in Minnesota*.

The charter may provide for any form of municipal government that is consistent with state laws that apply uniformly to all cities in Minnesota. Home rule charter cities in Minnesota have operated under the following four forms of city government. An individual charter may, however, alter some of these features.

1. Weak mayor-council

The weak mayor-council plan is the most predominant form of city organization and is used by 74* of the 107 home rule charter cities. Under this plan, administrative and legislative authority is the council's ultimate responsibility. The powers of the mayor are generally no greater (or less) than those of any other member of the council. No individual councilmember holds any specific administrative powers.

2. Strong mayor-council

The strong mayor-council plan is not very common in Minnesota. This plan is used by only three home rule charter cities: St. Paul, Duluth, and St. Cloud. Under this plan, the mayor is responsible to the council for the operation of all administrative agencies. Under the usual strong mayor-council plan, the mayor can generally appoint and remove subordinates, is not a councilmember but can veto council legislation, and prepares and administers a budget that is subject to council approval. The chief functions of the council are to legislate and set policies.

RELEVANT LINKS:

3. Council-manager

Under the council-manager form of government, the council has policy-making and legislative authority, but the administration is the responsibility of an appointed manager who answers directly to the council. Thirty Minnesota home rule cities use the council-manager plan.

4. Commission

Under the commission form of government, each elected councilmember is responsible for a particular administrative department. So, in addition to having duties as a legislative official, the councilmember is also a department head. The commission form has never been very popular. Over the years, it was used by only a few home rule cities. Today, no Minnesota city is operating under a commission.

B. Advantages of a home rule charter

The home rule charter type of city government has advantages and disadvantages. Some of the advantages of home rule include:

LMC Charter Assistance Program.

- One of the principle virtues of the home rule charter is that it allows each city to tailor its charter to its own individual needs and desires (cities are encouraged to contact the League of Minnesota Cities Charter Assistance Program for model and sample charters, research memos, and advice that will assist in drafting, amending, or adopting a charter). City residents draft, adopt, and amend the city's charter.

See Part V-C – *Amendments*.

- A home rule city, unlike a statutory city, has the power to make changes to fit its own needs by amending its charter. These changes can occur locally, rather than waiting (and hoping) for a new law to be passed when the Legislature is in session.
- The home rule process educates the voters of the city. Some work on charter commissions, while others will learn about the charter and any amendments when they vote on proposed changes.
- A city charter may cover many functions and procedures, or it may be very similar to the statutory form of city government.
- If general state laws are silent on a specific subject, local citizens may address them in their city's charter.

See Part VII – *Charter subjects and provisions*.

- A charter may provide for initiative and referendum, recall, and election of councilmembers by wards.
- City charters sometimes include limitations that are more stringent than those in the general state laws. For example, a few home rule charters contain tax and debt limitations.
- The cost of government under a city charter need not be greater or less than the cost of the statutory city form of government.

RELEVANT LINKS:

National Civic League Model City Charter, Eighth Edition (2011).

C. Disadvantages of a home rule charter

A home rule charter also has its disadvantages. Some of these can include:

- While the cost of preparing a home rule charter should be relatively minor, the smaller the community, the larger the cost in proportion to population.
- Poor charter drafting can be a problem. A charter city can minimize these concerns by relying on model charters and consulting competent professional advice.
- The process for amending a charter is often time-consuming and cumbersome.
- Charter amendments can be difficult to pass (particularly when the subject matter is controversial). Sometimes, city advocates will go directly to the Legislature for a solution, in order to bypass local opposition or to avoid dividing the community. This tends to defeat the original purpose of home rule: local control.
- If the city charter provides for special elections, election expenses may be overly burdensome to city budgets.
- Anyone looking for the applicable law relating to a home rule charter city must consult not only the state statutes, but the particular home rule charter. Only a few collections of the home rule charters exist. An up-to-date copy of a city charter is of utmost importance to ensure the advice is accurate.
- The experiences of other cities may be of little help to a home rule charter city. For example, when the Supreme Court or the attorney general gives a ruling that concerns a statutory city, that opinion will, in most instances, be equally applicable to all other statutory cities in the state. Rulings affecting a home rule charter may, however, only be relevant to those cities that have very similar charter provisions.
- The procedure for abandoning the charter form of city government may be similarly complicated.

D. Essentials of a good home rule charter

Effective charters maximize the advantages while minimizing the potential disadvantages. In addition, a good home rule charter will also address the following:

1. Comprehensive grant of power

The most essential element of a good charter is a comprehensive grant of power that allows the city to exercise all powers legally available under state law and the state constitution.

RELEVANT LINKS:

Because cities are organized to promote the welfare of the people, and city residents are in control through their elected representatives and charter commission members, citizens should not be afraid of entrusting their city government with a wide range of powers. If the citizens feel it necessary, the charter can include initiative, referendum, and possibly recall provisions as additional checks to prevent the abuse of power.

An example of a comprehensive grant of power clause in a home rule charter is as follows:

"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 constitution 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."

2. Simplicity and brevity

Simplicity and brevity are also essential to a good charter. Provisions should be simple and clear, avoiding the possibility of more than one interpretation. A charter should also be brief enough to be read in a reasonable amount of time.

3. Governance fundamentals

Because of the difficulty in amending and abandoning a home rule charter, the charter should only deal with governance fundamentals and give the city council the authority to provide more detailed regulations through city ordinances.

4. Responsive organization

A good city charter provides for a workable, responsive governmental organization. Its design should eliminate unnecessary "red tape" and makes city government more effective by reducing the number of working parts.

5. Centralize administration

Whenever possible, the charter should centralize responsibility for administration in one person: a chief administrative officer.

RELEVANT LINKS:

This encourages and rewards expertise and efficiency in the administration of the city.

6. Representative democracy

A charter should emphasize representative democracy. A city should limit the number of elective offices so voters will be able to intelligently cast their ballots. The charter should never ask voters to elect non-policy-making administrative officers. The city should have only a single body elected by voters to legislate and determine policies for the city. This single legislative body, the city council, should be composed of between five and nine members. Councilmember terms should be long enough (up to four years) to gain experience. State law mandates that most council terms be four years, although a two-year mayoral term is allowed.

7. Advisory boards

All advisory boards should report directly to the city council.

IV. The charter commission

A. Creation

Minn. Stat. § 410.05, subd. 1.

Every home rule charter begins with the appointment of a charter commission by the state district court. There are three ways a city's charter commission may be created:

Minnesota District Courts.

- First, the chief judge of the district court in which the city lies may appoint a charter commission if it is deemed to be in the best interest of the city. The court will probably not do this without local interest in the matter.
- Second, the court must make the appointment if it receives a petition signed by voters who constitute at least 10 percent of the number of voters who voted at the last city election. Smaller cities may find it easier to get the necessary number of signatures.
- Third, the city council may, by resolution, request the district court appoint a charter commission.

Minn. Stat. § 410.05, subd. 5.

Once appointed, a charter commission becomes a continuing body. Its membership will change from time to time, but the commission goes on indefinitely until it is formally dissolved using statutory procedures. Mere failure of the body to meet, to propose a successful charter for election, or to function does not end its existence.

See Section IV-D – *Dissolution*.

RELEVANT LINKS:

B. Commission members

Minn. Stat. § 410.05, subd. 1.

Charter commissions must have between seven and 15 members. The court will determine its size, unless a petition of the voters or resolution of the city council specifies the size of the commission. Any city with a home rule charter may amend the charter to fix the size of the commission to be between seven and 15 members.

1. Appointment

Minn. Stat. § 410.05, subd. 1.

Handbook, *Election Procedures*.

The district court usually makes charter commission appointments. The only statutory qualification for members of charter commissions is that they be qualified voters of the city. Commission members may hold some other public office or employment except for a judicial office. City councilmembers may serve on charter commissions.

However, the city's charter may provide that members of the governing body cannot serve on the charter commission. Charter commission members may serve unlimited successive terms.

Minn. Stat. § 410.05, subd. 3.

The court may receive information from interested citizens concerning these appointments. A city council, 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 consideration.

Minn. Stat. § 410.05, subd. 2.

The court, acting through the chief judge, makes the charter commission appointments by filing an order with the district court clerk. The district court clerk then notifies the appointees, who have 30 days to file their written acceptances and oaths of office with the district court clerk.

Minn. Stat. § 410.05, subd. 2.

Appointments are for staggered (or overlapping) four-year terms. Of the initial appointments, half the members plus one will serve two-year terms, with the remainder serving full four-year terms. Thereafter, the chief judge appoints new members or reappoints existing members every two years The chief judge must make these appointments within 60 days of the expiration of each term.

2. Vacancies

Minn. Stat. § 410.05, subd. 2.

The commission will experience vacancies due to various reasons, such as death, inability to perform duties, resignation (including failure to file the acceptance and oath of office), or based on moving out of the corporate limits of the city. The district court may remove members from the commission at any time by written order. The order must show the reason for removal.

RELEVANT LINKS:

If any member fails to perform the prescribed duties and fails to attend four consecutive meetings of the commission without satisfactory explanation, a majority of the members may sign a request for the member's removal and the court must order the removal.

Minn. Stat. § 410.05, subd. 2.

The commission should always contain its full complement of members. When a vacancy occurs, the chief judge must appoint a new member for the unexpired term.

C. Purpose and functions

Minn. Stat. § 410.07.

The primary concern of a new charter commission in a statutory city is discussing and drafting a home rule charter document to be voted on by the city's residents.

Minn. Stat. § 410.05, subd. 5.
Minn. Stat. § 410.10, subd. 4.

If the voters reject the first charter proposed by a commission (absent discharge of the commission by a vote of its members or a referendum by the city's voters), the commission may continue to submit proposals until the voters finally adopt one.

Minn. Stat. § 410.05, subd. 2.

Within 30 days after its appointment, a newly created charter commission must make rules, including quorum requirements, on its operations and procedures. The commission must file an annual report of its activities with the chief judge on or before Dec. 31 of each year, and must send a copy of the report to the city clerk.

Minn. Stat. § 410.05, subd. 4.

After adoption of the charter, the charter commission continues to function. The charter commission's statutorily prescribed duty is to study the local charter and government. The commission is required by law to meet at least once each calendar year. In addition, the commission must meet upon presentation of a petition signed by at least 10 percent of registered voters, according to the last annual city election, or by resolution of a majority of the city council. Further, the commission must specifically convene to propose charter amendments upon presentation of a petition of at least 5 percent of the number of votes cast at the last state general election in the city.

Minn. Stat. § 410.12, subd. 1.

Minn. Stat. § 410.12, subd. 1.

The charter commission is like a standing constitutional convention. It has the power to propose charter changes at any time. If the city's charter does not work or proves to be faulty in operation, it is the commission's duty to propose improvements. It should, therefore, meet at regular intervals as required and keep its organization intact should any emergency arise.

RELEVANT LINKS:

Minn. Stat. § 13D.01.
DPO 04-059.
Minn. Stat. § 15.17.
LMC information memo, *Meetings of City Councils.*
Handbook, *Records Management*.

Charter commissions are subject to the Minnesota Open Meeting Law (OML) and the Minnesota Government Data Practices Act (MGDPA). In addition, as government entities, charter commissions are required by law to keep a complete record of their activities and affairs. Charter commission members should familiarize themselves with the requirements of these laws, specifically those that concern the notice and public posting of meetings under the OML.

D. Dissolution

Minn. Stat. § 410.05, subd. 5(a).

An appointed charter commission in a statutory city (where a home rule charter has not been adopted) may be discharged in only one of the following ways:

LMC information memo, *City Special Elections.*

- By a three-fourths vote of the charter commission, if the charter commission determines that a charter is not necessary or desirable.
- After a general or special election (called by a petition of registered voters equal to at least 5 percent of the registered voters in the city) where a majority of the votes cast support the discharge of the charter commission.

Minn. Stat. § 410.05, subd. 5(b).

If dissolved, another commission may not be formed sooner than one year from the date of discharge.

See Section V-E – *Abandoning a home rule charter.*

In a home rule charter city, the charter commission cannot be dissolved or otherwise cease to exist unless the home rule charter is abandoned through the statutory process for changing the city form of government.

V. The charter process

A. Drafting

Minn. Stat. § 410.07.

In a statutory city without a home rule charter, the new charter commission must deliver to the city clerk the draft of a proposed charter or a report that states a home rule charter is not necessary or desirable. One of these documents must be provided as soon as practicable, and a majority of the members of the commission must sign it.

When a majority of commission members approves a charter draft, the commission should make and authenticate at least three identical, clear copies. All the members who approved the draft should sign each of the copies. One copy should go to the clerk of the city, who will deliver it to the city council. The charter commission should keep the second copy in its files. A third copy might be useful for newspaper publication.

RELEVANT LINKS:

1. Professional assistance

Minn. Stat. § 410.06.

Drafting a city charter is a complex and difficult job that requires special skill. A charter commission may, subject to the dollar limitations contained in the law, employ an attorney and other personnel to assist in drafting a charter. Before getting too far along in the process, a charter commission should seek advice on what should be included in a charter and should also submit a draft to an impartial expert for final review.

LMC Charter Assistance Program.

National Civic League Model City Charter, Eighth Edition (2011).

The League of Minnesota Cities Charter Assistance Program can be of assistance in furnishing the commission with pertinent charter materials. The charter commission may also find it helpful to have a member of the League's staff attend an early meeting of the commission to talk about forms of government, drafting procedures, and major policy problems. The League will also provide general advice. For a nominal fee, League counsel will examine and comment on an existing charter, charter draft, or amendment.

Most proposed charters have been sent to the League for this kind of review and comment.

