

To the Honorable Math Malisheske, Mayor and Chief Executive Officer of the City
of St. Cloud:

We, the undersigned board of *fifteen* free-holders, heretofore duly appointed by the District Judges of the Seventh and Eighteenth Judicial Districts in which the City of St. Cloud is situated, to draft a proposed charter and amendments thereto for the said City of St. Cloud pursuant to Section 36 of Article 4 of the Constitution of Minnesota and the Laws of the State of Minnesota enacted in pursuance thereof, do hereby respectfully return, submit and deliver to you as the chief magistrate and executive officer of said City of St. Cloud, the following proposed amendment to the Charter of the City of St. Cloud, which charter was adopted by the qualified voters of the City of St. Cloud November 28, 1911, and which said charter is in effect an amendment to the Home Rule Charter of said City adopted April 6, 1908, said proposed amendment being as follows, to-wit:

That the Home Rule Charter of the City of St. Cloud, Minnesota adopted November 28, 1911, is hereby amended to read:

ARTICLE I

NAME AND BOUNDARIES, FORM OF GOVERNMENT AND POWERS
OF CITY

Sec. 1.10 Name and Boundaries

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

Sec. 1.20 Form of Government

The municipal government provided by this amendment shall be known as the Council-Mayor government. Pursuant to its provisions and subject only to the limitations imposed by the constitution or statutes of the State of Minnesota and by this charter, all powers of the city shall be vested in a mayor and elective council, hereinafter referred to as "the council", which shall enact local legislation, adopt budgets and determine policies, all subject to the

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initiative, referendum and recall powers of the people as hereinafter provided. All powers of the city shall be exercised in the manner prescribed by this amendment, or if the manner be not prescribed herein, then in such manner as may be prescribed by ordinance.

Sec. 1.30 Powers of City

The City of St. Cloud shall have all the powers of cities granted by common law, by the constitution and by the general laws of this State to municipal corporations and cities having "Home Rule Charter," together with all the implied powers necessary to carry into execution all of the powers granted. The City of St. Cloud, by and in its corporate name, shall have perpetual succession, and save as herein otherwise provided and save as prohibited by the constitution or statutes of the State of Minnesota, it shall have and exercise all powers, functions, rights and privileges possessed by it prior to the adoption of this amendment. The City may acquire property within or without its corporate limits for any city purpose, in fee simple, or any lesser interest or estate, by purchase, gift, devise, lease, or condemnation, and may sell, lease, mortgage, hold, manage and control such property as its interests may require; and it may contract with the counties in which it is situated or with other municipalities for such joint services and utilities as may seem desirable and for all other legitimate purposes. The enumeration of particular powers for this amendment shall not be deemed to be exclusive and in addition to the powers enumerated therein or implied thereby or appropriate to the exercise of such powers, it is intended that the city shall have and may exercise all powers which under the constitution of this State and its statutes it would be competent for this amendment specifically to enumerate.

Sec. 1.40 Wards

The area of the city as now or hereinafter established shall be divided into four wards designated and bounded as follows:

First Ward shall be bounded on the east by the center line of the Mississippi River, on the north by the center line of St. Germain Street and on the west by the center line of the Great Northern Railroad Company's Osseo tracks and on the South by the southern limits of the city.

Second Ward shall be bounded on the west by the center line of the Mississippi River and on the north, east and south by the limits of the city.

Third Ward shall be bounded on the east by the center line of the Great Northern Railroad Company's Osseo tracks to the point of intersection with the center line of 21st Avenue North and thence northerly along said center line of said 21st Avenue North extended to the northerly limits of the City, and on the north, west and south by the limits of said city.

Fourth Ward shall be bounded on the east by the center line of the Mississippi River, on the south by the center line of St. Germain Street and on the west by the center line of the Great Northern Railroad Company's Osseo tracks to the intersection of the center line of 21st Avenue North and thence northerly along the center line of said 21st Avenue North extended to the northerly limits of said city, and on the north by the limits of said city.

ARTICLE IX

THE COUNCIL

Sec. 2.10 Members, Qualifications and Terms.

The council shall be composed of seven members, four of whom shall be resident members and three of whom shall be members at large, all of whom shall be qualified electors. All members of the council shall be elected for a term of four years.

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

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

Sec. 2.11 Resident members.

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

Sec. 2.20 Salaries and Expenses

Each Councilman shall receive as full compensation, Fifteen dollars for each meeting of the Council attended by him, not to exceed thirty meetings in any one fiscal year. Said compensation shall be paid the month following the date of the meeting, or meetings attended, and shall be paid as other salaries are paid.

Members of the Council shall receive reimbursement for all expenses incurred in the performance of their official duties and shall be paid as other claimants are paid.

Sec. 2.30 Vacancies

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

Sec. 2.40 Powers

All legislative powers of the city and the determination of all matters of policy shall be vested in the council. Without limitation of the foregoing, the council shall have the power to:

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

department or agency.

2. Adopt the city budget.

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

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

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

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

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

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

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

10. Fix and change precinct boundaries.

Sec. 2.60 Meeting and Procedure

The first meeting of each newly elected council for induction into office shall be held at 7:30 o'clock P. M. on the first Monday next following its election, after which the council shall meet regularly at such times as may be prescribed by its rules, but not less frequently than once each month. All meetings of the council shall be held in the evening except by unanimous vote of all council members. All meetings of the council and its committees shall be open to the public. The council shall cause the minutes of its meetings to be published monthly in the official newspaper.

Sec. 2.61 To Determine Qualifications

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

Sec. 2.62 Rules, Journal, Quorum.

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

Sec. 2.63 Ordinances, Procedure.

All legislation shall be by ordinance unless otherwise provided by this charter. The enacting clause of all ordinances passed by the council shall be "The council of the City of St. Cloud hereby ordains:" Every ordinance shall be introduced in writing and every ordinance other than emergency ordinances shall have two public readings in full. Upon introduction of a proposed ordinance said ordinance shall be read in full and if approved on its first reading a notice shall be published at least once in the official city newspaper containing a summary of said proposed ordinance, together with a notice stating the time and place when and where said ordinance will be given a public hearing and be considered for final passage. The first such publication shall be at least one week prior to the time set for the hearing. At the time and place set in said notice, or at any time and place to which such hearing shall from time to time be adjourned, such ordinances shall be read in full and after such reading all persons interested shall be given an opportunity to be heard. After such final reading and hearing, the council may finally pass such ordinance with or without amendment, except that if it shall make an amendment which constitutes a change of substance it shall not finally pass the ordinance until it shall have caused a like notice of hearing to be published at least once, which notice of hearing shall contain a summary of the proposed amendment, and which notice shall state the time and place when and where such amended ordinance shall be further considered. Said publication shall be at least three days prior to the time stated. At the time stated in said notice of hearing, or at any time and

place to which such meeting shall be adjourned the amended ordinance shall be read in full and a public hearing thereon shall be held, and after such hearing the governing body may finally pass such amended ordinance or again amend it subject to the same conditions. The second passage of any ordinance pursuant to this charter shall be final and no further passage shall be required.

Sec. 2.64 Emergency Ordinances.

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

Sec. 2.65 Resolutions and Motions.

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

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

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

- (a) Passage by the council, signature by the President of the council, signature of approval by the Mayor, and filing with the clerk:
- (b) Passage by the council, signature by the President of the council, filing with the clerk and failure of the Mayor to veto the same within ten (10) days after such filing; or
- (c) Passage by the council, signature by the President of the council, veto of the ordinance by the Mayor within ten (10) days after passage or filing with the clerk, and passage of the ordinance over the Mayor's veto by five affirmative votes of the council, and filing with the clerk.

When an ordinance has been passed by the council and filed with the clerk, he shall endorse his filing thereon; and shall forthwith transmit the ordinance to the Mayor. If the Mayor disapproves the ordinance, he

may veto the same within ten (10) days after filing of the same with the clerk by appending thereto his statement of veto and may state his reasons for disapproving the same; if he fails to approve or veto the ordinance, he shall return the same to the clerk forthwith after the expiration of the ten days.

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

Sec. 2.67 Signing and Publication Take Effect

Emergency ordinances and ordinances and resolutions making the annual tax levy, determining the annual budget and providing for local improvements and assessments, shall take effect immediately upon their final adoption. All other ordinances enacted by the council shall take effect thirty days after the date of their final adoption unless a later date is fixed therein, in which event they shall take effect at such later date. Ordinances adopted by the electors of the city shall take effect at the time fixed therein, or if no such time is designated therein, then immediately upon the adoption thereof.