2. Community involvement

The commission and its committees should collect the informed and interested opinions from citizens and city officials about the existing form of government and the proposed changes. The charter commission should consider criticism or positive experiences with the existing government when drafting the charter. The commission should bring tentative proposals to the attention of the public and city officials before making final decisions. Often, the mayor, city councilmembers, and other city officials may have special insights into the merits or practicality of particular proposals.

B. Election

Minn. Stat. § 410.10, subd. 1.
LMC information memo, *City Special Elections*.

After receiving the signed draft charter, the clerk notifies the city council of its receipt and will typically remind the council to submit the charter to an election of the voters. If the council fails to do so, the court may order it. The ordinary rules of the conduct of elections apply and the city covers the expense of a charter election.

Minn. Stat. § 410.10, subd. 1.

The charter commission may recall its proposed charter at any time before the council has fixed a date for the election. The council may authorize the commission to recall the charter at any time prior to its first publication.

RELEVANT LINKS:

Minn. Stat. § 410.10, subd. 1.

The council may have options regarding the timing of the election. If no general city election is to occur within six months after the clerk receives the draft, the council must call a special charter election on a date allowable by law. If a general city election will occur within six months, the council may either postpone the election on the charter until that general election, or it may call for a special election prior to the general election. If the election is held at the same time as the general election, the voting places and election officers shall be the same for both elections.

Minn. Stat. § 410.10, subd. 2.

The notice of election must include the complete charter. The notice must be published once a week for two successive weeks in the official newspaper and may also be published in any other legal newspaper in the city. In first-class cities, the publication must be made in a newspaper having a regular paid circulation of at least 25,000 copies.

1. Charter campaign

What is the role of the charter commission in the campaign for adoption of the charter? There are sometimes different views about the role of the charter commission and that of individual commission members.

The law does not give the commission any responsibility after the charter has left the commission, nor does it set any restrictions. Some charter commissions have served as the principal sponsoring organization for the charter. Commission members have been responsible for publicity and have made public speeches or written editorials on the commission's (as well as the proposed charter's) behalf.

In other cities, the commission as a whole has not been involved in the campaign, but sometimes individual members have participated. Because the statutes do not address the subject, what commission members do will depend on their perception of what is or is not appropriate. Surely, no other group is likely to know more about what is contained in the proposed charter and why or is likely to be more interested in the outcome of the charter election.

No outsider can give much advice on how to campaign for adoption of the charter. Local conditions and the kind of opposition that might develop will determine the necessary community response. Overconfidence, however, frequently results in the defeat of a charter. The opposition is usually vocal and well organized. It is no easy task, especially at a general election, to get the necessary majority to vote in favor of the charter. Frankness and honesty about the contents of the charter can help "disarm" the opposition. Throughout its entire proceedings, the commission should inform the public of its actions.

RELEVANT LINKS:

LMC information memo, *Public Purpose Expenditures.*
A.G. Op. 442-a-20 (Jul. 18, 1927). A. G. Op. 442-a-20 (Jul. 10, 1952). A. G. Op. 159-A-3 (May 24, 1966).
See "Statement of Position: Expenditure of Public Funds on Ballot Issue Advocacy," Office of the State Auditor.

Charter commissions should keep in mind that the use of public funds to promote a particular election outcome may be questionable. While efforts to inform voters about the charter and to encourage voters to cast their ballot seem reasonable, a "vote yes" campaign brochure is more questionable. Campaign efforts by commission members in their role as private citizens seem acceptable, provided they do not claim to speak for the entire commission.

2. Ballot

Minn. Stat. § 410.10, subd. 3.
LMC information memo, *City Special Elections.*

The ballot shall bear the printed words: "Shall the proposed new charter be adopted? Yes ___ No ____" (with a box after each of the last two words, in which the voter may indicate his or her choice). If alternative charters or charter provisions are submitted, the ballot shall be so printed as to permit the voter to indicate the preferred language.

3. Ratification

Minn. Stat. § 410.11.
Minn. Stat. § 410.04. Minn. Stat. § 410.121.

The majority needed to adopt a charter is 51 percent of those voting on the question at the election.

Bard v. Minneapolis, 256 Minn. 581, 99 N.W.2d 468 (1959).

A three-fourths majority, however, is needed if a proposed charter alters liquor patrol limits (provisions to remove or amend charter provisions changing the sale of intoxicating liquor require a 55 percent majority). Statutory provisions specifying the percentage of necessary votes to adopt a new or revised charter or to amend a charter supersede conflicting charter provisions.

4. Filing

Minn. Stat. § 410.11.

If voters adopt the charter, the city clerk must file copies in the office of the secretary of state, the office of the county recorder, and the clerk's office. A certificate attesting to the accuracy of the charter giving the date of the election and the vote by which the charter was adopted, must accompany each copy.

Although the Minnesota Constitution and laws do not require it, the charter commission should retain at least one copy of the charter. Printed copies of the charter should be sent to the League of Minnesota Cities, the Minnesota Historical Society, and to state and local libraries. These groups will frequently refer to the charter and it will be available to other Minnesota charter commissions considering new or amended charters. If the city has a website, it may want to consider posting an electronic copy of the charter for increased public access.

RELEVANT LINKS:

5. Effective date

Minn. Stat. § 410.11.

The charter will take effect 30 days after the election or at another time specified by the charter. The charter supersedes any previous charter of the city. The courts must take judicial notice of the charter.

Minn. Stat. § 410.11.

The officials elected and appointed under the newly adopted charter may then take control of the city's records, money, and property at any time specified by the charter. The charter may provide that until an election of officers occurs, the officers under the old charter will continue to function. When the new charter becomes fully operational, the re-organized city corporation is in all respects the legal successor of the corporation organized under the old charter or state law. Existing, consistent ordinances and contracts continue until the council changes them or they expire by their terms.

6. Rejected charters

If less than 51 percent of those voting on the question do not vote in favor of the proposed charter:

Minn. Stat. § 410.10, subd. 4.

- The charter commission may choose to modify its proposed charter and re-submit the charter for election.

Minn. Stat. § 410.05, subd. 5(a)(1).

- The charter commission may choose to disband by a three-fourths vote of its members.

Minn. Stat. § 410.05, subd. 5(a)(2).

- The city voters may disband the charter commission through a petition and referendum process.

Minn. Stat. § 410.05, subd. 5(b).

When a charter commission disbands itself or is discharged by the city voters, another commission may not be formed sooner than one year from the date of discharge.

C. Amendments

Minn. Stat. § 410.12, subd. 1a.

Charter cities will find it necessary to update or otherwise modify their charter to reflect current needs and expectations. Amendments must originate through one of the several ways that are provided in statute:

1. Amendment by proposal

a. Charter commission

Minn. Stat. § 410.12, subd. 1.

A charter commission may propose amendments to the charter at any time.

RELEVANT LINKS:

b. Citizen petition

Minn. Stat. § 410.12, subds. 1-3.
A.G. Op. 59a-11 (Dec. 30, 1981).

A charter commission must propose amendments upon receiving a petition signed by a number of registered voters equal to 5 percent of the total votes cast at the previous state general election in the city. This percentage cannot be changed by the charter itself.

Minn. Stat. § 410.12, subd. 1.

All petitions circulated must be uniform in character. The petition must state the proposed amendment to the charter in full. However, if the proposed amendment is larger than 1,000 words, a true and correct copy must be filed with the city clerk, and the petition will contain a summary (between 50 and 300 words) setting forth the "substance and nature" of the proposed amendment. When a summary is used, that summary (along with a copy of the prosed amendment) must be first submitted to the charter commission for its approval as to form and substance. The commission has 10 days to return the summary with any modifications necessary to fairly comply with these requirements.

Minn. Stat. § 204B.071.
Minnesota Secretary of State - Petitions.

The secretary of state is required to develop rules governing the manner in which petitions required for any election in this state are circulated, signed, filed, and inspected. The secretary of state shall provide samples of petition forms for use by election officials. Once received, the commission must submit the petition to popular vote.

c. Process and procedure

Minn. Stat. § 410.12, subds. 1, 4.

Davies v. City of Minneapolis, 316 N.W.2d 498 (Minn. 1981). *Haumant v. Griffin,* 699 N.W.2d 774 (Minn. Ct. App. 2005).

The amendment goes to the city clerk, who notifies the council. The council then provides for the election under the same rules that apply to a new charter. The council may not refuse to submit or change the amendment as long as it is constitutional. A city council does not need to submit an unconstitutional charter amendment or an amendment that violates state or federal law to the voters. When an amendment to a charter is proposed by the charter commission or petitioned for by the voters of the city, the proposed amendment must be submitted at least 17 weeks before the general election.

2. Amendment by ordinance

a. City council

Minn. Stat. § 410.12, subd. 5.

The city council may propose an amendment by ordinance. The council submits the ordinance proposing an amendment to the commission, which has 60 days for review (which may be extended by the commission an additional 90 days by filing a resolution determining that additional time is necessary with the city clerk).

RELEVANT LINKS:

After the review period, the commission returns the amendment or its own substitute amendment to the council. The council then submits to the voters either the amendment it originally proposed or the commission's substitute amendment.

b. Charter commission

Minn. Stat. § 410.12, subd. 7.

The charter commission may recommend the council amend the charter by ordinance. Within one month of receiving a recommendation to amend the charter by ordinance, the city must publish notice of a public hearing of the proposal (which must also contain the text of the proposed amendment).

Minn. Stat. § 410.12, subd. 7.

The city must hold the public hearing on the proposed charter amendment at least two weeks but not more than one month after the notice is published. Within one month of the public hearing, the city council must vote on the proposed charter amendment ordinance. The vote must be unanimous, including approval by the mayor if the mayor has veto power.

The ordinance proposing the amendment is subject to the same publication requirements as other ordinances. The ordinance becomes effective 90 days after passage and publication, unless a later date is provided in the ordinance.

Minn. Stat. § 410.12, subd. 7.

Within 60 days after passage and publication, a petition signed by registered voters equal in number to at least 5 percent of the registered voters in the city or 2,000, whichever is less, may be submitted to force a referendum on the amendment.

If voters file a proper petition, the city must handle the amendment like any other charter amendment, except the council may submit the ordinance at a general or special election that occurs within 60 days after filing the petition, or it may reconsider its action in adopting the ordinance.

c. Cities of the fourth class

Minn. Stat. § 410.12, subd. 6.

In cities with a population of less than 10,000, the council may propose amendments by ordinance without submitting them to the charter commission. Four-fifths of the councilmembers must vote for the ordinance. Two weeks published notice is necessary before the vote. The council must then submit the ordinance to the voters like any other amendment.

RELEVANT LINKS:

3. Elections

Minn. Stat. § 410.10. Minn. Stat. § 410.12, subd. 4. Minn. Stat. § 410.121.
See Section V-B – *Election*.

The election concerning proposed amendments and the arrangement of the ballot are substantially the same as in the case of the adoption of a new charter. An amendment needs the favorable vote of 51 percent of those voting on the question.

4. Notice

Minn. Stat. § 410.12. Minn. Stat. § 410.11.

Amendments, like charters, need the clerk's certification. Copies must be filed in the offices of the secretary of state and county recorder, as well as in the clerk's office. Amendments take effect either at the end of 30 days after the election, or at some other time if the amendment so specifies. The law also allows for alternative proposals.

LMC Charter Assistance Program.

The League of Minnesota Cities Charter Assistance Program would appreciate a copy in order to keep the LMC charter collection up to date. State and local libraries and the Minnesota Historical Society are also suggested recipients. A city may also want to consider posting charter amendments to its website to keep the online charter up to date.

D. New or revised charters

Any city having a home rule charter may adopt a new or revised charter in the same manner as an original charter. If a new or completely revised charter is to go to the voters, the preparation of the ballot and other procedures are substantially the same as for the original charter.

E. Abandoning a home rule charter

Minn. Const. art. XII, § 5.

Minn. Stat. § 410.30.

Any home rule city may abandon its charter and become a statutory city. Since the state was formed, only three cities—Jordan, Isanti, and Sauk Centre, all since 1989—have abandoned their charter form of government.

These three cities are now Plan A statutory cities. A city may abandon its charter by presenting a proposal, adopting it, and having it become effective in the same manner as a charter amendment. Accordingly, abandonment would require the approval of 51 percent of those voting on the question.

Minn. Stat. § 410.30.

The proposal must include a schedule containing necessary provisions for transition to the statutory city form of government in order to place the city on a regular election schedule as soon as practicable. The proposal may provide for continuation of specified provisions of the home rule charter for an interim period and must specify the plan under which the city will operate as a statutory city.

RELEVANT LINKS:

Minn. Stat. § 410.16.

National Civic League Model City Charter, Eighth Edition (2011).

VI. General powers

A city charter should deal only with the fundamentals of the governmental organization of the city, leaving the council free to exercise a broad grant of authority by ordinance. Modern charters contain provisions that claim for the city all powers that the home rule provision of the constitution permits a city to assume. Older charters contain a long list of specific grants giving various powers to the city. The strong statements of intent found in League and National Civic League model charters should be adequate to ensure that the omnibus grant gives the city all the municipal power it might receive through more specific grants.

Park v. City of Duluth, 134 Minn. 296, 159 N.W. 627 (1916). *State v. City of Duluth,* 134 Minn. 355, 159 N.W. 792 (1916). *City of Duluth v. Cerveny,* 218 Minn. 511, 16 N.W.2d 779 (1944).

Minnesota Supreme Court decisions generally have given a liberal construction to all-powers grants in city charters. In addition to powers granted by the charter, various state statutes may give additional powers to a city and regulate certain activities. For example, authority for planning, police civil service commissions, and municipal forest maintenance is included in laws dealing specifically with these subjects.

A home rule charter may provide any municipal powers the Legislature could have delegated to the city, as long as the powers are consistent with state statutes. A number of city charters have attempted to do this. Under such a grant, the charter may authorize the city to provide for medical clinics, public transit, and industrial parks. It may authorize any of a range of public enterprises as long as they do not involve the use of public funds for an unconstitutionally private purpose. The limits depend more on public policy than on the lack of home rule charter power.

Minn. Stat. § 410.33.
Minn. Stat. ch. 412.
In re HUC Pipeline Condemnation Litig., No. A03-1125 (Minn. Ct. App. May 4, 2004) (unpublished decision).

If a charter is silent on a topic that Chapter 412 or another statute addresses for statutory cities, home rule cities may usually apply the general law on the subject. If, however, general law prohibits a charter from addressing the matter or provides that the charter prevails over general law, the home rule city may not apply the general law.

Nordmarken v. City of Richfield, 641 N.W.2d 343 (Minn. Ct. App. 2002). *Lilly v. City of Minneapolis,* 527 N.W.2d 107 (Minn. Ct. App. 1995).

No city, however, even one organized under a city charter, has inherent powers. A city may only exercise such powers that are expressly conferred by statute or are implied as necessary in aid of those powers. If a matter presents a statewide problem, the implied necessary powers to regulate are narrowly construed unless the Legislature has provided otherwise.

VII. Charter subjects and provisions

The following list of powers are addressed within many home rule charters is not complete or all-inclusive. Many provisions contained within a city charter are also discussed in more detail in other chapters of the LMC Handbook for Minnesota Cities.

RELEVANT LINKS:

Handbook, *Property Tax Levy*.

A. Taxes

Presumably, a charter may grant a home rule city power to tax although the state has largely pre-empted two local non-property taxes: the sales tax and the income tax. State law has historically provided some differences between home rule charter cities and statutory cities in property tax levy authority.

Minn. Stat. § 275.75.

For example, the Legislature allows charter cities to exceed their charter limits or referendum requirements for levy increases if the increased levy was needed to offset reductions in city local government aid (however, any state-imposed levy limits still apply).

B. Finance

Handbook, *Municipal Budgeting*.
Handbook, *Property Tax Levy*.

The charter may, but does not need to, require a budget system (however, current truth-in-taxation laws require all cities to prepare a budget).

The charter may regulate the payment of claims and may also limit or broaden the purposes for which the city may spend money beyond the limits set for statutory cities. For example, a charter could allow appropriations to private agencies performing work of a public nature, while statutory cities probably could not. The law limits statutory cities in their issuance of warrants in anticipation of the collection of taxes. A charter may broaden or curtail this authority.

Minn. Stat. § 410.325.

Handbook, *Debt and Borrowing*.

Both statutory and home rule charter cities may use a system of anticipation certificates. A charter may lower the debt limit applicable to cities, but it may not raise the limit. A charter can also restrict the purposes for which the city may issue bonds, and it can make the procedure easier or more difficult.

C. Utilities

1. Municipal utilities

Minn. Stat. § 412.321.

A.G. Op. 624a-3 (June 28, 1999).

While statutory cities may establish electric, gas, light, and power utilities only after a vote by the people—regardless of the method of financing—a charter may provide for acquisition without a vote or may require a different majority from the majority necessary in statutory cities. A charter may give the right of condemnation without a time limit. A charter may also allow the city to use surplus utility funds to support general funds.

RELEVANT LINKS:

Minn. Stat. § 444.075, subd. 3(b).
LMC information memo, *Securing Payments of Utility Charges*.

Charters may not attempt to set utility rates for water, sewer, and stormwater utilities. Charter provisions may not artificially inflate or suppress rates. Authority to set rates is vested exclusively in the city council by state statute.

2. Regulation

Handbook, *City Regulatory Functions*.
Minn. Stat. § 410.09.

The Minnesota Public Utilities Commission and the Department of Commerce regulate the service and rates of private gas, electric, and telephone utilities. However, charters may acquire gas and electric franchises and may adopt regulations, including requirements for a gross earnings tax or similar fees. Strict limitations on the use of franchises, taxation, and fees for the use of public rights-of-way exist, whether or not a city has a charter.

D. Ordinances

1. Procedures

Minn. Stat. § 412.191, subd. 4.

Statutory cities may pass an ordinance on a single reading at the same meeting that the ordinance first comes before the council.

Minn. Stat. § 410.20.

The ordinance must be published in full or in summary form in the local newspaper. Statutory cities may, but do not need to, require several readings and a lapse of time between readings. Charters may or may not provide for publication, and they may impose other restrictions on the ordinance process.

2. Initiative and referendum

Minn. Stat. § 410.20.

Statutory cities may not submit ordinances to the people for approval under the initiative and referendum process. Only home rule charter cities may provide for initiative and referendum through their charter.

Hanson v. City of Granite Falls, 529 N.W.2d 485 (Minn. Ct. App. 1995).

Only ordinances that are "legislative in character" may be enacted through the initiative and referendum process. Legislative actions are those that are general in nature and lay down a permanent and uniform rule of law.

HRA v. City of Minneapolis, 293 Minn. 227, 198 N.W.2d 531 (Minn. 1972). A.G. Op. 858 (Oct. 26, 1970). A.G. Op. 858 (August 5, 1970). But see *City of Cuyahoga Falls v. Buckeye Cmty. Hope Found,* 538 U.S. 188, 123 S. Ct. 1389 (U.S. 2003). A.G. Op. 185b-2 (Mar. 8, 1962).

Administrative actions, on the other hand, are those of a temporary and special character. They merely carry out existing laws and relate to the daily administration of municipal affairs. Administrative actions include the settlement of lawsuits, entering of contracts, acceptance or rejection of bids, sale of municipal bonds, appointment of city officials, levying of taxes, granting of licenses and permits, and the adoption of budgets.

RELEVANT LINKS:

Minn. Stat. § 205.02, subd. 2.
Minn. Stat. § 205.07, subd. 1.

Minn. Stat. § 205.10, subd. 3a.

E. Elections

State statutes regulate many phases of election procedure, but some may be open to city regulation through the charter. State law fixes the date of city elections in both statutory and home rule cities for the first Tuesday after the first Monday in November in even or odd years. In charter cities, special elections may only be held on the days allowable by law.

F. Elected officials

1. Wards

Minn. Stat. § 410.16.

The charter may use proportional representation and may set up different nomination procedures from those in statutory cities. The charter may provide for ward representation, which is generally not available to statutory cities.

2. Removal by the council

Minn. Stat. § 351.02.
A.G. Op. 59a-30 (Jul. 24, 1996).

State law establishes the specific situations that create vacancies in elective office. A charter may not provide for removal of councilmembers by the council for any reason not explicitly stated in statute.

3. Recall

Minn. Stat. § 410.20.
Minn. Const. art VIII, § 5.
Jacobsen v. Nagel, 255 Minn. 300, 96 N.W. 2d 569 (1959).

Home rule charter cities have some limited authority to provide for recall elections of the city's elected officials. The Minnesota Constitution and state court decisions have restricted the recall of elected city officials to cases of serious malfeasance or nonfeasance during the term of office in the performance of the duties of the office. Recall does not exist in statutory cities.

4. Term limits

Minneapolis Term Limits Coalition v. Keefe, 535 N.W.2d 306 (Minn. 1995).

A charter may not impose term limits on city elected officials.

G. City personnel

In home rule cities, the charter may establish procedures for the appointment and removal of non-elective officers and employees at the discretion of the council. The charter may include restrictions, such as a formal civil service system, and it may authorize the council to fix administrative salaries subject to the limitations and procedures provided by the charter.

RELEVANT LINKS:

H. Delegation of powers

A.G. Op. 624a-3 (June 28, 1999) . A.G. Op. 1001-a (Sept. 15, 1950). *Muehring v. School District No. 31*, 224 Minn. 432, 28 N.W.2d 655 (1947). *Minneapolis Gas and Light Co. v. City of Minneapolis*, 36 Minn. 159, 30 N.W. 450 (1886).

Absent specific statutory or charter authority, the council of a charter city may not delegate powers and duties that require the exercise of judgment and discretion to other persons or bodies. Specific language must exist in the charter for any delegation to occur.

I. Contracts

Minn. Stat. § 471.345.

A.G. Op. 59-a-15 (Aug. 22, 1969)

Queen City Constr., Inc. v. City of Rochester, 604 N.W.2d 368 (Minn. Ct. App. 1999).

Handbook, *Expenditures Purchasing and Contracts*.

State law establishes bidding procedures and uniform dollar limits for all city contracts for the purchase, sale, or rental of supplies, materials, or equipment, or the construction, alteration, repair, or maintenance of real or personal property.

While the language leaves some doubt about the application of the law to home rule charter cities, the attorney general was of the opinion that the statute supersedes all charter provisions concerning uniform dollar limitations. Presumably, the charter may regulate some phases of the contracting procedure, but most charters deal only with subjects not covered by the state law.

J. Accounting

Minn. Stat. § 412.222.

Minn. Stat. § 6.54. Minn. Stat. § 6.55.

Minn. Stat. §§ 471.695-.698.

Handbook, *Property Tax Levy*.

Under the law, statutory cities may employ a public accountant or the state auditor to perform an audit. By charter, cities may require an annual audit by the person designated to perform the audit. Charter cities are also subject to the law that requires the state auditor to examine a city's records on the initiative of the council or a petition of citizens.

All cities are required to publish their annual financial statements. In home rule cities, the charter may require additional reports and publication of the reports depending on the desires of the community. The number and kinds of funds, and the authority to transfer between funds, may come under charter regulation with minimum statutory restriction. In statutory cities, the law is more restrictive on this subject.

K. Licensing and regulation

Handbook, *City Licensing*.
Handbook, *City Regulatory Functions*.

While statutory cities must find a specific statute authorizing the licensing or regulation of an activity before they can regulate that activity, a charter city can often rely on an all-powers provision in its charter to license or regulate activities within its borders. Without such an all-powers or other broad grant of authority, a charter city must find a specific charter provision or state law authorizing the regulation.

RELEVANT LINKS:

Handbook, *Financing Public Improvements*.
Minn. Const. art. X, § 1.
Minn. Stat. ch. 429.
Minn. Stat. § 429.111.

Minn. Stat. § 429.021, subd. 3.

Minn. Const. art. X, § 1.

L. Special assessments

Both statutory and home rule cities may finance local improvements by special assessments against benefited property under a uniform constitutional and statutory procedure. While most home rule cities follow state law, a city charter may provide a different procedure or authorize the council to adopt a different procedure and may require the city to use that method exclusively. A charter city, however, must conform to certain requirements of state law. The charter can require the city to use general funds or service charges, rather than special assessments, for local improvements. Any special assessments used must comply with the constitutional requirement that the amount of the special assessments cannot exceed the increased market value of the property as a result of the benefit due to the local improvement.

Curiskis v. City of Minneapolis, 729 N.W.2d 655 (Minn. Ct. App. 2007).

Some charters with special assessment provisions authorize the city council to choose between utilizing the charter provisions or state law when imposing special assessments. A court case has validated such charter provisions. However, when a city elects to use its charter provisions for a special assessment project, the charter provisions must be followed throughout the entire project.

The city cannot later elect to use the state law provisions for the same special assessment project. Likewise, the city cannot commence a special assessment project under the procedure in state law and then later elect to utilize the charter procedure.

M. Real estate

Handbook, *Expenditures Purchasing and Contracts*.
LMC information memo, *Purchase and Sale of Real Property*.

Charter and statutory cities may acquire real estate that is needed for public purposes, and the council can dispose of it when it is no longer needed. State law does not require bids or approval of the voters, but a charter may impose such restrictions.

N. Liability

Handbook, *Liability*.

Both statutory and home rule cities are subject to the same tort liability imposed by statutes and court decisions.

Home rule charter cities may not attempt to extend or curtail the city's liability to any extent.

VIII. Conflicts with state law

Harmonizing general statutory language and charter provisions that deal with the same subject can be difficult.

RELEVANT LINKS:

Cities can resolve potential conflicts between state laws and charter provisions through the following process:

A. General rule

Nordmarken v. City of Richfield, 641 N.W.2d 343 (Minn. Ct. App. 2002).

The general rule is that when a charter provision is in conflict with the state statutes, the statutory provisions prevail and the charter provision is ineffective to the extent it conflicts with the state policy.

B. Identifying conflicts

Mangold Midwest Co. v. Village of Richfield, 274 Minn. 347, 143 N.W.2d 813 (Minn. 1966). *State v. Kuhlman*, 729 N.W.2d 577 (Minn. 2006).

Bicking v. City of Minneapolis, 891 N.W.2d 304 (Minn. 2017).

When state law is silent on an issue covered by charter and the issue is one that the Legislature has the power to delegate to a city, the assumption is that there is no conflict with state policy. On the other hand, when a charter provision and state law deal with the same issue, the possibility for conflict or preemption occurs. Charter provisions or charter city ordinances conflict with state law when they contain express or implied terms that are irreconcilable with each other. State law preempts charter provisions or charter city ordinances when state law fully occupies a particular field of legislation.

State v. Burns, No. A05-2554 (Minn. Ct. App. Mar. 20, 2007) (unpublished decision).

Rather than requesting an attorney general's opinion or having a court resolve the possible conflict, a city council can, by resolution, rely on the opinion of its attorney as to whether a conflict exists. In making this decision, the attorney should consider the following points:

- Is there a court case or attorney general opinion that deals with the same or similar provisions? If so, the city must follow the court ruling. Even though attorney general opinions are only advisory, a city should seriously consider the reasoning behind the opinion.
- In the absence of a court decision or attorney general ruling, does the state law clearly outline or imply a policy decision by the Legislature that the law applies to charter cities as well as to statutory cities?

Minn. Stat. § 410.015.