Sec. 2.68 Amendment and Repeal of Ordinances

No ordinance or section thereof shall be amended or repealed except by ordinance. Any ordinance may be repealed by reference to its title alone. An ordinance amending an ordinance shall contain the ordinance to be amended in full; the part or portion which is to be deleted shall be printed in bold type and enclosed within parenthesis; the provisions which are to be added shall be added thereto and underlined. Upon final adoption thereof said ordinance as amended shall take effect as is herein provided in Sec. 2.67 hereof.

Sec. 2.69 Secretary of the Council.

The council shall choose a secretary and such other officers and

employees as may be necessary to serve at its meetings. The secretary shall keep such records and perform 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 Mayor or a member of the council, to act as its secretary.

ARTICLE III

MAYOR

Sec. 3.10 Qualifications, Election, Salary

The Mayor shall be a qualified elector of the City of St. Cloud and shall be elected at large by the voters of the entire city for a term of four years.

The Mayor shall receive as a base salary the sum of \$1200.00 per year plus \$100.00 per annum for each 1000 population of the city as determined by the last Federal Census, said amount to be paid in equal monthly installments on the first day of each month during the term.

Sec. 3.20 Powers and Duties

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

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

b. To appoint the city clerk, city attorney, city physician, city engineer, the heads of all departments, and, with the approval by the affirmative vote of no less than four members of the entire council, the Administrative Assistant who shall be appointed upon the basis of his qualifications, and who shall devote his full time and undivided attention exclusively to his duties as Administrative Assistant; he may hold a position as the head of one or more municipal departments; he shall

be responsible for the faithful and lawful performance of his duties solely to the Mayor, who shall be responsible for the acts of his appointee.

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

d. To appoint all employees in the unclassified service.

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

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

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

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

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

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

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

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

Sec. 3.30 Absence or Disability of Mayor

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

a. The administrative assistant.

b. President of the Council.

c. A councilman named by the Council who shall be termed the acting Mayor, provided that he shall not have the power to discharge any subordinate officers and provided further that should such absence or disability of the Mayor be continuous for more than ninety days, a

vacancy in the office of Mayor may be declared to exist, provided however, that should said absence or disability continue for six months a vacancy shall be declared to exist.

Sec. 3.35 Vacancy in Office of Mayor.

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

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

Sec. 3.40 Administrative Departments

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

Sec. 3.50 Subordinate Officers.

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

to act as secretary of the Council and also as city treasurer. The Council may by ordinance abolish offices and employments which have been created by ordinance and subject to the provisions of this amendment, and it may combine the duties of various offices as it may see fit.

ARTICLE IV

NOMINATIONS AND ELECTIONS

Sec. 4.10 Regular Municipal ^{Primary} Election

The first municipal primary election after the adoption of this Amendment shall be held on the first Monday following the lapse of 45 days after the adoption of this amendment, and the only officers to be nominated shall be those named in this Amendment, and in chapter 223 session laws of Minnesota of 1941, and all subsequent regular municipal primary elections shall be held on the first Monday in April every four years thereafter. Said elections shall be known as the regular municipal primary election.

Sec. 4.11 Nominations

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

Sec. 4.12 Withdrawal of Candidate

Any person whose name has been presented in the manner provided for in the foregoing section as a candidate may, not later than twenty-five days before the day of primary or special election, cause his name to be withdrawn from nomination

by filing with the city clerk a request to do so in writing, and no name so withdrawn shall be printed upon the ballot. If such withdrawal reduced the number of candidates remaining for a particular office so that the number of remaining candidates does not equal the number to be elected, then other nominations may be made by filing petitions therefor as herein provided, but not later than twenty days prior to such election.

Sec. 4.13 Voting by Electors

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

Sec. 4.14 Primary Election to be Nominating Election

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

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

Sec. 4.15 Regular General Election

Regular general elections shall be held every four years on the third Monday in April. The first general election shall be held here-

under on the second Monday after the first primary election.

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

The nominees who shall receive the largest number of votes for the respective office at such general election shall be declared elected to said office, provided, that for election to the three offices of councilman at large, the three nominees for councilman at large receiving the largest number of votes shall be declared to be elected to said offices.

Sec. 4.20 Beginning of Regular Terms

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

Sec. 4.40 Publication of Names of Candidates

Immediately upon the expiration of the time for filing the petitions for the candidates at any municipal primary election, and also immediately upon the determination of the nominees after the primary election, the city clerk shall cause to be published for three successive days in a legal daily newspaper and once in each legal weekly newspaper published in the City of St. Cloud in the proper form the names of the persons with the offices for which they are the respective candidates and nominees, as they are to appear upon the primary or general election ballot, and shall cause said respective ballots to be printed, authenticated with the facsimile of his signature.

Sec. 4.50 Special Elections

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

Sec. 4.60 Judges and Clerks

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

Sec. 4.70 Canvass of Elections

The Council shall meet and canvass the election returns within five days after any regular or special election, and shall make full declaration of the results as soon as possible, and file a statement thereof with the city clerk. This statement shall include: (a) the total number of good ballots cast; (b) the total number of spoiled or defective ballots; (c) the vote for each candidate,

with an indication of those who were elected; (d) a true copy of the ballots used; (e) the names of the judges and clerks of election; and (f) such other information as may seem pertinent. The city clerk shall forthwith notify all persons elected of the fact of their election.

Sec. 4.71 Procedure at Elections

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

ARTICLE V

INITIATIVE, REFERENDUM AND RECALL

Sec. 5.10 Powers Reserved by the People

The people of St. Cloud reserve to themselves the powers, in accordance with the provisions of this charter, to initiate and adopt ordinances, to require ordinances passed by the council to be referred to the electorate for approval or disapproval, and to recall elected public officials. These powers shall be called the initiative, the referendum, and the recall, respectively.

Sec. 5.11 Expenditures by Petitioners

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

INITIATIVE

Sec. 5.20 Initiation of Measures

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

Sec. 5.21 Form of Petition and of Signature Papers

The petition for the adoption of any measure shall consist of the measure, together with all the signature papers and affidavits thereto attached. Such petitions shall not be complete unless signed

by a number of voters equal to at least five per cent of the total number of qualified electors registered in the city at the time of the regular municipal election immediately prior to the filing of said petition. All the signatures need not be on one signature paper, but the circulator of every such 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 measure), a copy of which ordinance is hereto attached. This measure is sponsored by the following committee of electors:

Name

1.

Address

.....

Name

2.

Address

.....

Name

3.

Address

.....

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

Name

1.

Address

.....

Name

2.

Address

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

Sec. 5.22 Filing of Petitions and Action Thereon

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

Sec. 5.23 Action of Council on Petition

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

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

Sec. 5.24 Publication

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

Sec. 5.25 Amendment or Repeal

The council may submit a proposal for the repeal of any such

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

Sec. 5.26 Initiative Ballots

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

Sec. 5.27 Initiation of Charter Amendments

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

REFERENDUM

Sec. 5.30 The Referendum

If prior to the date when an ordinance or resolution takes effect a petition signed by qualified electors of the city equal in number to five per cent of the total number of qualified electors registered in the city at the time of the regular municipal election immediately prior to the filing of said petition be filed with the city clerk requesting that any such measure, or any part thereof, be repealed or be submitted to a vote of the electors, the said measure shall thereby be prevented from going into operation. The council shall thereupon reconsider the said measure at its next regular meeting, and either

repeal the same, or repeal the sections thereof to which objection has been raised by the petitioners, or by aye and no vote reaffirm its adherence to the measure as passed. In the latter case the council shall immediately order an election to be held thereon, pending which the ordinance or resolution shall remain suspended. If a majority of the voters voting thereon are opposed to the measure, it shall not become effective; otherwise it shall go into effect immediately or on the date therein specified.

Sec. 5.51 Referendum Petitions

The requirements laid down in Sec. 5.20, Sec. 5.31 and such portions of Sec. 5.22 as may apply, as to the formation of committees for the initiation of measures as to the form of petitions and signature papers shall apply to the referendum so far as possible, and with such verbal changes as might be necessary. A referendum petition shall read as follows:

Referendum Petition

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

Name

1.

Address

.....

Name

2.

Address

.....

Name

3.

Address

.....

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

Name

1.

Address

.....

Name

2.

Address

.....