For laws passed by the Legislature since 1976, this determination is easy. In any law taking effect after July 1, 1976, the word "city" means statutory city only. After that date, in order for a law to apply to charter cities, the law itself must clearly state it applies to both statutory and home rule charter cities. A mere reference to all cities would not be sufficient to include charter cities.

For laws enacted prior to July 1, 1976, cities should look for phrases such as, "all cities shall" or "unless the council determines to proceed under charter provisions" for clues of legislative intent.

Generally, laws enacted by the Legislature for the purpose of protecting the public prior to July 1, 1976, probably apply to all cities.

RELEVANT LINKS:

Columbia Heights Relief Ass'n v. City of Columbia Heights, 305 Minn. 399, 233 N.W.2d 760 (1975). *State v. Kuhlman*, 729 N.W.2d 577 (Minn. 2006). *State v. Burns,* No. A05-2554 (Minn. Ct. App. Mar. 20, 2007) (unpublished decision).

C. Resolution

Even if a general state law applies to charter cities, it does not necessarily supersede a charter provision. If both the charter and state law direct the city to take certain actions or follow certain procedures, it may be advisable to follow both the charter provision and the state law, in order to resolve any conflicts between the two provisions. State law supersedes charter provisions only to the extent the charter provisions conflict with state policy.

IX. How charter cities should use the LMC handbook

This handbook is written for both statutory and home rule charter cities. Each chapter includes a section on how the chapter relates to charter cities. Because of the differences in city charters, it is difficult to generalize about how an individual charter city will be impacted by any particular state law. The handbook does, however, address statewide laws and rules, court decisions, and attorney general opinions that apply to charter cities.

LEAGUE of MINNESOTA CITIES

STATUTORY REFERENCE FOR CHARTER CITIES/POTENTIAL CHARTER CITIES

This resource summarizes the most important provisions of Chapter 410 of the Minnesota Statutes, which governs procedures regarding home rule charters.

More detailed information can be found in Chapter 4 of the League Handbook for Minnesota Cities, available here: https://www.lmc.org/media/document/1/thehomerulechartercity.pdf?inline=true.

Questions and requests for information about general city government can be submitted to the League Research Service at 651-281-1200 or online www.lmc.org.

The League's Charter Assistance Program can provide more focused assistance, including sample materials, general advice, analysis and input, and charter review. There is a fee for review and commentary of an existing charter, draft charter, or charter amendments. Contact Kevin Toskey, Staff Attorney, at 651-281-1292 or ktoskey@lmc.org for more information.

The Charter Commission

Formation of Charter Commission (410.05) – Formation of commission occurs in three ways:

- Dist. Ct. chief judge may appoint charter commission if in best interest of the city.
- Dist. Ct. chief judge must appoint charter commission if a petition is signed by 10% of voters in the city from last city election.
- Dist. Ct. chief judge must appoint charter commission if requested by resolution of city council.

Size of Charter Commission (410.05)

- Must be between 7 and 15 members, determined by the court unless appointed pursuant to petition or council resolution, then size shall be as specified.
- Size of charter commission may be fixed by charter provision, but must be between 7 and 15.

Commissioners (410.05)

- Appointed by Dist. Ct. (half to two year terms, half to four year terms) – court may receive information on interested commission members.
- Must be qualified voter of the city
- May be councilmembers (unless charter says otherwise)

- Can hold elective office, except judicial. Those holding other elective offices may serve as commissioners, unless as provided in charter.
- All term of office are four years.
- At term's end, Dist. Ct. must appoint commission members within 60 days (new in 2020).
- Must provide written acceptance and oath of office within 30 days, or creates vacancy.
- Commissioners shall receive no compensation (410.06).

Vacancies (410.05)

- Members may be removed at any time by written order of Dist. Ct., showing reasons for removal.
- Dist Ct. shall remove member if member fails to perform duties and misses four consecutive meeting and commission secretary files certificate to that effect in Dist. Ct.
- Vacancies are filled by Dist. Ct., unless Dist. Ct. fails to appoint or indicate intent to appoint within 30 days.

Meetings (410.05)

- Must meet at least once per year.
- Must meet by council resolution or upon petition of 10% of voters of last city election.
- After initial appointment, makes rules of procedure to include quorum requirements, elect
- Meetings subject to Open Meeting Law and MN Gov. Data Practices Act.
- Must submit annual report to chief judge of district court before Dec. 31 of each year, outlining its activities for the year.

If Voters Reject First Charter/Dissolution of Commission (410.05)

- Charter commission can modify proposals and continue to submit to voters (410.10), or
- Charter commission be discharged upon vote of ¾ of its members, if determined charter is not necessary.
- Referendum may be requested on discharge by 5% of all qualified voters in city. Election is held, and majority of votes will discharge charter commission.
- Another commission cannot be formed sooner than one year from discharge.

The Charter Drafting Process

Drafting Process

- Commission must deliver to clerk, as soon as practicable, a report determining that charter is not needed/desirable or a draft of proposed charter (410.07).
- Charter draft must provide for a mayor, and council to be elected by the people (410.07).
- Commission may employ an attorney and other personnel to assist in drafting a charter or charter amendments (410.06).
- The commission may direct the city to pay for (1) the reasonable compensation of personnel, (2) printing costs, and (3) the cost of informing the citizens of the charter or charter amendments. (410.06).

- The amount of costs the city must pay is the greater of .07% of the city's current certified general tax levy or $1,500, not to exceed $20,000 in any year, unless authorized by the council. The council may levy a tax in excess of charter limitations to pay the expenses. (New in 2020).

Charter Election (410.10)

- Upon delivery of initial charter, council shall cause election at general election if within six months, or must call for a special election.
- Notice of election must contain complete charter and shall be published once per week for two weeks in a legal newspaper of the city.
- Charter is adopted if 51% of those voting vote in favor (410.11).
- Charter takes effect 30 days after election unless another time specified in charter (410.11).
- If rejected, commission can modify others until one is adopted.
- Alternative provisions may be submitted and voted on separately (410.14).

Amending the Charter

Amendment by Proposal (410.12)

- **Charter commission** can propose amendments at any time.
- **Citizen Petition** – amendment must be proposed when petition by 5% of total votes cast in last general election (percentage can't be modified by charter). Must be a committee of five registered voters identified as responsible for circulating the petition.
- Citizen petitions require specific affidavit language for circulators.
- Petitions must be uniform and must state charter amendment in full (summary may be used if too long).
- Proposed amendment goes to council, who can only refuse to call election if charter amendment is unconstitutional.
- Charter amendments proposed by citizen petition or commission must be submitted at least 17 weeks prior to general election.
- Charter amendments can be submitted to voters at general or special election.
- Requires 51% approval of voters to take effect.

Amendment by Ordinance (410.12)

- **City Council** – may propose an amendment by ordinance by submitting proposed ordinance to the commission, which has 60 days to review (and can be extended for additional 90 by charter commission by resolution).
- After review, commission can propose substitute amendment or approve council's version. The council then submits either version to the voters for election.
- **Charter Commission –** may recommend that council amend charter by ordinance. **Public hearing is required; must publish notice of public hearing.**
- Public hearing must be held at least two weeks and not more than one month after notice.
- Within one month of hearing, council must vote on proposed amendment ordinance.

- **Vote must be unanimous**
- Ordinance not to take effect until 90 days after passage and publication.

Referendum on Ordinance Amendment when Charter Commission Proposes to Council that Charter be Amended by Ordinance (410.12)

- Within 60 days after passage and publication of ordinance, petition signed by 5% of registered voters in city or 2,000, whichever is less, may force referendum.
- Council may submit ordinance to voters at any general or special election held at least 60 days after submission of petition, or reconsider its action.

Fourth Class Cities (410.12)

- In cities with population less than 10,000, council may propose amendments by ordinance without submitting them to charter commission.
- 4/5 vote is required for the ordinance, with two weeks published notice before the vote.
- If adopted, council submits the ordinance to voters like any other amendment.

Abandoning Charter (410.30)

- Charter may be abandoned and city can revert to statutory city – process is same as for amending a charter (several ways).
- Proposal must state which statutory city configuration city reverts to, and also include a transition schedule.

Common Charter Structure/Provisions

Comprehensive Grant of Power to City

The city has all powers which it now or hereafter is authorized to exercise for a municipal corporation in this state in harmony with the constitutions of this state and of the United States. The intention of this charter is that every power which the people of the city can lawfully confer upon themselves, as a municipal corporation, by specific enumeration in this charter is deemed to have been so conferred by the provisions of this section. This charter is to be construed liberally to promote the health, safety and welfare of the city and the conferring of particular powers in the charter is not to be construed as limiting in any way the generality of the power conferred – **Bloomington Charter 1.02**

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 constitution of the State of Minnesota and of the United States. This Charter shall be construed liberally, and the specific mention of particular powers in the Charter shall not be construed as limiting in any way the general powers herein conferred – **White Bear Lake Charter 1.03**

The city shall have all powers of local self-government and home rule and all powers possible for a municipal corporation to have under the Constitution of the State of Minnesota. The city shall have all powers possessed by municipal corporations at common law and that now or hereafter may be granted to municipalities by the laws of the State of Minnesota. All such powers shall be exercised in the manner prescribed in this Charter or by the laws of the State of Minnesota, or if not so prescribed, as shall be provided by ordinance or resolution of the city council.

The provisions of this Charter shall be construed liberally in favor of the city, to the end that it may have all the powers necessary for the efficient conduct of its municipal affairs. The specific mention of particular municipal powers in other sections of this Charter shall not be construed as limiting the general powers of the city to those specifically mentioned. **Chatfield Charter 2, 3**

Form of Government

- Elective Offices (description, terms, election)
- When vacancies occur; how filled.
- Wards or at-large (redistricting after census)
- Duties of mayor (voting, non-voting, voting only if tie)
- Incompatible offices (no employment or other office, waiting period after term ends)
- Investigation of city affairs

Meetings, Ordinances, Etc.

- Council Meetings
- Quorum requirements
- Rules of Procedure

- Ordinance passage
- Signing of resolutions/ordinances
- Emergency ordinances

City Admin. Officials

- Executive official other than council
- City Manager or Admin. (authority to purchase and contract)
- Powers of city manager or admin.
- City Clerk and duties
- City departments
- City attorney

Initiative

- Reservation of initiative to the electors of the city (may except appropriation or taxation issues)
- Formation of initiative committee (Typically 5 registered voters or more)
- Petition and signature requirements, prior review by city attorney, form of petition
- Percentage requirements for petition based on votes in past elections.
- Action of council upon receipt of petition – adopt, put to voters, regular or special election

Referendum

- Reservation of referendum to the electors of the city (except appropriation, budget, etc.).
- Deadline for referendum -before ordinance takes effect, or after it becomes effective
- Formation of referendum committee (Typically 5 registered voters or more)
- Petition and signature requirements (Percentage of voters required)
- Ordinance suspended upon petition
- City council action upon receipt – re-pass ordinance, reconsider ordinance
- Election and effect – majority vote for or against.

Recall

- Reservation of recall to the electors of the city.
- Basis for recall (must be based on malfeasance/non-feasance per MN Constitution)
- Formation of recall committee (Typically 5 registered voters or more)
- Petition and signature requirements (submission to clerk of basis of recall prior to petition circulation, percentage requirement for petition maybe higher).
- Recall election at special election or general election (fill vacancy at same time by election?)

Finance and Taxation

- Presentation of budget (by Manager/Admin. or someone else)
- System of taxation
- When budget to be addressed by council (Sept., Oct., Nov.)
- Emergency expenditures/outlays

- Establishment and maintenance of Funds
- Bonding requirements
- Expenditures of city funds
- Tax anticipation certificats
- Emergency debt certificates

Assessments

- Grant of power to levy special assessments for any purpose.
- Grant of assessments for services (snow removal, rubbish removal, sidewalks, etc.).

Public Utilities

- Grant of power to city to own and operate any public utility.
- Power to fix rates and provide regulations for payments – rates must be just and reasonable.
- Question to operate new utility put to voters?
- Purchase in bulk
- Lease of utility – can contract with any person for operation.
- Disposition of the public utility – issue put to voters?

Franchises

- Franchise required to operate public utility.
- Term of franchise
- Public hearing for franchise
- Council power to regulate

Eminent Domain

- Grant of power to acquire, by purchase, gift, device, condemnation, any real property for public use.
- Requirement of resolution stating the necessity for taking the property.

Misc. Provisions

- Designation of official newspaper for publication of notices
- Bonds to be required of appointed officials
- Vacation of streets
- Intoxicating liquor
- Punishment for violations of city code

Exhibit C

CERTIFICATE OF RATIFICATION

I, Thomas E. Greig, being the duly elected Chief Magistrate (Mayor) of the Village of Fridley, Anoka County, Minnesota, now City of Fridley, do hereby certify that the foregoing document consisting of Chapters 1 through 12, inclusive, is the City Charter for Fridley, Minnesota, said Charter having been submitted to the Village Council of Fridley by the Board of Freeholders (Charter Commission) on the fourth day of June, 1957, that the Charter was approved by the electorate of the Village of Fridley on September 10, 1957, by a vote of three hundred fourteen (314) for, one hundred four (104) against; said election results were canvassed by the Village Council on September 17, 1957 at a Special Meeting of said Council, all in accordance with the law.

Dated this 24th day of September, 1957.

Thomas E. Greig
Chief Magistrate (Mayor)

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Seal

#13542 O.D.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
OCT 28 1957
Joseph L. Donovan
Secretary of State

CHARTER OF THE CITY OF FRIDLEY, MINNESOTA

The FRIDLEY NEWS — Friday, August 2, 1957 — Section 1 — Supplement to the FRIDLEY NEWS

STATE OF MINNESOTA
FILED
OCT 26 1957
Joseph L. Donovan
Secretary of State

PROPOSED

Fridley Village Charter

CHAPTER I

Name, Boundaries, Powers and Construction of Government

Section 1.01 NAME AND BOUNDARIES. Upon the taking effect of this chapter, the Village of Fridley in the County of Anoka and State of Minnesota shall become a city under the name of City of Fridley, and shall continue to be a municipal corporation with boundaries the same as they now are established or as they may hereafter be established.

Section 1.02 POWERS OF THE CITY. The City of Fridley shall have perpetual succession; may sue and be sued; may use and alter its seal at pleasure; shall be capable of contracting and being contracted with; may take by purchase, condemnation, gift, devise, or otherwise, and hold, lease, sell and convey all such real and personal property as its purposes may require, or the transaction of its business may render convenient, within or without the limits of the city; may acquire, construct, own, lease, and operate public utilities, and render public service of every kind; may grant franchises or licenses for the construction, operation and maintenance of public utilities in, overupon, and under the streets and public places in the have, retain and may excercise all powers, functions, rights and privileges, heretofore possessed by the Village of Fridley; may exercise such powers beyond its corporate limits as may be necessary for the effective exercise of any powers granted herein as now authorized by law; and in addition thereto, the City of Fridley shall have and exercise all powers, functions, rights, and privileges exercised by, or which are incidental to, or inherent in, municipal corporations and are not denied to it by the constitution or general laws of the State of Minnesota. The enumeration of powers herein shall not be construed to limit or restrict the powers granted in general terms, nor shall any specific power granted in this charter be construed to limit or restrict the powers granted in this section. In addition to the powers herein and hereafter granted, the City of Fridley shall have full power to deal with all matters of municipal concern and have complete self-government in harmony with and subject to the constitution and laws of the State of Minnesota.

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 that the first councilman for Ward No. 2 under this Charter, shall be the councilman having one year of term yet to serve, and shall be considered councilman for his Ward No. 2 for a one year term to expire in 1958. The councilman from Wards No. 1 and No. 3 shall be elected this year, 1957, each for terms of three years.

Upon adoption of this Charter the city is divided into three separate Wards as follows:

(a) Ward No. 1 shall be the area comprising all of election district No. 1. Refer to Page 4-5 of "Voting Procedures" adopted by Village Council.

(b) Ward No. 2 shall be the area comprising all of election district No. 2.

(c) Ward No. 3 shall be the area comprising all of election district No. 3.

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

The term of mayor and of each councilman shall begin on the first Monday after the first Tuesday 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 vacany 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 unexpired term.

2.06 The Municipal Court shall exist as now constituted except as modified by State Law.

2.06A Conciliation Court shall be established in accordance with law providing for such court under Home Rule City Charter.

Section 2.07 THE MAYOR. The mayor shall be the presiding officer of the council, except that a president pro tem shall be chosen to hold office at the pleasure of the council, who shall act as mayor in case of the mayor's disability or absence from the city. The mayor shall vote as a member of the council. The mayor 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 service

city, and shall have power to fix and regulate the fares, tolls, or charges which may be collected, the extensions which shall be made, and regulate the services which shall be rendered by any owner or operator of a public utility franchise or license; may assess, levy and collect taxes, for general or special puproses, on all subjects or objects which the city may lawfully tax; may borrow money on the faith and credit of the city or on a public utility or other property owned by the city or the revenues therefrom; by the issuance and sale of bonds or certificates of indebtedness; may appropriate the money of the city for all lawful purposes; may provide for, construct, regulate, and maintain public works and local improvements; may levy and collect assessments against real property within the city for local improvements and services including garbage and refuse collection and disposal; may license and regulate persons, corporations and associations engaged in any occupation, trade or business; may define, prohibit, abate, and suppress all things detrimental to the health, morals, comfort, safety, convenience and welfare of the inhabitants of the city, and all nuisances and causes thereof; may regulate the construction, height and materials used in all buildings, and the maintenance and occupancy thereof; may regulate and control the use for whatever purposes of the streets and other public places; may make and enforce local police, sanitary, and other regulations; may pass ordinances for maintaining and promoting the peace, good government, and welfare of the city, and for the performance of all the functions thereof; shall have all the powers possessed by municipal corporations at common law; shall take effect fifteen (15) days from and after its adoption by the voters.

CHAPTER 2
Government and Officers

Section 2.01 COUNCIL-MANAGER PLAN. The form of government established by this charter shall be known as the "Council-Manager Plan." All discretionary powers of the city, both legislative and executive, shall vest in and be exercised by the city council. It shall have complete control over the city administration, but shall exercise this control exclusively through the city manager and shall not itself attempt to perform any administrative work.

Section 2.02 BOARDS. The council shall itself be, and shall perform the duties and exercise the powers of all local boards and commissions except as herein otherwise provided. It may, however, by ordinance create commissions with advisory powers to investigate any subject of interest to the municipality.

Section 2.03 ELECTIVE OFFICERS. The council shall be composed of a mayor and four councilmen who shall be qualified voters. The mayor shall be elected at large for a term of three years, (except the first mayor to be elected in 1957 shall be for a term of two years.)

One Councilman shall be elected at large for a term of three years except that of the first such councilman at large under this charter, (shall be the incumbent elected last year, 1956, with two years remaining of term and he shall be considered to serve two years as councilman at large to 1959.)

Three councilmen shall be elected for terms of three years each from three separate Wards of the city, as designated below, except in the month of January next following his election and shall end when his successor has been duly elected and has qualified. The council shall be the judge of the election of its members.

The boundaries of the three wards shall be redetermined from time to time by ordinances duly adopted by the council, and based on findings of the council that the wards as so redetermined are of as near equal size in both population and area as practicable.

After each decennial census of the United States, the council shall redetermine ward boundaries, and if the council shall fail to do so within a period of two years after the official certification of the decennial census, no further remuneration shall be paid to the mayor or councilmen until the wards of the city are duly redetermined as required by this charter.

Section 2.04 DISQUALIFICATION FOR APPOINTIVE OFFICE. No member of the council shall be appointed acting or permanent 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 office or employment under the city.

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 of a ward councilman from his ward, continuous absence from the city for more than three months, or conviction of a felony, of any such person whether before or after his 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 council's consent, take command of the police, maintain order and enforce the law.

Section 2.08 SALARIES AND EXPENSES. The mayor and each councilman shall receive each year reasonable remuneration or salary, the amount and payment of which shall be prescribed by ordinance duly adopted on or before November 1st of the year preceding payment of the same. Until the first such ordinance is duly adopted the mayor and each member of the council shall receive such salaries and compensation as were received by the Mayor and councilmen of the Village of Fridley. When authorized by the council its members shall be remunerated 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 reasonable compensation as may be fixed by the council.

Section 2.09 INVESTIGATION OF CITY AFFAIRS. The council shall have power to make investigations into the city's affairs, to subpoena witnesses, administer oaths, and compel the production of books, papers and other documentary evidence. The Council may at any time provide for an examination or audit of the accounts of any officer or department of the city government, or it may cause to be made any survey or research study of any problem affecting the city or its inhabitants. Each such investigation shall be

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authorized by resolution of the council.

Section 2.10 INTERFERENCE WITH ADMINISTRATION. Except for the purpose of inquiry the council and its members shall deal with and control the administrative services 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 the first Tuesday in January following a regular municipal election, the council shall meet at the city hall at the usual 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 as may be prescribed by resolution, except that they shall meet at a fixed time not less than once each month. 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 of the council. Such notice shall be delivered personally to each member or be left at the member's usual place of residence with a person of suitable age and discretion then residing therein, or written notice thereof shall be left in a conspicuous place at the residence if no such person be found there. The presence of any member of the council at a special meeting shall constitute a waiver of any formal notice unless he appears for the special purpose of objecting to the holding of such meeting. The council may provide by ordinance provided in this charter.

Section 3.05 PROCEDURE OR ORDINANCES. The enacting clause of all ordinances passed by the council shall be in the words, "The City of Fridley does ordain." Every ordinance other than emergency ordinances shall have two public readings in full, and at least seven days shall elapse between the first reading and the second reading. All legislation prescribing a penalty for violation thereof shall be enacted in the form of ordinances.

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, passed by a vote of a majority of the council, as recorded by ayes and noes. No prosecution shall be based upon the provisions of any emergency ordinance until the same has been filed with the city clerk and posted in three conspicuous places in the city and twenty-four hours after such filing and posting shall have elapsed or until the ordinance has been published unless the person, persons, firm or corporation charged with violation thereof shall have had actual notice of the passage thereof prior to the act or omission complained of. No grant of any franchise shall ever be made by an emergency ordinance.

Section 3.07 SIGNING AND PUBLICATION OF ORDINANCES AND PUBLICATION OF MINUTES. Every ordinance passed by the council shall be signed by the mayor, or by three other members of the council, and attested by the city clerk upon passage thereof and shall be by him filed and recorded in a book kept for the ordinance repealed by title, date of passage and section number or numbers. No ordinance or section thereof shall be amended by reference to its title alone, but such amending ordinance shall set forth in full each section or subsection as amended; provided, however, that this requirement shall not apply to amendments to zoning ordinances.

Section 3.10 REVISION AND CODIFICATION OF ORDINANCES. The ordinances of the city shall within two years from the adoption of this charter, and at intervals thereafter of not more than five years, be revised, rearranged and codified with such additions and deletions as may be deemed necessary by the council. Such codification shall be published in book or continuously revised loose-leaf form and copies thereof made available by the council at the office of the city clerk for general distribution to the public at a reasonable charge. Such publication shall be a sufficient publication of all the ordinances contained therein. Every book shall contain a printed certificate of the mayor, attested to by the city clerk, that the publication is correct, and such book so published shall be received in evidence in all courts for the purpose of providing the ordinances therein contained, the same as though the original ordinances were produced in court.

CHAPTER 4
Nominations and Elections

Section 4.01 GENERAL ELECTION LAWS TO APPLY. Except as hereinafter provided, the general laws of the State of Minnesota pertaining to registration of voters and the conduct of primary and general elections shall apply for all municipal elections of such conform as nearly as possible to that herein provided for other municipal elections.

Section 4.05 JUDGES AND CLERKS OF ELECTION. The council shall at least (10) ten days before each municipal election appoint three qualified voters of each voting precinct to be judges of elections therein and two qualified voters of the same precinct to be clerks of election, or as many more or less as may be determined by the council. No person signing or circulating a petition of nomination of a candidate for election to office shall be eligible to serve as judge or clerk of such election.

Section 4.06 NOMINATIONS BY PETITION. The mode of nomination of all elective officers provided for by this charter shall be by petition. The name of any elector of the city shall be printed upon the ballot whenever a petition as hereinafter prescribed shall have been filed in his behalf with the city clerk. Such petition shall be signed by at least ten electors qualified to vote for the office in question. No elector shall sign petitions for more candidates than the number of places to be filled at the election, and should he do so his signature shall be void as to the petition or petitions last filed. All nomination petitions shall be in the hands of the city clerk 30 days before the general election. The clerk shall prepare the ballots with names of the candidates for an office in a manner to be provided by ordinance. Each petition, when presented, must be accompanied by a five dollar ($5.00) filing fee.

Section 4.07 NOMINATION PETITONS. The signatures to the nomination petition need not all be appended to one paper, but to each separate paper there shall

compel the attendance of absent members. All meetings of the council shall be public and any person shall have access to the minutes and records thereof at all reasonable times. The mayor and each councilman shall have one vote.

Section 3.02 SECRETARY OF 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 the journal of minutes of proceedings and such other records and perform such other duties as may be required by this charter or by vote of the council. The council may designate any 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 and shall keep a journal of its proceedings. A majority of all the council members shall constitute a quorum to do business, but a less number may adjourn from time to time.

Section 3.04 ORDINANCES, RESOLUTIONS AND MOTIONS. Except as otherwise provided in this charter, all legislation shall be by ordinance. Every ordinance and resolution shall be presented in writing and read in full at a council meeting. All administrative business may be transacted by ordinary motion. Upon the vote on ordinances, motions, and resolutions the ayes and noes shall be recorded unless the vote is declared unanimous. A majority vote of all of the members of the council shall be required for the passage of all ordinances, motions, and resolutions except as otherwise

[illegible] and preserved. Every ordinance shall be published at least once in the official newspaper of the city. All resolutions and motions duly passed at each meeting of the council may, in the discretion of the council, be published in full or in part in the official newspaper of the city. Any administrative rule or regulation of any department of the State of Minnesota affecting the city, or any statute of the State of Minnesota, or any published code, specifications or regulations prepared by an official or unofficial organization for general circulation and use may be adopted and incorporated in an ordinance by reference thereto and by marking three copies thereof as "official copies" and filing them for reference and inspection in the office of the city clerk, and the publication requirements of this charter shall be as fully satisfied in such cases by this method as if the said material had been set forth in the ordinance in full.

Section 3.08 WHEN ORDINANCES AND RESOLUTIONS TAKE EFFECT. Emergency ordinances, except as provided in Section 3.06 of this chapter, and ordinances making the annual tax levy, disbursing money, determining the annual budget and providing for local improvements and assessments, shall take effect immediately upon their passage. All other ordinances enacted by the council shall take effect fifteen days after the date of their publication, unless a later effective date is fixed therein. All resolutions shall take effect upon their passage.

Section 3.09 AMENDMENT AND REPEAL OF ORDINANCES. No ordinance or section thereof shall be amended or repealed except by ordinance. Every repealing ordinance shall refer to

[illegible] as are specified in this charter. The council shall, through ordinances duly adopted in compliance with such state laws and this charter, adopt suitable and necessary regulations for the conduct of such elections.