Sec. 5.32 Referendum Ballots

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

RECALL

Sec. 5.40 The Recall

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

Sec. 5.41 Recall Petitions

The petition for the recall of any official shall consist of a certificate identical with that filed with the city clerk together with all signature papers and affidavits thereto attached. All the signatures

need not be on one signature paper, but the circulator of every such paper shall make an affidavit that each signature appended to the paper is the genuine signature of the person whose name it purports to be. Each signature paper shall be in substantially the following form:

Recall Petition

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

Name

1.

Address

.....

Name

2.

Address

.....

Name

3.

Address

.....

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

Name

1.

Address

.....

Name

2.

Address

.....

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

Sec. 5.42 Filing of Petition

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

Sec. 5.43 Recall Election

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

Sec. 5.44 Procedure of Recall Election

In the published call for the election there shall be given the statement of the grounds for the recall, and also in not more than five hundred words the answer of the officer concerned in justification of his course in office. At said recall election should a majority

of all votes cast at said election be in favor of the recall of said officer, said officer shall be removed and the council shall thereupon declare a vacancy to exist. Said vacancy shall be filled in accordance with the provisions of Sec. 2.30 or 2.35 of this Charter.

Sec. 5.45 Form of Recall Ballot

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

Sec. 5.46 Recall as Disqualification

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

Sec. 5.47 Limitation On Recall

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

Sec. 5.50 Further Regulations

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

ARTICLE VI
PLANNING COMMISSION

Sec. 6.10 Organization

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

Sec. 6.20 Term of Office: Vacancies.

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

Sec. 6.30 Power and Duties.

The commission shall have power and shall be required to:

1. Develop a master plan for the physical development of the city, and from time to time amend, extend and add to such master plan, which shall show the commission's recommendations for the development of city territory. Such plan may include, among other things (a) the general location, character and extent of streets, bridges, parks, waterways, and other public ways, grounds and spaces, (b) the general location of public buildings and other public property, (c) the general location and extent of public utilities, whether publicly or privately owned, (d) contemplated changes in the removal, relocation, widening, vacation or abandonment of existing or future public ways, grounds, spaces, buildings, property or utilities, and (e) maps, plats, charts, and descriptive and explanatory matter, detailing an overall plan for

future development. The adoption of such plan or part, amendment, or extension thereof shall be by resolution of said commission carried by the affirmative votes of not less than a majority of all members, but before the adoption of said plan, or any part or modification or extension thereof, the commission shall hold at least one public hearing on the proposed action. Upon the adoption an attested copy of such plan or amendment or extension thereof shall be certified to the council.

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

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

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

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

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

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

The commission shall have power to:

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

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

and marks thereon.

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

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

Sec. 6.40 Legal Effect

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

Sec. 6.50 Platting or Subdivision Control

The planning commission shall be the platting commission of the city and no proposed plat or subdivision shall be approved by the city

council until said proposed plat or subdivision has been submitted to and approved by the commission, provided that after disapproval by said commission the council may adopt said plat or subdivision by a five-sevenths vote of all the members of the council.

Sec. 6.51 Regulations for Platting

In exercising the powers hereby granted to the planning commission, said commission shall adopt regulations governing the platting and subdivision of land within its jurisdiction. Such regulations shall provide for the harmonious development of the city and its environs, for the coordination of streets, for adequate open spaces or spaces for traffic, utilities, recreation, light and air, and for the avoidance of traffic and population congestion.

Sec. 6.60 Power to Incur Debt Limited

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

ARTICLE VII
CIVIL SERVICE

Sec. 7.10 Merit Basis of Appointment

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

Sec. 7.20 Membership: Duties

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

Sec. 7.30 Classification of Employees

Subject to the rules and regulations of the present civil service commission and to the laws of the State of Minnesota, where applicable, governing employment in the fire and police departments of the City, the civil service of the City shall be divided into the unclassified and classified service.

(a) The unclassified service shall comprise the following offices and positions:

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

2. The city clerk, city treasurer, city attorney, city physician, city engineer, and professional librarians.

3. The Mayor and administrative assistant.

4. The directors or heads of departments except those now under civil service of the city.

5. The clerk of the municipal court.
 6. Members of boards and commissions in the City's service.
 7. Persons employed to make or conduct a special inquiry, investigation, examination or installation, if the council or Mayor certifies that such employment is temporary and that the work should not be performed by employees in the classified service.
 8. Part-time employees who are engaged in highly-skilled or professional services, unless by agreement with the Civil Service Board, it is determined otherwise.
- (b) The classified service shall comprise all positions not specifically included by this section in the unclassified service.

Sec. 7.40 Retention of Present Civil Service Commissioners and Rules

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

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

Sec. 7.41 Retention of Status

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

Sec. 7.42 Permanent Employee Defined

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

Sec. 7.50 Classification

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

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

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

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

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

Sec. 7.60 Rules, Board to Make

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

1. Classification of all offices and employments of the City.
2. Public competitive examinations to test the relative fitness of applicants.
3. Public advertisement of the holding of examinations at least ten days in advance in a newspaper of general circulation of said City and posting such advertisement for ten days on a bulletin board in the City Hall.
4. The creation and maintenance of lists of eligible candidates after successive examination in order of their standing in the examination and without reference to the time of examination, which lists shall be embraced in an eligible

register.

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

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

7. The certification of the name standing highest on the appropriate list to fill any vacancy.

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

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

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

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

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

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

Sec. 7.61 Competition Suspended, When

In case of a vacancy in any office which requires peculiar or exceptional qualifications of a scientific, professional or expert character, and upon satisfactory affidavits that competition is impracticable and that the office can best be filled by the selection of some designated person of recognized attainments,

the civil service board may by unanimous vote, with the approval of the Mayor and no less than five-sevenths of all the members of the city council, suspend competition but no such suspension shall be general in its application to such office.

Sec. 7.70 Schedule of Pay

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

Sec. 7.80 Appointments by Mayor Restricted.

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

Sec. 7.90 Prohibitions

No person in the classified service of the city or seeking admission thereto shall be appointed, promoted, reduced, or in any way favored or discriminated against because of his race or his political or religious opinions or affiliations. No person shall wilfully or corruptly make any false statement, certificate, mark, rating or report in regard to any test, certification, or appointment held or made under the personnel provisions of this charter or in any manner commit or attempt to commit any fraud preventing the impartial execution of such personnel provisions or of the rules and regulations made

thereunder. No officer or employee in the classified service of the city shall continue in such position after becoming a candidate for nomination or election to any public office. No person seeking appointment to or promotion in the classified service of the City shall either directly or indirectly give, render or pay any money, service or other valuable thing to any person for or on account of or in connection with his test, appointment, proposed appointment, promotion or proposed promotion. No person shall orally, by letter, or otherwise solicit or be in any manner concerned in soliciting any assessment, subscription or contribution for any political party or political purpose whatever from any person holding a position in the classified service of the City. No person holding a position in the classified service of the City shall make any contribution to the campaign fund of any political party or any candidate for public office or take any part in the management, affairs or political campaign of any political party, further than in the exercise of his rights as a citizen to express his opinion and to cast his vote.

Any person who by himself or with others wilfully or corruptly violates any of the provisions of this section shall be guilty of a misdemeanor and shall upon conviction thereof be punished by a fine of not less than \$25.00 nor more than \$100.00, or by imprisonment for a term not exceeding ninety days, or by both such fine and imprisonment. Any person who is convicted under this section shall for a period of five years be ineligible for appointment to or employment in a position in the City service, and shall, if he be an officer or employee of the City, immediately forfeit the office or position he holds.

ARTICLE VIII

FINANCE

Sec. 8.10 Control of Finances

The council shall have full authority over the financial affairs of the city and shall levy an annual tax upon all taxable property in the city, according to law, for the support of the city government and the payment of its obligations, and shall provide for and make collection of all revenues from all sources. The council shall provide for the auditing and settlement of city accounts and the safekeeping and disbursement of public monies and shall in the exercise of sound discretion appropriate money by means of a budget for the governmental expenses and for the maintenance of its separate funds, as in this article provided.

Sec. 8.11 Fiscal Year

The fiscal year of the city shall end each year on the 31st day of December.

Sec. 8.12 Local Taxation

Subject to the State Constitution and except as forbidden by it or by laws of the State, the council shall have full power to provide by ordinance and resolution for a system of local taxation, and to change and amend the same as the city's needs may require.

Sec. 8.13 Board of Equalization

The council shall constitute a Board of Equalization and shall meet as such board in the council's usual meeting place on the last Monday in July to equalize assessments according to law.

Sec. 8.20 Annual Budget

The Mayor shall prepare and submit to the council at its regular meeting in August of each year the estimates for the annual budget. Such estimates of expenditures shall be arranged for each department or division of the city as may by direction of the council be required. All increases and decreases of amounts shown on the previous year's budget shall be clearly shown. In parallel columns shall be shown the amounts granted and the amounts expended under similar headings for the past two fiscal years, and so far as possible for the current year. In addition to the estimates of expenditures the estimates shall include a statement of the revenues which have accrued for the past two completed

Fiscal years with the amounts collected and the uncollected balances, together with the same information so far as possible for the current fiscal year, and an estimate of the revenue of the ensuing fiscal year. Such estimates should be printed or typewritten and as many copies thereof shall be submitted as may be required by the council. Any interested tax payer may have access to said estimates after the same have been submitted. After the submission of said estimates to the council the council shall carefully consider the same and make such changes as appear to be in the best interests of the city, and thereafter further proceedings shall be had thereon in accordance with the provisions of Sec. 2.03 of this charter pertaining to ordinances, but the final adoption of the budget shall be by resolution which shall be adopted not later than October 1st of each year.

Said annual budget as finally adopted shall set forth in detail the complete financial project of the city for the ensuing fiscal year. It shall indicate the sums to be raised and from what sources, and the sums to be spent and for what purposes, and shall indicate the fund for which said sums are to be raised and from which said sums are to be disbursed. It shall not be necessary to include in the budget estimates of revenues or expenses of the permanent improvement revolving fund, from the sale of bonds or of any other fund not supported by taxes.

Sec. 2.21 Alteration

After the budget shall have been duly adopted the council shall not have power to increase the amounts therein fixed, whether by the insertion of new items or otherwise beyond the estimated revenues, unless the actual receipts shall exceed such estimates, and in that event not beyond such actual receipts. The sums fixed in the budget shall be and become appropriated at the beginning of the fiscal year for the several purposes named therein and no other. The council may at any time, by a resolution passed by five-sevenths vote of all the members of the council, reduce the sums appropriated for any purpose, or authorize the transfer of sums from unexpended balances to other purposes, except as in this charter otherwise provided.

Sec. 8.22 Enforcement

It shall be the duty of the mayor to enforce strictly the provisions of the budget. He shall not approve any order upon the city treasurer for any expenditure from a fund included in the budget unless there is a sufficient unexpended balance left after deducting the total past expenditures and the sum of all outstanding orders and encumbrances. No officer or employee of the city shall place any orders or make any purchases except for the purposes and to the amounts authorized in the budget. Any person violating the terms of this section shall be personally liable for any amount in excess of the amount authorized.

Sec. 8.23 Emergency Appropriation in Budget

The council shall have power to establish an emergency appropriation as a part of the budget, but not to exceed ten per cent of the total budget. Transfers from the emergency appropriation to any other appropriation shall be made only by a unanimous vote of the council. The sums transferred to the several departments or divisions shall be considered as a part of such appropriations and shall be used only for the purposes designated by the council.

Sec. 8.30 Levy of Taxes

After the adoption of the annual budget and not later than the 1st day of October each year, the council shall by resolution levy the taxes necessary to meet the requirements of the budget as adopted for the ensuing fiscal year. The city clerk shall thereupon transmit to the county auditors of the counties in which the city of St. Cloud lies, not later than the 10th of October, a statement of all the taxes levied, and such taxes shall be collected and the payment thereof be enforced with and in like manner as state and county taxes. No tax shall be invalid by reason of any informality in the manner of levying the same nor because the amount levied shall exceed the amount required to be raised for the special purposes for which the same is levied, but in that case the surplus shall go into the fund to which such

tax belongs.

Sec. 8.31 Tax Settlement

It shall be the duty of the city treasurer to collect from the treasurers of the separate counties all monies collected by and in possession of said treasurers belonging to the city and said collection thereof by the city treasurer and the payment thereof by the several county treasurers of said counties shall be made at the times provided by law.

Sec. 8.40 Funds of the City

There shall be maintained in the city treasury the following funds for the support and maintenance of which the council shall, unless herein otherwise provided, appropriate and annually levy taxes in sufficient amount to accomplish their purposes:

1. A fund to provide for fire protection.
2. A fund to provide for firemen's relief.
3. A fund to provide for police protection.
4. A fund to provide police pensions.
5. A fund to provide for the operation of a city health division.
6. A fund to provide for the operation of parks, playgrounds and for recreation.
7. A fund to provide for public welfare.
8. A fund to provide for operation of a road, bridge and engineering division.
9. A sinking fund for the payment when due of bonds or other funded debt of the city.
10. A permanent improvement fund to pay for local improvements properly chargeable and charged against the city, the payment of which is not otherwise provided for. Receipts from the sale of city property not otherwise disposed of shall be deposited in this fund.
11. A permanent improvement revolving fund which shall be used to finance local improvements which are to be paid for by local assessment. This fund shall not be supported by taxation. There shall

be paid into this fund all monies received from special assessments levied under this charter for local improvements and also such amount as may be realized from the sale of bonds, warrants or certificates authorized therefore in this charter. No transfer shall be made from this fund.

12. A fund to provide for the lighting of said city and the public buildings thereof, whether the same be done by the city or by individual corporations.
13. A fund to provide for hydrant rentals, and for the payment of water used for sprinkling, in public buildings, and for other municipal purposes, whether the same shall be furnished by a division of the city or by a private person.
14. A fund to provide for the payment or printing and supplies for all departments of the city not especially provided for herein.
15. A fund to provide for support, maintenance and advancement of the public library. No transfer shall be made from this fund.
16. A fund to provide for the maintenance or employment of a band and other musical activities, for municipal purposes.
17. A fund to provide for the payment of the interest to become due during the next fiscal year upon bonds and debts of the city. Only such interest shall be paid out of this fund. No transfer shall be made from this fund.
18. A fund to provide for the payment of the salaries of the officers of the city and of clerk hire not otherwise provided for but which may be authorized by law.
19. A general fund to provide for all current and incidental expenses of and judgments against the city not otherwise provided for, and such other disbursements as may be authorized by law. There shall be paid into this fund all monies received from any source except when received for a specified or designated purpose.
20. A public utility fund, or funds, for the acquisition, construction, extension, maintenance and operation of any public utility owned or operated by the city. This fund shall not be supported by taxation. There shall be paid into this fund all monies derived from

the sale of bonds issued on account of any utility and from the operation of such utility and from the sale of any property acquired for or used in connection with such utility. There shall be paid out of this fund the cost of the purchase, construction, extension, operation, maintenance and repair of such utility, including the interest upon all bonds or other indebtedness which may be a lien thereon. Any surplus in said fund may be used for the purchase of any bonds or certificates of indebtedness issued against said utility and for the payment of such bonds or other indebtedness upon their maturity. Separate funds and accounts shall be kept for each such utility operated separately. When in the opinion of the council a surplus exists in this fund not needed for the operation of said fund, said council may by appropriate action transfer all or any portion of said surplus into the sinking fund of the city.

21. A development fund into which there shall be deposited annually an amount equal to twenty-five per cent of all monies received from the sale of licenses, issuance of all permits and income from parking meters in the city during the said period, together with such additional amount as the council may provide by a tax levy. No expenditure shall be made from the development fund without the approval of the planning commission and no transfer from said fund shall be made except to the sinking fund, and then only with the approval of the planning commission. Expenditures from the development fund shall be made only for such purposes as will advance the master plan for the physical development of the city.

Sec. C.41 Additional Funds

The council is authorized to establish and to appropriate money and levy taxes for the maintenance of such other and additional funds as from time to time it deems necessary for the proper carrying on the city's business.

Sec. C.42 Present Monies Apportioned

Upon the adoption of this charter all monies in the city treasury

and monies to be collected from taxes heretofore levied shall be apportioned among the several funds hereby established so far as possible, and if such division is not practicable said monies shall then be paid into the general fund.

Sec. 3.45 Contingent Fund

The council may within any year, by resolution, appropriate a sum not to exceed \$5,000.00 for contingent expenses incurred or to be incurred by the Mayor and the council for the benefit of the city and its people. Said contingent fund is to be a part of the general fund and disbursements therefrom shall be made as provided for other disbursements.