Section 4.02 REGULAR MUNICIPAL ELECTIONS. 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 by resolution. The council may divide the city into as many voting precincts as it may from time to time deem necessary. Each ward shall constitute at least one voting precinct and no precinct shall be in more than one ward. At least fifteen days' notice shall be given by the city clerk of the time and places of holding such election, and of the officers to be elected, by posting a notice thereof in at least one public place in each voting precinct and by publishing a notice thereof at least once in the official newspaper of the city, but failure to give such notice shall not invalidate such election.

Section 4.03 PRIMARY ELECTIONS. The Council may, whenever three or more candidates have filed for any citywide office, or for councilman of any ward, or wards, provide through ordinance or resolution for primary election to be held, citywide or in any particular ward, or wards, and such primary election shall be held on a date not less than (14) days prior to the general election.

Section 4.04 SPECIAL ELECTIONS. The council may by resolution order a special election, fix the time of holding the same, and provide all means for holding such special election, provided that three weeks' published notice be given of said special election. The procedure at such elections shall

be attached an affidavit of the circulator thereof stating the number of signers of such paper and that each signature appended thereto was made in his presence and is the genuine signature of the person whose name it purports to be. With each signature shall be stated the place of residence of the signer, giving the street and number or other description sufficient to identify the same. The nominee shall indicate by an endorsement upon the petition that he will accept the office if elected thereto. The form of the nomination petition shall be substantially as follows:

NOMINATION PETITION

We, the undersigned, electors of the City of Fridley, hereby nominate ....., whose residence is ....., for the office of ....., to be voted for at the election to be held on the ..... day of ....., 19....; and we individually certify that we are qualified electors 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 is the circulator of the foregoing petition paper containing signatures, and that the signatures appended thereto were made in his presence and are the genuine signatures of the persons whose names they purport to be.

.....

Subscribed and sworn to before me this ..... day of ....., 19.....

This petition, if found insufficient by the city clerk, shall be returned to ....., at Number ..... Street.

I hereby indicate my willingness

to accept the office of ..... if duly elected thereto.

Section 4.08 CANVASS OF ELECTIONS AND TAKING OF OFFICE. The council shall meet and canvass the election returns within five days after any regular or special elections, and shall make full declaration of the results as soon as possible and file a statement thereof with the city clerk, and said statement shall be made a part of the minutes. 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 a declaration of those who are elected; (d) a true copy of the ballots used; (e) the names of the judges and clerks of election; (f) such other information as may seem pertinent. The city clerk shall forthwith notify all persons elected of the fact of their election, and the persons elected shall take office at the time provided for by Section 3.01, upon taking, subscribing and filing with the city clerk the required oath of office.

CHAPTER 5

Initiative, Referendum, and Recall

Section 5.01 POWERS RESERVED BY THE PEOPLE. The people of the City of Fridley 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, to require such an ordinance when passed by the council to be referred to the electors for approval or disapproval, and to recall elected public officials. These powers shall be called the initiative, the

equal to at least ten per cent of the total number of registered voters as January 1st of that year. 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.

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 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

electors at the next regular municipal election; but if the number of signers of the petition is equal to at least 15% of the total number registered voters, 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 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.

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 Sec. 5.08 of this charter for initiative ballots.

RECALL

Section 5.13 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 officer whose removal is sought, a statement of the grounds for removal in not more than 250 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.

Section 5.14 RECALL PETITIONS. The petition for the re-

referendum, and the recall, respectively.

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 an expense not to exceed $50.00 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, referendum, and recall, 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 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 voters ten per cent of the total number of regular voters. 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

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 15 per cent of the registered voters 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:

call of any official shall consist of a certificate identical with 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 .... 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:

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

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.

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

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

Section 5.15 FILING OF PETITION. Within 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 days, and if he finds it irregular in any way, or finds that the number of signers is less than 25 per cent of the total num-

ber of registered voters of the city, 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.

Section 5.16 RECALL ELECTION. If the petition 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. The council shall at its next meeting, 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 60 days after such meeting, the council may in its discretion provide for the holding of the recall election at that time.

Section 5.17 PROCEDURE AT RECALL ELECTION. The clerk shall include with the published notice of the election 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. Candidates to succeed the officer to be recalled shall be nominated in the usual way, and the election shall be conducted as far as possible, in accordance with the usual procedure in municipal elections.

States. The city manager shall be appointed for an indefinite period and he shall be removable by the council at will, provided, however, that if removed at any time after one year of service, he may within fifteen days after his removal demand written charges and a public hearing on the same before the council; but pending and during such hearing the council may suspend him from office, with or without pay. Such public hearing shall take place within thirty days after the demand for the same and the written charges shall be furnished him by the council at least ten days before the hearing. During the suspension, absence or disability of the city manager, or in case of a vacancy in the office of the city manager, the duties of his office shall be performed by some properly qualified person designated by the council as acting manager.

Section 6.02 POWERS AND DUTIES OF THE CITY MANAGER. Subject to the provisions of this charter and any regulations consistent therewith which may be adopted by the council, the city manager shall control and direct the administration of the city's affairs. His powers and duties shall be:

(a) To enforce this charter and the laws, ordinances and resolutions of the city;

(b) To appoint, suspend and remove, with the consent and approval of the council, all city officers and employees except as in this charter otherwise provided;

(c) 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;

(d) To attend all meetings of the council, with the right to take part in the discussions but having

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. All purchases on behalf of the city shall be made, and all contracts let, by the city manager, provided that the approval of the council must be given in advance whenever the amount of such purchase or contract exceeds $1,000.00. All contracts, bonds, and instruments of every kind to which the city shall be a party shall be signed by the mayor on behalf of the City as well as by the city manager, and shall be executed in the name of the city.

Section 6.06 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 require an expenditure of more than $1,000.00, unless the council shall by an emergency ordinance otherwise provide, the city manager shall advertise for bids by at least 15 days published notice in the official newspaper. Contracts and purchases in excess of $1,000.00 shall be let to the lowest responsible bidder as determined by the council. The council may, however, reject any and all bids. Nothing contained in this section shall prevent the council from contracting for the doing of work with patented processes, or from the purchasing of patented appliances.

Section 6.07 FURTHER PURCHASE REGULATIONS. Further regulations for the making of bids and the letting of contracts may be made by ordinance, subject to the provisions of this

ative vote of at least four (4) members of the council.

However, any such special taxes now in effect, wholly or in part, shall remain so, and may be increased to their full legal limit at the discretion of the council.

"B" The city council may also levy a tax in any year against real and personal property within the city in addition to said 30 mill limitation and the levies specified:

(1) Adopt a resolution declaring the necessity for an additional tax levy and specifying the purposes for which such additional tax levy is required.

(2) Hold a public hearing pursuant to three weeks' published notice in the official newspaper of the city setting forth the contents of the resolution described in subdivision (1).

(3) Adopt after such public hearing a resolution by an affirmative vote of at least 4 members of the council which resolution provides for such levy.

Section 7.03 BOARD OF EQUALIZATION. The council shall constitute a board of equalization and shall meet as such in the usual place for holding council meetings on the last Monday in June to equalize the assessed valuations according to law, and a published notice of such meeting shall be given in the official newspaper of the city at least fifteen days prior to the day of said meeting.

Section 7.04 PREPARATION OF ANNUAL BUDGET. The city manager shall prepare the estimates for the annual budget which shall include any estimated deficit for the current year. The estimates of expenditures shall be submitted by each department to the city manager. Each esti[illegible] shall be divided into three [illegible]

cer whose removal is sought resigns within ten days after the receipt by the council of the completed recall petition, the form of the ballot at such election shall be as near as may be: "Shall ..... be recalled?", the name of the officer whose recall is sought being inserted in the blank, and the electors shall be permitted to vote separately "Yes" or "No" upon this question. The ballot shall also contain the names of the candidates to be voted upon to fill the vacancy, in case the recall is successful, under the caption: "Candidates to fill the place of ....., if recalled"; but the officer whose recall is sought shall not himself be a candidate upon such ballot. If a majority of those voting on the question of recall vote in favor of recall, the official shall be thereby removed from office, and the candidate who receives the highest number of votes for his place shall be elected thereto for the remainder of the unexpired term. If the officer sought to be recalled resigns within ten days after the receipt by the council of the completed recall petition, the form of ballot at the election shall be the same, as nearly as possible, as the form in use at a regular municipal election.

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

its discretion exclude him from meetings at which his removal is considered;

(e) 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;

(f) 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;

(g) To perform such other duties as may be prescribed by this charter or required of him by ordinances or resolutions adopted by the council.

Section 6.03 DEPARTMENTS OF ADMINISTRATION. The council may create such offices, departments, divisions and bureaus for the administration of the city's affairs as may seem necessary, and from time to time alter the powers and organization of the same. It may enact in the form of an ordinance such administrative code for the city as may seem necessary and may amend the same from time to time.

Section 6.04 SUBORDINATE OFFICERS. There shall be a city clerk, city treasurer, city attorney and such other officers subordinate to the city manager as the council may provide for by ordinances. The city attorney shall be appointed by the council. 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 shall be orrained by the council. He may be designated to act as secretary of the council. The council may by ordinance abolish offices which

CHAPTER 7

Taxation and Finance

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. In the exercise of a sound discretion it shall make provisions for the payment of all liabilities and expenses. The council shall establish the fiscal year for the city.

Section 7.02 POWER OF TAXATION. The city shall have, in addition to the powers by 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 30 mills on each dollar of the assessed valuation of the property taxable in the city. In calculating such limit, the assessed value of proprety used for homestead purposes shall be determined as now provided in Minnesota Statutes, Section 273.13, Subdivision 7a.

"A" Special taxes as now or hereafter provided by law may be levied as the need for such taxes arise, provided the council shall:

(a) Adopt a resolution showing the necessity for such tax.

(b) Hold a public hearing pursuant to three weeks published notice in the official paper of the city.

(c) Adopt after such public hearing a resolution by an affirm-

arles and Wages, (b) Ordinary Expenses, (c) Capital Outlay. Salary detail shall show a list of all salaried officers and positions with salary allowance and number of persons holding each. Wages shall be broken down in sufficient detail to justify the request. Ordinary expenses shall be broken down into such detail as the city manager shall direct. Capital Outlay shall be itemized as to items and amounts.

In parallel columns shall be added the amounts expended under similar heads for the two preceding fiscal years, and, as far as practicable, the amounts expended and estimated for expenditure during the current year. In addition to estimates of expenditures, the city manager shall prepare a detailed statement of revenues collected for the two preceding completed fiscal years with amounts estimated to be collected for the current fiscal year, and an estimate of revenues for the ensuing fiscal year. The estimates shall be submitted to the council at its first regular monthly meeting in August.

The city manager shall submit with estimates such explanatory statement or statements as he may deem necessary, and during the first two years under this charter he shall be authorized to interpret the requirements of this section as requiring only such comparisons of the city finances with those of the previous government of the city as may be feasible and pertinent.

Section 7.05 PASSAGE OF THE BUDGET. The budget shall be the principal item of business at the first regular monthly meeting of the council in August, and the council shall hold subsequent

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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 amount of time in which to be heard, and an opportunity to ask questions. 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 such detail as may be determined by the city council, the complete financial plan of the city for the ensuing fiscal year, and shall be signed by the majority of the council upon being 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 the plan indicated in Section 7.04. The total sum appropriated shall not exceed the total estimated revenue. The council shall adopt the budget during the month of September by ordinance which shall set forth the total of the budget and the totals of the major divisions of the budget, according to the plan indicated in Section 7.04.

Section 7.06 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, nor for any expenditure covered by the budget unless there is sufficient unencumbered

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.

Section 7.09 LEVY AND COLLECTION OF TAXES. On or before the 5th of October each year the council shall levy by resolution the taxes necessary to meet the requirements of the budget for the ensuing fiscal year. The city clerk shall transmit to the county auditor annually, 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 purpose for which the same is levied, but in that case the surplus shall go into a suspense fund, and shall be used to reduce the levy for the ensuing year.

Section 7.10 TAX SETTLEMENT WITH COUNTY. The city treasurer shall see to it that all moneys in the county treasury belonging to the city are promptly turned over to the city according to law.

Section 7.11 DISBURSEMENTS. HOW MADE. All disbursements shall be made only upon the order of the city manager and city clerk, duly authorized by a resolution or motion of the council, and every such order shall specify the purpose for which the disbursement is made, and indicate the fund out of which it is to be paid. Each such order shall be directed to the

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.

(c) A bond fund, into which shall be paid and disbursed the proceeds of all bonds issued by the city except bonds issued on account of any local improvement to be financed wholly or partly by special assessments and bonds issued on account of any municipally owned utility. A separate bond account shall be kept for each issue of such bonds.

(d) A special assessment fund, which shall be used to finance local improvements that are to be paid for, in whole or in part, from special assessments against benefited property. There shall be paid into this fund (1) collections of special assessments, with interest, levied against benefited property; (2) proceeds of bonds or certificates of indebtedness sold by the city in anticipation of assessment collections; and the proceeds of inter-fund 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 that are financed through the fund; (2) the redemption of all special assessment fund bonds and certificates of indebtedness, with interest, at or before maturity; and any inter-fund loans; (3) transfers to the general fund of any unencumbered

issued on account of any municipally owned utility and all money derived from the sale of utility services, and from the sale of any property acquired for or used in connection with any such utility. There shall be paid out of this fund the cost of the purchase, construction, operation, maintenance and repair of such utility, including the principal of and interest upon obligations which have been or shall be issued on its account. Separate accounts within the public utility fund shall be kept for all utilities which are operated separately.

In addition to the foregoing funds, there may be maintained in the city treasury, whenever the council deems it advisable, the following funds:

(f) A working capital or revolving fund, for financing self-sustaining activities not accounted for through other funds:

(g) A trust and agency fund, 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.

(h) Such other funds as may be required by statute or ordinance.