Sec. 3.50 Receipts and Accounts

All receipts of money belonging to the city or any branch thereof, excepting only those funds collected by the county treasurers, shall be paid into the city treasury by the person authorized to receive the same at the close of each business day. All such monies and also all monies received upon tax settlements from the county treasurers shall be deposited as soon as received or within a reasonable time in a bank or banks approved by the city council. The Mayor shall be the chief accounting officer of the city and of every branch thereof, and he shall in accordance with the provision of Sec. 3.20^{and 3.50} provide for the duties of the city clerk and city treasurer and the methods and procedures of said offices. He shall submit to the council his statement each month showing the amount of money in the custody of the city treasurer, the status of all funds, the amount spent or chargeable against each of the annual budget allowances and the balances left in each, and such other information relative to the finances of the city as the council may require. On each year, on or before the last day of January, the Mayor shall submit a report to the council covering the entire financial operations of the city for the past year. This report shall contain a full and complete report of all receipts and expenditures and a complete statement of the financial standing of the city and such other information as might be required by the council.

Sec. 8.51 Comprehensive Audit

The council shall annually cause a comprehensive audit of the books and accounts of the city to be made by the state public examiner, and shall cause the report of said examination to be published in the official newspaper.

Sec. 8.60 Tax Anticipation Certificates

For the purpose of providing necessary monies to meet authorized expenditures after the annual tax levy has been certified to the county auditor, and prior to the collection of taxes payable in the current year, the council may after January 1st of any fiscal year, issue certificates of indebtedness to be repaid out of such taxes on such terms and conditions as it may determine.

Sec. 8.61 Emergency Debt Certificates

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If any year the receipts from taxes or other sources should from some unforeseen cause become insufficient for the ordinary expenses of the city, or if any calamity or other public emergency should subject the city to the necessity of making extraordinary expenditures which may not have been budgeted or anticipated, then the council may authorize the sale by the city treasurer of emergency debt certificates to run not to exceed three years and to bear interest at not to exceed six per cent. A tax sufficient to redeem all such certificates at maturity shall be levied each year. The issuance of such certificates shall be authorized by an ordinance passed by five-sevenths of all the members of the council and such ordinance may if deemed necessary be passed as an emergency ordinance.

Sec. 8.62 Purchases and Contracts

The mayor shall be the chief purchasing agent of the city. The purchasing agent, subject to the provisions of this charter and pursuant to rules and regulations established by ordinance, shall contract for, purchase, store and distribute all supplies, materials and equipment required by any office, department or agency of the city government.

He shall establish and enforce specifications, inspect or supervise the inspection of all deliveries and have full and complete charge of, and be responsible for, all supplies, materials and equipment purchased for or belonging to the city.

The approval of the council must be given in advance for purchases or contracts exceeding \$500.00. The council may authorize purchases or contracts without advertising and receiving competitive bids thereon for purchases or contracts not exceeding \$1,000.00. Before making purchase of or contract for supplies, materials or equipment of more than \$1,000.00, ample opportunity for competitive bidding shall be given under such rules and regulations as the council may prescribe by ordinance, provided that should the article or service required be of a noncompetitive nature, the council may purchase the same without bids. The council may reject any and all bids and may re-advertise.

All contracts, bonds and other instruments of every kind to which the city shall be a party shall be executed in the name of the city and signed by the mayor and the city clerk on behalf of the city, and approved by the city mayor .

The city council may, in its discretion, and with the recommendation of the mayor, direct any work or construction or any part thereof to be done by day labor or by any department of the city government under direction of the Mayor.

Sec. 8.70 Payment from Treasury

No money shall be paid out of the city treasury except upon order duly signed by the city clerk and Mayor. All claims against the city except claims for payments or judgments, salaries and wages previously fixed by the council or by statute, principal and interest on obligations, rent and other fixed charges, the exact amount of which has been previously determined by contract authorized by the council, shall be itemized and verified by the claimant, approved by the department head or director, approved by the Mayor and presented to the city council. The council may provide by ordinance or resolution for the payment, subject to subsequent council approval of claims which must be paid in ad-

of council approval, for the business operation of the city government. Upon allowance by the city council of such itemized, verified and approved claim where required, the city clerk shall draw an order upon the city treasurer, which order when properly signed by the Mayor shall be authority to the treasurer to issue his check upon the proper fund of the city, but should the city treasurer and the city clerk be the same person, said check shall be validated by a person designated by the council. Provided that the council may provide by resolution for the payment of any or all employees of said city on payrolls to be prepared as directed by said resolution, by heads of departments and approved by the mayor. All such payrolls shall be duly audited and ordered paid by said council when approved, and the payees named thereon shall receipt for the amounts received upon said payrolls. Said council may make such further rules and regulations as to payrolls for city employees as it may deem necessary.

Sec. 8.80. Investment of Surplus Funds

The council may invest the surplus of any fund, by a vote of five-sevenths of all members of the council, in any securities in which fund of the State of Minnesota may be invested, and in obligations of the City of St. Cloud.

ARTICLE IX

BONDS

Sec. 9.10 Power to Issue, Limitations

The bonds of the City of St. Cloud may be issued as in this article provided:

In addition to all the powers in respect to borrowing, and with reference to the issuance of bonds and certificates of indebtedness specifically or impliedly granted by this charter and any amendments thereto, the City of St. Cloud shall have all the powers in reference to these matters granted and authorized for cities of its class by

the statutes of the State of Minnesota as now in effect and as may be hereafter amended or supplemented. The city shall have the power to issue and sell its bonds to the State of Minnesota or to private purchasers according to the laws of the State or the provisions of this charter.

No bonds shall ever be issued to pay current expenses or to refund certificates of indebtedness issued to provide for temporary deficiency in the revenues to cover current expenses. The total net debt of said city shall not exceed ^asum in excess of ten per cent of the assessed valuation of said city, excluding monies and credits. In computing such net debt obligations of the city permitted to be excluded by Section 410.08 of Minnesota Statutes, or any other statutes, shall not be included in or counted as a part of such net debt.

The city council may issue the bonds of said city by a majority vote without submitting the issue thereof to a vote of the electors, for the purpose of paying, taking up and refunding outstanding bonds of said city and for the purpose of paying judgments lawfully rendered against said city, as to which the time of appeal has expired.

No bonds of the City of St. Cloud shall be issued for any other purpose without the approval first obtained of five-eighths of the electors of said city voting at a special election called for that purpose, or at a general municipal election in the notice of which special or general municipal election the proposed issue shall have been plainly submitted for approval or rejection.

Sec. 9.20 Proceeds

After the sale of said bonds according to law and the payment therefor to the treasurer of said city of the amount for which said bonds are sold, the bonds shall be executed and delivered to the purchaser thereof and the treasurer shall receive and hold the proceeds thereof as a separate fund for the purposes for which said bonds were issued. If the contemplated improvement be afterward abandoned, such fund shall become a part of the sinking fund of said city and shall be invested and used in all respects as is provided for the sinking fund of said city.

ARTICLE X

IMPROVEMENTS AND SPECIAL ASSESSMENTS

Sec. 10.10 General Powers and Procedure

The City of St. Cloud shall have the power to make any and every type of public improvement not forbidden by the laws of this State, and to levy special assessments for all such improvements as are of a local character, such special assessments to be levied against each lot or other unit of property separately as the same may be platted or subdivided. The amounts assessed to benefited property to pay for local improvement may equal the cost of the improvement with interest until paid, but shall in no case exceed the value of the benefit received by such property. No levy of special assessments shall be deemed invalid by reason of the fact that the total amount of special assessments shall exceed the actual cost of the improvement. But in case there shall be any excess of assessments over actual cost, the city council shall have the power and it shall be its duty to provide for a pro rata return or remission of such excess assessments to the persons who are by law entitled thereto.

Sec. 10.11 Procedure

All improvements to be paid for by special assessment against the benefited property shall be instituted by either of the following methods, to wit:

1. Upon the written request of not less than twenty-five per cent in number and interest (the term interest shall mean footage of abutting property except when otherwise defined by resolution adopted by the city council) of the affected resident property owners. The city council, as it deems such public improvement advisable, shall direct the Mayor to have prepared an estimate of the cost of the proposed improvements and also a petition in proper form containing such estimate which shall be set forth both in unit prices and in total thereof. Such petition so prepared shall be used for circulation among the affected resident property owners and when signed by a majority in number and interest

of such resident owners may be presented to the city council as a petition for such improvement. Thereupon it shall be the duty of the city council to proceed within a reasonable time to make such improvements, provided however, that no contract therefor shall be let in the event the contract price exceeds the estimated cost made by the Mayor as hereinbefore prescribed. The city council shall have authority to proceed with the proposed improvement at any time within two years from the date of filing of the majority petition under this method. A new petition following the procedure herein prescribed may be filed at any time.