In lieu of establishing any of the three foregoing types of funds, (f), (g), and (h), the council may provide for the recording of operations or activities for which the use of such funds might be suitable through the maintenance of separate accounts in any appropriate fund already established. The council shall have full power to make by duly adopted ordinance such inter-fund loans, except from funds held under subsection (g)

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 obligation incurred by any person in the employ of the city for any purpose not authorized in the budget or for any amount in excess of the amount therein authorized shall be a personal obligation upon the person incurring the expenditure.

Section 7.07 ALTERATIONS IN THE BUDGET. 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 ordinance passed by a vote of at least four members of the council, reduce salaries or the sums appropriated for any purpose by the budget, or by vote of at least 4 members of the council authorize the transfer of sums from the unexpended balances of the budget to other purposes.

Section 7.08 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 per cent of the total budget. Transfers from the emergency appropriation to any other appropriation shall be made only by a vote of at least 4 members of the council.

[illegible] be directed to the treasurer, and the latter shall issue a check payable to the order of the person in whose favor the order was drawn. The treasurer shall issue no check upon any city funds except upon such order. In the discretion of the council the order and check may be a single instrument. No claim against the city shall be allowed unless accompanied by either an itemized bill, or a payroll, or time sheet, each of which shall be approved and signed by the responsible city officer who vouches for the correctness and reasonableness thereof. The council may by ordinance make additional regulations for the safekeeping and disbursement of the city's funds. The council may by resolution or motion provide for the regular payment without specific individual authorization by the council of salaries and wages of regular employees, laborers, and fixed charges which have been previously duly and regularly incurred.

Section 7.12 FUNDS TO BE KEPT. There shall be maintained in the city treasury the following funds:

(a) A general fund for the payment of such expenses of the city as the council may deem proper. Into this fund shall be paid all money not provided herein or by statute to be paid into any other fund.

(b) A debt service fund, into which 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 issued on account of any local improvement to be financed wholly or partly by special assessments and bonds issued on account of any municipally owned utility. Out of this fund shall be paid the principal and interest of such obligations when

ed surplus of the fund, in the discretion of the council; and (4) 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 the council may by a majority vote issue and sell bonds and certificates of indebtedness, pledging the full faith and credit of the city, or pledging only special assessments, in such amounts and maturities as it may determine, regardless of the provisions of Section 7.16 of this chapter; provided that the aggregate amount of such bonds and certificates outstanding at any time shall not exceed the sum of the following; (1) all assessments levied and uncollected; (2) assessable cost of work in progress; and (3) 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 improvement projects financed through it shall upon completion be certified 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 not later than the dates of adoption of the corresponding assessment rolls, shall be charged interest as in the case of assessments and shall be paid into the fund, with any interest due, not later than one year after the due dates.

(e) A public utility fund into which shall be paid all money derived from the sale of bonds

hereof, as it may deem necessary and appropriate from time to time.

Section 7.13 RECEIPTS TO GO TO CITY TREASURER. All receipts of money belonging to the city, or any branch thereof, excepting only those funds collected by the county treasurer, shall be paid to the city treasurer by the person authorized to receive the same. All such moneys, and also all moneys received upon tax settlements from the county treasurer, shall be deposited as soon as possible in a bank or banks approved by the city council, subject to state laws regulating the designation of depositories for municipal funds.

Section 7.14 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 in accord with it. 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 such other information relative to the finances of the city as the council may require. The council may at any time and shall annually provide for an audit of the city finances by a certified public accountant or by the department of the state authorized to make examinations of the affairs of municipalities. On or before the first day of April in each year the city manager shall prepare a complete financial statement in form approved by the council of the city's financial operations for the preceding calendar year, which

statement may be published in such manner as the council may direct and a summary thereof shall be published in the official newspaper on or before April 10th of each year.

Section 7.15 BONDED DEBT AND DEBT LIMIT. (a) In addition to all the powers in respect to borrowing and the issuance of bonds and other obligations for the payment of money specifically or impliedly granted by this charter, and any amendments thereto, the city shall have all the powers in reference to these subject matters granted to cities of its same class by the laws of the State of Minnesota in force from time to time. The city shall have the power to issue and sell its bonds to the State of Minnesota and to comply with all provisions of law relative to loans to municipalities from the permanent state funds. The city shall also have such powers as are necessary to obtain loans or funds from the Government of the United States and any of its instrumentalities or from the State of Minnesota or any of its instrumentalities, and to comply with all provisions of law relative to obtaining such loans or funds.

(b) The council by a vote of at least 4 of its members may authorize the issuance of bonds to provide funds for any public purpose not prohibited by law, or may in its discretion by a majority vote of all of its members submit to the voters propositions for the issuance of such bonds. When such a proposition is submitted to the voters, no bonds or other term obligations of the city may be issued except pursuant to a favorable vote of a majority of those voters who vote on the proposition in which issued.

Section 7.16 FORM AND REPAYMENT OF BONDS. No bonds shall be issued to run for longer than the reasonable life expectancy of the property or improvement for which the bonds are authorized, as ascertained and set forth in the resolution authorizing such bonds, and in no case shall bonds be issued to run for more than thirty years. The purposes for which bonds are authorized shall be set forth in the resolution authorizing them, and the proceeds from such bonds shall not be diverted to any other purpose. It shall be the duty of the city manager to include in his budget estimates each year a sum or sums amply sufficient to pay the principal of, and the interest on, any bonds which are to fall due in the coming fiscal year, and another sum sufficient to pay the interest for the same year on the bonds which will be still outstanding. It shall be the duty of the council, enforceable by mandamus upon the suit of any bondholder or taxpayer, to include such sum or sums as may be necessary for this purpose in the annual budget which it passes.

Section 7.17 DEBT AND TAX ANTICIPATION CERTIFICATES. (a) 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, as provided for in the budget, or if any calamity or other public emergency should subject the city to the necessity of making extraordinary expenditures, then the council may authorize the sale by the city treasurer of emergency debt certificates to run not to exceed eighteen months and to bear interest at not more than six per

useful life of the equipment so purchased.

CHAPTER 8
Public Improvements And Special Assessments

Section 8.01 THE CITY PLAN. The present village zoning plan shall be the plan for the future physical development of the city. Such plan may be altered from time to time. To alter such a plan, the city council shall hold a public hearing and notice published 14 days prior to hearing with notices sent to affected property owners. It may include provisions for zoning, for the platting and development of new areas, for the planning and location of public works of art, public buildings, parks, playgrounds, bridges, transportation lines, and other public facilities, and for the laying out, grading and improving of streets and public places, as well as for all other matters which may seem essential to such a plan.

Section 8.02 ENFORCEMENT OF CITY PLAN. The council shall have all necessary power, acting through the city manager, to enforce complete adherence by all persons to the plan adopted as provided above, and to adopt and enforce a comprehensive zoning ordinance. The council shall have power to pass ordinances to regulate the use of private property, the height of buildings, and the proportion of the area of any lot which may be built upon and to establish building lines. Such power shall be exercised to promote public health, safety, morals, welfare and convenience.

Section 8.03 PUBLIC IMPROVEMENTS AND SPECIAL ASSESSMENTS. The city shall have the power to make any and every type of public improvement either by contract or, if the estimated cost is less than one thousand dollars, directly by day labor. Before receiving bids the City Manager shall, under the direction of the City Council, have suitable plans and specifications prepared for the proposed material or project and the estimate of the cost thereof in detail. The award of any contract amounting to more than ten thousand dollars shall require a fourth-fifths vote of the City Council. When the best interests of the City will be served thereby, the City Council may organize a construction department under competent supervision and provided with suitable equipment.

The right is reserved to the City Council, upon the recommendation of an engineer, acting through the construction department to bid on any work to be let by contract. All contracts shall be let to the lowest responsible bidder, but the term "lowest responsible bidder" shall be interpreted as giving the City Council the right to accept any bid which it determines to be most advantageous to the City. The City Council shall reserve the right to reject any or all bids. Detailed proceedings governing the advertisement for bids and the execution of the contract shall be prescribed by ordinance. The City shall require contractors to furnish proper bonds for the protection of the City, the employees and material men.

CHAPTER 9
Eminent Domain

Section 9.01 The City of Fridley shall have the power of Eminent Domain as set forth by the Statutes of the State of Minne-

ings for the issuance of any bonds, by the terms of the bonds and by agreements with the purchasers of bonds, they may be made special in character and limited in their payment to earnings or to part earnings and part tax funds. To the extent that they are thus payable out of earnings or other than tax funds, such bonds shall not be paid out of taxes. The total bonded debt of the city at the time of the issuance of any bonds shall not exceed ten per cent of the last assessed valuation of the taxable property therein, or the limit authorized by state law for cities of the same class, whichever is the greater, but in computing the total bonded debt, certificates of indebtedness, bonds, warrants or other obligations issued before or after the adoption of this charter shall not be included or counted if (1) held in a sinking fund maintained by the city; or (2) issued for the acquisition, equipment, purchase, construction, maintenance, extension, enlargement or improvement of street railways, telegraph or telephone lines, water, lighting, heat and power plants, or either, or any other public convenience from which a revenue is or may be derived, owned and operated by the city, or the acquisition of property needed in connection therewith, or for the construction of public drainage ditches, storm and sanitary sewers, or for the acquisition of lands for streets, parks, or other public improvements or for the improvement thereof, to the extent that they are payable from the proceeds of assessments levied upon property especially benefited by such improvements; or (3) issued for the creation of maintenance of a permanent improvement revolving fund; or (4) for the purpose of anticipating the collection of general taxes for the year

cent per annum. A tax sufficient to redeem all such certificates at maturity shall be levied as part of the budget of the following year. The authorization of an issue of such emergency debt certificates shall take the form of an ordinance approved by at least four of the members of the council; the ordinance may, if deemed necessary, be passed as an emergency ordinance.

(b) For the purpose of providing necessary moneys to meet authorized expenditures, the council may issue certificates of indebtedness in any year prior to the receipt of taxes payable in such year, on such terms and conditions as it may determine, bearing interest at a rate not to exceed six per cent per annum; provided that such certificates outstanding at any one time shall not exceed forty per cent of the tax levy payable in the current year belonging to the fund for the benefit of which the borrowing is authorized.

Section 7.18 BONDS OUTSIDE THE DEBT LIMIT. Without limit as to amount, the council may issue bonds for legal purposes outside of the debt limit; (a) for the creation and maintenance of a permanent improvement revolving fund, (b) for extending, enlarging, or improving water supply system, lighting and heat and power plants, or either, or other revenue-producing public utilities of whatever nature, owned and operated by the city, or of acquiring property needed in connection therewith, (c) for public improvements payable from special assessments. The council may also purchase equipment for street department, water or sewer utility or fire department use on conditional sale contracts, provided that the installment payments do not extend beyond the estimated

not forbidden by the laws of this state and to levy special assessments to pay for all such improvements as are of a local character. The amounts assessed to benefited property to pay for such local improvements may equal the cost of the improvements, including all costs and expenses connected therewith, with interest, until paid, but shall not exceed the benefits to the property.

Section 8.04 LOCAL IMPROVEMENT REGULATIONS. After this charter takes effect, all local improvements shall continue for the time being to be made under the laws and ordinances applicable thereto. The City Council may prepare and adopt a comprehensive ordinance, prescribing the procedure which shall determine all matters pertaining to the making of local improvements thereafter, and such ordinance shall supplant all other provisions of law on the same subject and may be amended only by a four-fifths vote of all the members of the City Council. Such ordinance shall provide for such notice and hearing in the ordering of improvements and the making of assessments therefore as shall be necessary to meet constitutional requirements. Such ordinance shall also require a petition of a majority in number and interest of the owners of property to be assessed for such improvement, or improvements, for the initiation thereof; provided that the City Council may proceed upon its own initiative hereunder and under such ordinance by resolution adopted by unanimous vote of the City Council after a proper notice and hearing.

Section 8.05 PUBLIC WORKS: HOW PERFORMED. Public works including all local improvements, may be constructed, extended, repaired and maintained

CHAPTER 10

Franchises and Public Utilities

Section 10.01 DEFINITION OF FRANCHISES. The word "franchise" as used in this charter shall be construed to include all privileges granted to any person, firm, association or corporation in, over, upon or under any of the highways or public places of the city, whether such privileges have been or shall hereafter be granted either by the city or by the State of Minnesota.

Section 10.02 FRANCHISE ORDINANCES. The council may grant franchises by ordinance adopted by an affirmative vote of at least four members of the council, but in no case shall a franchise be granted by an emergency ordinance, nor within twenty (20) days after a public hearing thereon as provided for in Section 10.09, or later than sixty (60) days after such public hearing. Franchise rights shall always be subject to the superior right of the public to the use of streets and public places. All corporations, co-partnerships, persons or other entity desiring to make an especially burdensome use of the streets or public places, inconsistent with the public's right in such places, or desiring the privilege of placing in, over, upon or under any street or public place any permanent or semi-permanent fixtures for the purpose of constructing or operating street or other railways, or for telephoning or telegraphing or transmitting electricity, or transporting by pneumatic tubes, or for furnishing to the city or its inhabitants or any portion thereof transportation facilities, water, light, heat, power, or any other public utility, or for any other purpose, may be required to obtain a franchise be-

fore proceeding to make such use of the streets or public places or before proceeding to place such fixtures in such places. Every ordinance granting or extending any franchise shall contain all the terms and conditions of the franchise. A franchise shall be without any validity whatever until it has been unconditionally accepted in all its terms, and such acceptance, properly executed by the grantee, has been filed with the city clerk.

Section 10.03 COST OF PUBLICATION OF FRANCHISE. The grantee shall bear the cost of publication of the franchise ordinances and shall deposit sufficient cash to guarantee the publication before the ordinance is passed.