2. By resolution adopted by affirmative vote of the majority of the council any public improvement other than repair or replacement may be declared advisable and to be paid for by special assessment. Such resolution shall state the nature and scope of such public improvement. Upon adoption of such resolution which shall direct the mayor to have prepared an estimate of the cost thereof, the Mayor shall have prepared such an estimate which shall be set forth both in unit price and in total thereof. Upon receipt of such estimate the council shall by resolution set a date for a public hearing on the proposed improvement, setting forth therein the time, place and purpose of such hearing. Such resolution shall be published once in the official newspaper of the city at least one week prior to the date of said hearing, and in addition thereto a copy of such resolution shall be mailed to each affected resident property owner at his last known city address at least one week prior to the date of said hearing. At such hearing the city council shall receive any written petitions and hear any petitioners for or against the proposed improvement.

Sec. 10.12 Reference to Planning Commission

Any improvement which may be authorized and directed to be constructed under the provisions of this Article, which may fall within the provisions of Article VI hereof pertaining to the powers and duties of the city planning commission, shall be referred by the city council to said commission and shall be authorized only in accordance with the

procedure set forth in said Article VI hereof.

Sec. 10.20 Limitations on Council

If the proposed improvement is in the nature of streets, alleys, sidewalks, curbs, gutters or other improvements of a public way, the council may proceed with the improvement and levy assessments therefor, except that the council may not proceed with such improvement if seventy-five per cent or more in number and interest of the affected property owners oppose the improvement as shown by their signatures on a petition setting forth their opposition to the said improvement and giving their proper street addresses and description of their property to be affected by the improvement.

If the proposed improvement is in the nature of a sanitary sewer or facilities connected to or a part of the municipal sewerage system, the council may proceed with the improvement and levy assessments therefor, except that the council may not proceed with such improvement if ninety per cent or more in number and interest of the affected resident property owners oppose the improvement as shown by their signatures on a petition setting forth their opposition to said improvement and giving their proper street addresses and description of their property to be affected by the improvement.

If the proposed improvement is of any nature other than the above, the council may proceed with the improvement and levy assessments therefor, except that the council may not proceed with such improvement if fifty-one per cent or more in number and interest of the affected resident property owners oppose the improvement as shown by their signatures on a petition setting forth their opposition to said improvement and giving their proper street addresses and description of their property to be affected by the improvement.

The city council shall have authority to proceed with the proposed improvement within two years after the date of public hearing under this method, and assessment shall be made against the described property regardless of the ownership, except that after one year from the set date of hearing upon written petition of at least fifty-one per cent of

the affected resident property owners in number and interest the council shall set a second hearing as before, to re-determine the per cent of the then affected resident property owners who opposed the proposed improvement.

Sec. 10.51 Repairs and Replacements

The city council by five-sevenths affirmative vote of its members may initiate proceedings for the repair or replacement with suitable materials of special assessment improvements. Such proceedings may be initiated by adoption of a resolution describing the repair or replacement contemplated, and the necessity therefor, and setting forth in said resolution the time and place of a hearing to be held before the council on such proposed repair or replacement. Notice of the time, place and purpose of said hearing shall be published once in the official newspaper of the city at least one week prior to said hearing. In addition, a copy of such notice shall be mailed at least one week prior to said hearing to each affected resident property owner at his last known city address. Prior to said hearing the Mayor shall have prepared an estimate of the cost of the proposed repair or replacement, both in unit price and in total thereof. At said hearing the council shall hear all interested parties and if, after such hearing the council shall so decide by a five-sevenths affirmative vote of the members thereof, it may proceed with such repair or replacement, provided however, that no contract therefor shall be let in the event the contract price exceeds the estimated cost submitted by the Mayor as hereinbefore prescribed. In the event the cost of any such repair or replacement shall not exceed twenty-five dollars on any one parcel or property, the city council may, without hearing, by five-sevenths affirmative vote of its members order such repair or replacement made after giving ten days written notice to the owner of such property at his last known city address.

Special assessments to cover the cost of any such repair or replacement shall be levied as hereinabove provided for.

Sec. 10.22 Regulations to be Adopted

After this amendment takes effect local improvements shall continue for the time being to be made as far as possible according to the amendment provisions and laws previously applicable thereto, and the council is hereby authorized to adopt and to put into effect in the City of St. Cloud any general law of the state applicable to local improvements of any type and the levying of assessments thereof, provided that the same does not violate the provisions of this amendment. As soon as possible, however, the council shall prepare and adopt a complete ordinance covering every type of public improvement, and when this ordinance takes effect it shall, subject to the provisions of Article X of this amendment, supplant other provisions of law or of the previous city charter upon the same subject. It may be amended from time to time as other ordinances. It shall classify public improvements into three groups, as follows: (1) those which shall be constructed or provided entirely from the general revenue of the city; (2) those which shall be constructed or provided partly from general revenues and partly from special assessments; and (3) those which shall be constructed or provided entirely by special assessments. The second class may be further subdivided. The ordinance shall provide a complete working code covering the determination of assessments and assessment districts, public hearings, appeals from and collection of assessments along with other taxes or otherwise, penalties for delinquency in making payments, financing and issuance of warrants for the collection of said assessments, the certifying of unpaid assessments for collection by the proper county officer. Said ordinance may also provide for installment payments and notices to be given thereof, appellate procedure, re-assessment if necessary and all other matters appropriate to the subject of local improvements and assessments. After the passage of such ordinance or resolution providing for public improvements and all procedures in compliance therewith shall conform to the regulations as set forth in such ordinances and as otherwise contained in this amendment.

Sec. 10.23 State Law to Govern

Except as provided by this amendment, or otherwise authorized or provided by ordinance or resolution of the city council, the laws of the State of Minnesota pertaining to and governing public improvements in cities of the class of the City of St. Cloud shall be followed.

ARTICLE XI

ACQUISITION OF PROPERTY

Sec. 11.10 Power to Acquire Property

The City of St. Cloud is hereby empowered to acquire by purchase, gift, devise, or condemnation any property, corporeal or incorporeal, either within or without its corporate boundaries, which may be needed by said city for any public use or purpose. In addition to the power to acquire property for other public purposes, the city may, when authorized by two-thirds of the voters voting on the question, also acquire, as herein provided, at the end of any five year period from the granting of a franchise, any gas, water, heat, power, light, telephone or other plant, or other public utility, but no proceeding to acquire any such public utility shall be consummated unless the city has the money in its treasury to pay for the same or has by vote of the people made provision for paying for the property proposed to be acquired. Easements for slopes, fill, sewers, building lines, poles, wires, pipes and conduits for water, gas heat, and power and for other public purposes, may be acquired by gift, devise, purchase or condemnation in the manner provided by law.

Sec. 11.11 Proceedings in Taking Property

The necessity for taking of any property by the city shall be determined by the council and shall be declared by a resolution which shall describe such property as nearly as may be and state the use to which it is to be devoted. The acquisition of such property may be accomplished by proceedings at law, as in taking land for public use by right of eminent domain according to the laws of the State of Minne-

sota, except as otherwise provided in this amendment.

Sec. 11.12 Payment of Award

Whenever an award of damages shall be confirmed in any proceeding for the taking of property under this Article, or whenever the court shall render final judgment in any appeal from any such award, and the time for abandoning such proceedings by the city shall have been expired, the city shall be bound to, and shall, within sixty days of such final determination, pay the amount of the award with interest thereon at the rate of six per cent per annum from the date of the confirmation of the award or judgment of the court, as the case may be; and if not so paid, judgment therefor may be had against the city.

Sec. 11.13 City may Abandon Proceedings

The city may, by resolution of the council at any stage of the condemnation proceedings, or at any time within thirty days after any commissioners appointed by the court hereunder shall have filed their report with the clerk of court, or in case of an appeal to the district or supreme court, at any time within thirty days after the final determination thereof, abandon such proceedings as to all or any parcel of the property sought to be acquired and shall pay all costs thereof.

Sec. 11.20 City May Take Entire Plant

In case the city shall condemn a public utility which is operated at the time of the commencement of condemnation proceedings as one property or one system, it shall not be necessary in such condemnation proceedings or any of the proceedings of the council, to describe or treat separately the different kinds of property composing such system, but all of the property, lands, articles, franchises and rights which enter into and go to make up such system may, unless otherwise ordered by the court, be treated together as constituting one property and an award for the whole property in one lump sum may be made by the commissioners on condemnation or other body assessing the damages. But this shall not prevent the city, in cases where the plant and property is separable into distinct parts, from taking only such part or parts thereof as may be necessary in the public interests.

ARTICLE XII

FRANCHISES

Sec. 12.10 Franchises Defined

The word "Franchise" as used in this article shall be construed to mean any special privilege granted to any person, co-partnership or corporation, in, over, upon or under any of the highways or public places of the City, whether such privilege has heretofore been granted by it or by the State of Minnesota, or shall hereafter be granted by the City or by the State of Minnesota.

Sec. 12.20 Franchise Ordinances

The council may grant franchises by ordinance adopted by a majority vote, but only after the issue shall have been submitted to and approved by the voters of the City at a special election held for that purpose, by a majority of the electors voting at such election. The procedure for the granting of any franchise shall be as follows:

Said franchise ordinance shall be introduced in the council as other ordinances are introduced and the council shall follow the provisions of Sec. 2.63 hereof as to notice and hearings, but not as to passage. If approved after hearings the City council shall provide for a special election to be held not less than ten days after notice in the usual manner has been given of such election. Not less than one week before election the city clerk shall cause to be published in the official newspaper of the City a copy of the ordinance which is to be submitted for approval or rejection by the voters. If a majority of the electors voting at such election vote against the granting of said franchise, said franchise shall not be granted and said franchise ordinance shall be of no force or effect. Should a majority of the electors voting at such election vote in favor of such franchise the council shall thereupon, not later than its next regular meeting, declare said franchise to be granted and said franchise ordinance shall thereupon become a legal and binding ordinance upon the City and the grantee therein named, provided however, that any franchise rights shall always be subject to the superior rights of the public to the use of streets and public places, and said franchise shall be without any validity whatever until it has been accepted by the grantee as adopted.

Sec. 12.30 Term of Franchises Limited

No perpetual franchise shall ever be granted, nor shall any franchise be granted for longer than a twenty-five year term.

Sec. 12.40 Power to Regulate and Control

The City shall have the right and power to regulate and control the exercise by any corporation, co-partnership or person of any franchise, however acquired and whether such franchise has been heretofore granted by it or by the State of Minnesota, or shall hereafter be granted by the City or by the State of Minnesota.

Sec. 12.50 Regulation of Rates and Charges

All corporations, co-partnerships, and persons exercising franchises in the City shall give courteous, efficient and adequate service at reasonable rates. A reasonable rate shall be construed to be one which will with efficient management normally yield, above all operating expenses and depreciation, a fair return upon all money honestly and efficiently invested in the plant and equipment used by the company in furnishing service within the City. This shall not be construed as a guarantee of a return and in no case shall there be any return upon franchise value. Within these limits, the determination of a maximum price or rate to be charged by any company for service rendered to the City or to any person or persons within the City shall be made, if possible, by direct negotiations between the company and the council at public hearings. In case of failure to reach an agreement by this method, the council shall, not less than thirty days before the expiration of any existing rate schedule or agreement, appoint the City Mayor or some other expert as its representative; the company shall appoint a representative; and these two shall by mutual agreement select a third person, preferably an expert in valuation and rate-making, who shall together constitute a board of arbitration. This board shall report its findings as soon as possible and the rate, which it shall agree upon by a majority vote shall be the legal rate, subject to revision by any court of competent jurisdiction. Schedules of rates thus fixed shall be as flexible as may be, and shall in no case fix a definite rate for a period of more than five years. The City and the company may by mutual agreement, revise existing schedules of rates at any time, proceeding in each case as provided for the original fixing of the rates.

Sec. 12.60 Conditions in Every Franchise

Every franchise shall contain the following provisions:

1. That the grantee shall be subject to and will perform on its part all the terms of this article, as well as all other pertinent provisions of this amendment.

2. That the grantee shall in no case claim or pretend to exercise any power to fix fares, rates, and charges; but that such fares, rates, and charges shall at all times be just, fair and reasonable for the services rendered, and shall in all cases be fixed and from time to time changed in the manner provided in Sec. 12.50 of this amendment.

3. That the council shall have the right to require reasonable extensions of any public service system from time to time, and to make such rules and regulations as may be required to secure adequate and proper service and to provide sufficient accommodations for the public.

4. That the grantee shall not issue any capital stock on account of the franchise or the value thereof, and that the grantee shall have no right to receive, upon condemnation proceedings brought by the City to acquire the public utility exercising such franchise, any return on account of the franchise or its value.

5. That no sale or lease of said franchise shall be effective until the assignee or lessee shall have filed in the office of the city clerk an instrument, duly executed, reciting the fact of such sale or lease, accepting the terms of the franchise, and agreeing to perform all the conditions required of the grantee thereunder. The assignee or lessee shall also file a bond in such amount and with such conditions as the council may require, which bond shall run to the City as obligee, with sureties satisfactory to the council, and shall obligate the assignee or lessee to discharge all obligations and liabilities imposed by said franchise.

6. That every grant in said franchise contained or permission for the erection of poles, masts, or other fixtures in the streets and for the attachment of wires thereto, or for the laying of tracks in, or for pipes or conduits under the streets or public places, or for the placing in the streets or other public places of any permanent or semi-permanent fixtures whatsoever, shall be subject to the conditions that the council shall have the power to require such alterations

therein, or re-location or rerouting thereof, as the council may at any time deem necessary for the safety, health or convenience of the public, and particularly that it shall have the power to require the removal of poles, masts and other fixtures bearing wires and the placing underground of all wires for whatsoever purpose used.

7. Every franchise and every extension or renewal of such franchise, shall contain a provision for its acceptance in writing by the grantee within thirty days after its adoption and passage. No such franchise shall be binding upon the City until its acceptance by the grantee. Such acceptance shall be construed to be an acceptance of and consent to all the terms, conditions and limitations contained in the ordinance granting the franchise as well as of the provisions of this amendment.

The violations by the holder of any franchise of any of the express provisions prescribed by this section shall be a sufficient cause for the forfeiture of the franchise by a resolution of the council, if not corrected within a reasonable time after notice thereof from the City.

Within ninety days after the close of the fiscal year of the person or corporation exercising any franchise, such person or corporation shall file annually in the office of the city clerk a statement of the earnings and expenditures of such business. Such statement shall include whatever information may be required by the city council. Said statement shall be open to public inspection.

Sec. 12.70 Further Provisions of Franchises

The enumeration and specification of particular matters which must be included in every franchise or renewal or extension thereof, shall not be construed as impairing the right of the City to insert in any such franchise or renewal or extension thereof such other and further conditions and restrictions as the council may deem proper to protect the City's interests, nor shall anything contained in this amendment limit any right or power possessed by the City over existing franchises.

ARTICLE XIII

PUBLIC OWNERSHIP AND OPERATION OF UTILITIES

Sec. 13.10 Acquisition and Operation of Utilities

The City shall have the power to acquire public utilities as provided in Article XI of the amendment. The operation of all public utilities owned by the City shall be under supervision of the Mayor.

Sec. 13.20 Rates and Finances

Upon the recommendations made by the Mayor or upon its own motion the council shall have the power to fix all rates and charges for water, light, heat, and all other utilities provided by plants owned by the City, but such rates and charges shall be just and reasonable. In like manner the council may prescribe the time and manner in which payments for all such services shall be made, and the manner in which water and electric current shall be computed or measured, whether by meter or flat rate, and make such other regulations as may be necessary, establish liens for non-payment and may prescribe penalties for violations of such regulations.

Sec. 13.30 Purchase in Bulk

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

Sec. 13.40 City to Pay for Services

The council shall make a reasonable charge, based on the cost of service, for lighting the streets and public buildings, or supplying heat, power or any other utility, and a reasonable hydrant rental and other charges for supplying the City with water, and shall credit the same to the publicly owned utility supplying service. Such rentals and other charges for light, heat, power, water and other services, shall be collected in the same manner as from other consumers unless the council provides some other plan.

Sec. 13.50 Lease of Plant

The council may, if the public interests will be served thereby, contract with any responsible person, co-partnership or corporation for the operation of any utility owned by the City, upon such rentals and conditions as it may deem necessary, but such contract shall be embodied in and let only by an ordinance approved by five-seventh of all the members of the council and subject to popular referendum. In no case shall such contract be for a longer term than ten years. The contractor shall be subject as far as possible to the rules as to rates and service and as to council control laid down for the holders of franchises in Article XII of this amendment.

Sec. 13.60 Public Utility: How Sold

No public utility owned by the City, whether acquired prior to the adoption of this amendment or thereafter, shall be sold or otherwise disposed of by the City unless the full terms of the proposition of said sale or other disposition thereof, together with the price to be paid therefor, shall have been embodied in an ordinance passed by a five-sevenths vote of all the members of the council in the usual way, and submitted to the electors at a general or special election and approved by a majority vote of the electors voting thereon.