Section 10.04 POWER OF REGULATION RESERVED. The city shall have the right and power to regulate and control the exercise by a corporation, copartnership, person or other entity, of any franchise, however acquired, and whether such franchise has been heretofore granted by the Village of Fridley or by the State of Minnesota, or shall hereafter be granted by the city or by the State of Minnesota.

Section 10.05 RATES AND CHARGES. Every public utility making use of the street or public places within 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 a fair return on all property used and useful in furnishing service to the city and its inhabitants. This shall not be construed as a guaranty of a return and in no case shall there be any return upon franchise value. Within these limits the determination of maximum rates, fares or charges and papers of the public utility which in any way deal with, affect or record its operations within and pertaining to the city and pertaining to property and equipment used and useful in furnishing service to the city and its inhabitants.

(b) Every franchise may contain, among other things, provisions relating to the following:

(1) The power and right of the city to submit to arbitration the fixing of any rates, fares or charges to be made by the public utility.

(2) The right of the public utility to receive upon condemnation proceedings brought by the city to acquire the public utility compensation for its franchise or the value thereof, if any.

Section 10.07 FURTHER PROVISIONS OF FRANCHISE. The enumeration and specification of particular matters which must be provided for 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 charter limit any righ or power possessed by the city over existing franchises.

Section 10.08 RENEWALS OR EXTENSION OF FRANCHISES. Every extension, renewal or modification of any existing franchise or of any franchise granted hereunder shall be subject to the same limitations and granted in the same manner as a new franchise.

Section 10.09. PUBLIC HEARINGS. Before any franchise ordinance is adopted or any rates, fix.

Section 11.04. CITY TO PAY FOR SERVICES. The council shall make a reasonable charge, based on the cost of service, for lighting the streets and public buildings, or for supplying heat, power or any other utility, and reasonable charges for supplying the city with water, and shall credit the same to the publicly owned utility supplying the 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.

Section 11.05. 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 may deem necessary, but such contract shall be embodied in and let only by an ordinance approved by an affirmative vote of at least (4) members of the council. 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 Chapter (Franchises and Public Utilities) of this charter.

Section 11.06. PUBLIC UTILITY. HOW SOLD. No public utility owned by the city, whether acquired prior to the adoption of this charter of 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 therefore, shall be embodied in an ordinance passed by an affirmaof the council by a majority vote.

CHAPTER 12

Miscellaneous Provisions

Section 12.01 OFFICIAL PUBLICATIONS. The council shall regulate by ordinance, subject to the requirements of this charter, the manner in which official publicity shall be given to the holding of elections, ordinances, resolutions, requests for bids upon contemplated purchases and contracts, and all other matters whatsoever which require publication either by the provisions of this charter or by the laws of Minnesota. It shall annually designate a legal newspaper of general circulation in the city as the official newspaper in which shall be published such measures and matters as are by the laws of this state and this charter required to be so published, and such other matters as the council may deem it advisable and in the public interest to have published in this manner. The council may in its discretion, in addition to the publications required by this charter, provide for the publication of the annual budget, ordinances, resolutions, election notices, and such other measures and matters as it may deem wise, by mailing or the posting of typewritten, mimeographed or printed copies thereof upon bulletin boards located in public places of the city in such number and for such period of time as the council may direct in each case. Nothing herein contained shall be construed as authorizing or attempting to authorize any violation of the constitution or the statutes of the state in any matter which is of state concern or which is exclusively under state control.

Section 12.02. PUBLICITY OF RECORDS. All records and

to be charged by any public utility for service rendered to the city or to any person, persons, firm or corporation within the city shall be made, if possible, by direct negotiations between the public utility and the council. In case of failure to reach an agreement by this method within a reasonable time the council may, in its discretion, agree to submit to arbitration on such terms as it may deem feasible or upon such terms as the franchise provides for, the fixing of the rates, fares or charges to be made by the public utility; provided, however, that the rates, fares or charges so fixed by arbitration shall not be binding on the city for more than five years.

Section 10.06 PROVISIONS OF FRANCHISES. (a) Every franchise shall contain, among other things, provisions relating to the folowing:

(1) The term of the franchise granted, which shall not exceed 25 years.

(2) Rates, fares and charges to be charged by the public utility in compliance with the terms and provision of Section 10.05.

(3) The rights reserved to the city in connection with the erection of poles, masts or other fixtures in the streets or public places and the attachment of wires thereto, the laying of tracks in or of pipes or conduits under the streets or public places, and the placing in the streets or other public places of any permanent or semi-permanent fixtures or equipment by the public utility.

(4) The prompt repair by the public utility of all damages to the public streets, alleys and public property occasioned by the acts or omissions of the public utility.

(5) The rights of the city to have access to all books, records fares or charges to be charged by a public utility are fixed, there shall be a public hearing by the council in regard thereto. Notice of such public hearing shall be given by published notice at least once in the official newspaper not less than twenty (20) days prior to the date of such public hearing. Additional notice of such public hearing may be given in such manner as the council shall determine.

CHAPTER 11
Public Ownership and Operation of Utilities

Section 11.01. CONSTRUCTION, ACQUISITION AND OPERATION OF UTILITIES. The city shall have power to acquire public utilities as provided in (refer to Eminent Domain chapter), and to build and construct such utilities as may be authorized by at least 60 per cent of the votes cast on the issue at a regular or special election.

Section 11.02. RATES AND FINANCES. Upon recommendations made by the City Manager, or upon its own motion, the council shall have the power to fix all rates and charges for all 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 make such other regulations as may be necessary, and may 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

tive vote of at least (4) members of the council, and submitted to the electors at a general or special election and approved by at least a 60 per cent of the voters voting thereon.

Section 11.07. MUNICIPAL UTILITY ORGANIZATIONS. The council by majority vote may provide for the establishment of a separate department to administer the utility function, including the regulation of privately owned and operated utilities and the operation of municipally owned utilities. Such department shall keep separate financial and accounting records for each municipally owned and operated utility and prior to the first day of each fiscal year shall prepare for the city manager in accordance with his specifications a comprehensive report of each utility.

The responsible department or officer shall endeavor to make each utility financially self-sustaining, unless council shall by ordinance adopt a different policy. After providing for depreciation accruals and amortization of bonds, and for reasonable accumulation of surplus, the utility shall apply all annual profits above bond interest to rate reductions, particularly for promotion of utilization and for advancement of the economic and social interests of other municipal functions and shall not be used directly or indirectly as a general revenue-producing agency for the city, but it may pay to the city such property and other taxes as are normally placed upon private business enterprises.

Section 11.08. The commission membership, organization, rules and regulations, officers, salary, jurisdiction, powers, disbursements, reports, abolition of commission will be at the discretion

ment or agency of the city shall be open to inspection by any citizen, any representative of a citizens' organization or any representative of the press at all reasonable times and under reasonable regulations established by the city manager and approved by the city council, except records and documents the disclosure of which would tend to defeat the lawful purpose which they are intended to accomplish.

Section 12.03. 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 the State of Minnesota and to discharge faithfully the duties devolving upon me as (mayor, or councilman, or city manager, etc.) of this city to the best of my judgment and ability."

Section 12.04. CITY OFFICERS NOT TO ACCEPT FAVORS OR CONTRACTS. No member of the city council or employee of the city shall solicit or receive any pay, commission, money, thing of value, or derive any profit, directly or indirectly, from or by reason of, any improvement, alteration or repair required by authority of the city, or any contract to which the city shall be a party, except his lawful compensation, including authorized expenditures, or salary as such member of the city council or as such employee. No member of the city council or employee of the city, except as otherwise provided in this charter, or by law, shall solicit, accept or receive, directly or indirectly, from any public utility corporation or the

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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 of the provisions of this section shall disqualify the offender, if found guilty, 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 member of the city council or employee of the city is, or becomes, directly or indirectly interested, personally or shall be voidable at the option of the council; and any money which shall have been paid on such contract by the city may be recovered from any or all of the persons interested therein by joint or several action.

Section 12.05. OFFICIAL BONDS. The offices of city manager, the city clerk and 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 their respective offices 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 their respective official duties and the safekeeping of the public funds. Such bonds shall be approved by the city council and approved as to form by the city attorney. They shall be filed with the secretary of the council. In the event the secretary of the council holds more than one office by appointment, his bond or bonds shall be filed with the mayor. The provisions of the laws of the state relating to official bonds, not inconsistent with this charter, shall be complied with. The premiums on the corporated surety bonds hereinbefore provided for shall be by any accumulation or deposit of ice or snow or any public street, sidewalk, building, or place.

Section 12.09. RECOVERY OF JUDGMENT FOR DAMAGES. If any judgment shall be recovered in any action against the city for any injury or damage caused by any obstruction, excavation, opening or defect in any street or alley or public ground caused or occasioned by the act or omission of any person or corporation, the city shall have the right to recover the amount of any such judgment from the person or corporation so responsible for such obstruction, escavation, opening or defect; and such person or corporation is hereby declared to be liable to the city in the amount of such damages, provided, however, the city shall give such person or corporation notice of any claim for such injury or damage and of any action to recover for the same and shall give such person or corporation the right and reasonable opportunity to defend such action.

Section 12.10 CITY TO SUCCEED TO RIGHTS AND OBLIGATIONS OF FORMER MUNICIPALITY. The City of Fridley 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 Village of Fridley, and shall be subject to all liabilities which exist against said Village on the effective date of this charter.

Section 12.11. TENURE, POWERS AND DUTIES OF PRESENT OFFICERS. Upon the effective date of the Charter and until the first Monday after the first Tuesday in January, 1958, the Mayor of the Village of Fridley at the time of the effective date of this Charter shall be and shall serve as Mayor of the City ceedings were begun. All asessments 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.

CERTIFICATE OF COMMISSION

We, the undersigned, being the duly appointed, qualified and acting members of the Board of Freeholders (Charter Commission) in and for the Village of Fridley, Anoka County, Minnesota, hereby certify that the foregoing document consisting of Chapters 1 through 12, inclusive, 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 Thomas Greig, President of the Council of said Village, as the chief magistrate or executive thereof, for action pursuant to law.

Dated at Fridley, Minnesota this 3rd day of June, 1957.

GENEVIEVE PETERSON
MRS. HERBERT BACON, SR.
RICHARD W. GOTTWALDT
MRS. RUTH DANIELSON
WILLIAM PLUM, SR.
F. N. SHAFFER
RODNEY JOHNSON
ROBERT L. BUCKLEY
MRS. DONALD SAVELKOUL
ELMER JOHNSON
V. M. NAGEL
ERNEST A. PETRANGELO
WILLIAM WEISS
HAROLD BECKMAN
RAYMOND SHERIDAN,
Chairman

The foregoing draft of a proposed Charter and certificate in connection therewith received this 4th day of June, 1957.

Section 12.06. SALES OF REAL PROPERTY. No real property of the city shall be sold or disposed of except by ordinance. 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 a resolution adopted by an affirmative vote of at least four members of the council designate some other public use for such proceeds.

Section 12.07. VACATION OF STREETS. The council shall have the exclusive power, by ordinance passed by a vote of at least four members of the council, to vacate or discontinue highways, streets and alleys within the city. Such vacations may be made only after notice, and hearing of affected property owners, and upon such further terms, and by such procedure as the council may by ordinance, prescribe. A record of each such vacation shall be filed in the office of the Register of Deeds of Anoka County.

Section 12.08. DAMAGE SUITS. No action shall be maintained against the city on account of any injuries or damages to persons or property, unless such action shall be commenced within one year from the occurrence of such injury or damage, nor unless notice shall have been given in writing as required by Minnesota Statutes Section 465.09, or any amendments thereof.

No action shall be maintained against the city on account of injuries or damages to persons or property resulting from or caused

the Councilmen of said Village at the time of the effective date of this charter shall be and shall serve as members of the City Council.

Section 12.12 APPLICATION OF GENERAL LAWS. 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 Fridley operating under home rule charters, and not inconsistent with the provisions of this charter, shall apply to the City of Fridley and shall be construed as supplementary to the provisions of this charter. The city shall have all powers and authority granted by the laws of the state to municipalities to acquire property or exercise authority or powers beyond the corporate limits. All powers by this section conferred shall be exercised comformably to this charter so far as may be possible, and such authority and power shall not authorize the city to incur any bonded debt beyond the limitations, or in any other manner than authorized by this charter.

Section 12.13. EXISTING ORDINANCES, REGULATIONS, BOARDS AND COMMISSIONS CONTINUED. All ordinances, regulations, boards and commissions of the municipality in force and existing when this charter takes effect, and not inconsistent with the provisions hereof, are hereby continued in full force and effect until amended, repealed, vacated or abolished.

Section 12.14. PENDING CONDEMNATIONS AND ASSESSMENTS. Any proceeding for condemnation for public improvement or assessment in progress when this charter takes effect shall be continued and completed under the laws under which such pro-

THOMAS GREIG,
President of Village Council and chief magistrate or executive of the Village of Fridley, Anoka County, Minnesota.

CERTIFICATE OF RATIFICATION

I, Thomas E. Greig, being the duly elected Chief Magistrate (Mayor) of the Village of Fridley, Anoka County, Minnesota, now City of Fridley, do hereby certify that the foregoing document consisting of Chapters 1 through 12, inclusive is the City Charter for Fridley, Minnesota, said Charter having been submitted to the Village Council of Fridley by the Board of Freeholders (Charter Commission) on the fourth day of June, 1957, that the Charter was approved by the electorate of the Village of Fridley on September 10, 1957, by a vote of three hundred fourteen (314) for, one hundred four (104) against; said election results were canvassed by the Village Council on September 17, 1957 at a Special Meeting of said Council, all in accordance with the law.

Dated this 24th day of September, 1957.

Thomas E. Greig
Chief Magistrate (Mayor)

Seal

#13542 O.K.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
OCT 23 1957

Secretary of State

#13542
O.D.

Charter of
City of Fridley