ARTICLE XIV

MISCELLANEOUS AND TRANSITORY PROVISIONS

Sec. 14.10 Official Publications

The council shall annually designate a legal newspaper of general circulation in the City as the official paper, in which shall be published such measures and matters as are by this amendment and by the laws of this State required to be published, and such other matters as the council may deem it wise to have published.

Sec. 14.20 Oath of Office

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

Sec. 14.30 City Officers Not to Accept Favors or Contracts

No officer or employee of the City shall solicit or receive any pay, commission, money or thing of value, or derive any benefit, profit or advantage, directly or indirectly, from or by reason of any improvement or alteration or repair required by authority of the City, or any contract to which the City shall be a party, except his lawful compensation or salary as such officer or employee, unless the council has with full knowledge of the interest of an officer or employee in such contract, accepted and approved the same by unanimous vote of all members of the council. No officer or employee of the City except as otherwise provided in this amendment, or by law, shall solicit, accept, or receive, directly or indirectly from any public utility corporation or the owner of any public utility or franchise, any pass, frank, free ticket, free service or any other favor, upon terms more favorable than those granted the public generally. A violation of any provision of this section shall disqualify the offender from continuing in office or in the employment of the

City, and he shall be removed therefrom. Any contract with the City in which any officer or employee becomes directly or indirectly interested except as herein provided, personally or as a member of a firm, or as an officer or a director of a corporation shall be void; and any money which shall have been paid on such contract by the City may be recovered from any or all of the persons interested therein by joint or several action.

Sec. 14.31 Interference with Administration

Neither the council nor any of its members shall dictate or attempt to dictate the appointment of any person to office or employment by the Mayor or in any manner interfere with the Mayor or prevent him from exercising his own judgment in the appointment of officers or employees in the administrative service. Except for the purpose of inquiry the council and its members shall deal with and control the administrative service solely through the Mayor, and neither the council nor any member thereof shall give orders to any of the subordinates of the Mayor, either publicly or privately. Any violation of the provision of this section by a member of the council shall be a misdemeanor, conviction of which shall immediately forfeit the office of the member so convicted.

Sec. 14.40 Bonds of Officials and Employees

The Mayor, the city treasurer, the city clerk and such other officers of the City as the council may require to be bonded, shall each before entering upon the duties of their respective offices and employments give corporate surety bond to the City in such sum as may be fixed by the council as additional security for the faithful performance of their respective official duties and the safekeeping of the public funds. Such bonds shall be approved by the city council and shall be endorsed by at least three members of the council as having been so approved. They shall be filed with the secretary of the council. The provisions of the laws of the State relating to official bonds not inconsistent with this amendment shall be complied with. The City shall pay the bond premiums on bonds of all of its officers and employees required to be bonded.

Sec. 14.50 Sales of Real Property

No real property of the City shall be disposed of except by resolution after

submission as provided in Sec. 6.40 hereof. The proceeds of any such sale shall be used as far as possible to retire any outstanding indebtedness incurred by the City in the purchase, construction or improvement of this or other property used for the same public purpose; but if there be no such outstanding indebtedness, then the council may by ordinance adopted by a five-sevenths vote designate some other public use for such proceeds.

Sec. 14.60 Vacation of Streets

The city council shall have the sole and exclusive power to vacate or discontinue public grounds, streets, alleys and highways within the City. No street or alley within the City shall be discontinued except by ordinance in accordance with the provisions of Sec. 6.40 hereof. A record of such vacation shall be made in the office of the Register of Deeds of the county in which said real property is located. No such ordinance shall be an emergency ordinance.

Sec. 14.70 City to Succeed to Rights and Obligations

The City shall succeed to all the property, rights and privileges and shall be subject to all the legal obligations of the City of St. Cloud that were in existence prior to this amendment.

Sec. 14.80 Present Officers to Hold Office

The present commissioners of the City shall make provisions for the election of the mayor and council, as provided by Article IV of this amendment, and said commissioners shall continue in their respective offices and functions and shall continue to govern the City according to the amendment and laws in effect in the City at the time of the adoption of this proposed amendment until the newly elected officers under this amendment qualify and take office. All other officers and employees shall continue in their respective offices and functions in the employ of the City, subject to the administrative powers of this amendment.

Sec. 14.91 Statutes Not Affected by Charter

All general laws and statutes of the State applicable to all cities operating under home rule charters, or applicable to cities of the same class as the City of St. Cloud operating under home rule charters, and not inconsistent with the provisions of this amendment, shall apply to the City of St. Cloud, and shall be

construed as supplementary to the provisions of this amendment.

Sec. 14.82 Existing Ordinances Continued

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

Sec. 14.83 Pending Condemnations and Assessments

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

Sec. 14.84 Ordinances to Make Charter Effective

The council is hereby empowered to, and it shall by ordinance make such regulations as may be necessary to carry out and make effective the provisions of this amended amendment.

Sec. 14.85 Nullification of Election Provided by Present Charter.

Should the provisions of this amendment be adopted not later than April 1st, 1952, all provisions of the Charter adopted in 1911, pertaining to elections to be held April 7th and April 21, 1952, are hereby abrogated and nullified and no elections as stated in this clause shall be held.

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14.84 Ordinances to Make Charter Effective

14.85 Nullification of Election Provided by Present Charter.

And we do hereby respectfully propose and submit for adoption by the qualified voters of the City of St. Cloud the foregoing proposed amendment to said City Amendment as returned and proposed by, the undersigned Board of Freeholders, constituting the Charter Commission of the said City this twenty-eighth day of January, 1952.

<u>O. J. Jerde</u>	<u>S</u>
<u>W. W. Holes</u>	<u>S</u>
<u>Max Gilbert</u>	<u>S</u>
<u>Francis Fearon</u>	<u>S</u>
<u>Harold Schoelkopf</u>	<u>S</u>
<u>Dan Marsh</u>	<u>S</u>
<u>Mrs. T. N. Fleming</u>	<u>S</u>
<u>Mrs Verina Meagher</u>	<u>S</u>
<u>Charles H. Richter</u>	<u>S</u>
<u>Frank Honer</u>	<u>S</u>
<u>Carl W. Grewe</u>	<u>S</u>
<u>J. J. Quigley, Jr.</u>	<u>S</u>
<u>Frank J. Unger</u>	<u>S</u>
<u>Frank Poepke</u>	<u>S</u>

THE PRECEDING



DOCUMENT(S)

HAVE BEEN

REFILMED

TO ENSURE

LEGIBILITY



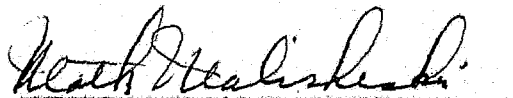
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<u>Frank J. Unger</u>	<u>S</u>
<u>Frank Poepke</u>	<u>S</u>

I, Math Malisheski, Mayor of the City of St. Cloud, Minnesota, do hereby certify that the hereto attached document was duly prepared by a Board of Fifteen Freeholders, duly appointed by the Judges of the District Court of the Districts in which said City of St. Cloud is situated, pursuant to Section 36 of Article 4 of the Constitution of the State of Minnesota and the Laws of the State of Minnesota enacted in pursuance thereof, for the purpose of submitting amendments to the Charter of said City and by said Board of Freeholders duly presented to the Mayor of said City and by him duly presented to the City Commission of said City, who thereupon duly ordered said proposed amendments to the City Charter to be submitted to the voters of said City at a special election to be held for that purpose on Tuesday, March 18, 1952.

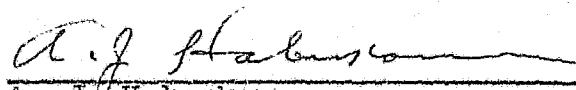
I further certify that said election was duly held on said date and said proposed amendments to the City Charter were duly ratified by the voters of said City at said election by the following vote: 4,743 votes for the adoption of said proposed amendments to the City Charter and 3,063 votes against the adoption of said proposed amendments to the City Charter and 12 spoiled ballots, there being a total of 7,818 votes cast in said election.


IN TESTIMONY WHEREOF, I have hereunto fixed my name as Mayor of said City and caused the seal of said City to be affixed this ^{get} day of April, 1952.


Math Malisheski
Mayor of the City of
St. Cloud, Minnesota

ATTEST:

(seal)


A. J. Haberkorn
City Clerk
City of St. Cloud, Minnesota

11733
STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
APR 4 - 1952

Secretary of State