

C E R T I F I C A T E

I, LLOYD RAPP, THE DULY ELECTED, QUALIFIED AND ACTING MAYOR OF THE CITY OF LUVERNE, ROCK COUNTY, MINNESOTA, IN MY CAPACITY AS CHIEF MAGISTRATE OF SAID CITY, HEREBY CERTIFY AS FOLLOWS:

FIRST, THAT THE WITHIN "PROPOSED CHARTER FOR THE CITY OF LUVERNE" IS A TRUE, CORRECT AND COMPLETE COPY OF SUCH PROPOSED CHARTER AS ADOPTED BY THE CHARTER COMMISSION (BOARD OF FREEHOLDERS) AND PRESENTED TO ME.

SECOND. THAT SAID PROPOSED CHARTER WAS DULY VOTED UPON BY THE VOTERS OF SAID CITY ON THE SEVENTEENTH DAY OF SEPTEMBER, NINETEEN HUNDRED FIFTY-SEVEN, AND RATIFIED BY MORE THAN FOUR-SEVENTHS OF THE QUALIFIED VOTERS VOTING AT SUCH ELECTION.

THIRD. THAT THE SEAL AFFIXED TO THIS CERTIFICATE IS THAT OF THE CITY OF LUVERNE, ROCK COUNTY, MINNESOTA.

DATED THIS 26th DAY OF SEPTEMBER, 1957.

(SEAL)

Lloyd Rapp
LLOYD RAPP
MAYOR

ATTEST:

Fred R. Mitchell
FRED R. MITCHELL
CITY RECORDER

#13491
~~#13491~~
STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
SEP 30 1957
James L. DeMunnick
SECRETARY OF STATE

PROPOSED CHARTER

FOR

THE CITY OF LUVERNE

CHAPTER 1

Name, boundaries, powers, and general provisions

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

Section 1.02. Division of the City into wards. The City of Luverne is hereby divided into two wards. That portion of the City lying north of a line running east and west along the center of Luverne Street shall be termed ward number one, and that portion of the City lying south of said line shall be termed ward number two. The City Council shall, following each federal census, consider ward boundaries. In the event current boundaries are found to cause a differential of thirty (30) per cent of the City's population, the Council shall change such boundaries to make the wards as nearly equal in population as practicable. Such change shall be done by ordinance.

Section 1.03. Powers of the City. The City shall have all powers which it may now or hereafter be possible for a municipal corporation in this state to exercise in harmony with the constitutions of this state and of the United States. It is the intention of this charter that every power which the people of the City of Luverne might lawfully confer upon themselves, as a municipal corporation, by specific enumeration in this charter shall be deemed to have been so conferred by the provisions of this section. This charter shall be construed liberally in favor of the City, and the specific mention of particular powers in the charter shall not be construed as limiting in any way the generality of the power herein sought to be conferred.

Section 1.04. Charter a public act. This charter shall be a public act and need not be pleaded or proved in any case. It shall take effect thirty days from and after its adoption by the voters.

CHAPTER 2

Form of government

Sec. 2.01. Form of government. The form of government established by this charter is the "Mayor-Council Plan". The council shall exercise the legislative power of the City and determine all matters of policy.

Sec. 2.02. Boards and commissions. The council may establish, regulate and abolish any boards or commissions to advise the council with respect to any municipal function or activity, to investigate any subject of interest to the City, or to perform quasi-judicial functions. The Council may also establish, regulate and abolish the following administrative boards: a hospital board, library board and a board of health, and such other boards and commissions as may in the future become necessary or feasible.

Sec. 2.03. Elective officers. The council shall be composed of a mayor and four aldermen, all of whom shall be qualified electors. Two aldermen shall be elected from each ward and the mayor shall be elected at large. Each alderman shall serve for a term of four years and until his successor is elected and qualifies, except that, at the first election held after the adoption of this charter, the candidate in each ward receiving the largest number of votes shall serve for four years and the candidate in each ward receiving the next-largest number of votes shall serve for two years. The mayor shall serve for a period of two years and until his successor is elected and qualifies. The council shall be judges of the election of the mayor and aldermen.

Sec. 2.04. Incompatible offices. No member of the council may hold any paid municipal office or employment under the City other than that to which elected, and until one year after the expiration of his term as mayor or alderman no former member shall be appointed to any paid appointive office or employment under the City which office or employment was created or the emoluments of which were increased during his term as councilman.

Sec. 2.05. Vacancies in the council. A vacancy in the council, whether it be in the office of mayor or alderman, shall be deemed to exist in case of the failure of any person elected thereto to qualify on or before the date of the second regular meeting of the new council,

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or by reason of the death, resignation, removal from office, removal from the City, continuous absence from the City for more than three months, or conviction of a felony of any such person whether before or after his qualification, or by reason of the failure of any councilman without good cause to perform any of the duties of membership in the council for a period of three months. In each such case the council shall be resolution declare such vacancy to exist and shall forthwith appoint an eligible person to fill the same until the next regular municipal election, when the office shall be filled for the unexpired term. In the event an alderman moves his residence from the ward from which he was elected to the other ward within the City, no vacancy shall be deemed to exist during the unexpired portion of the current term, but he should serve to the end of such term as though there had been no such removal. Nor shall a change in ward boundaries as herein provided in any way affect the current term of any alderman. However, a candidate for election or re-election to the office of alderman must be a bona fide resident of the ward from which he seeks election and meet all other requirements of such candidate.

Sec. 2.06. The mayor. The mayor shall be the presiding officer of the council, except that the council shall choose from its members a president pro tem who shall hold office at the pleasure of the council and shall serve as president in the mayor's absence and as mayor in case of the mayor's temporary disability or absence from the City. The mayor shall have a vote, as a member of the council, only in case of a tie. He shall exercise all powers and perform all duties conferred and imposed upon him by this charter, the ordinances of the City, and the laws of the State. He shall be recognized as the official head of the City for all ceremonial purposes, by the courts for the purpose of serving civil process, and by the governor for the purposes of martial law. He shall study the operations of the City government and shall report to the council any neglect, dereliction of duty, or waste on the part of any officer or department of the City. In time of public danger or emergency he may, with the consent of the council, take command of the police, maintain order and enforce the laws.

Sec. 2.07. Salaries. The members of the council shall serve with compensation of \$200.00 per year. When meeting as a board of

equalization they shall each receive compensation equal to the minimum wage for firms engaged in Interstate Commerce, as established by the federal government, per hour of actual services. Provided, however, that, at any regular municipal election, the following question may be voted upon: "Shall the salaries of the mayor and aldermen be raised to \$(specified amount) per year?" If a majority of the electors voting thereon vote "yes" the council may thereafter adopt an ordinance raising the salaries to the amounts specified in such question.

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

Sec. 2.09. City employees, their wages, salaries, benefits and regulation. The council shall have complete authority with reference to the employment or discharge of all City employees, wages and salaries to be paid such employees, employee benefits, supervision, and lines of authority and all other matters of regulation and control.

Sec. 2.10. The City Administrative Assistant. The council shall appoint a City Administrative Assistant and delegate to him whatever powers, ministerial or administrative, they deem necessary for the proper administration of City affairs. He shall be appointed for an indefinite period and may be removed by the council at any time.

CHAPTER 3

Procedure of council

Sec. 3.01. Council meetings. At the first regular meeting in January following a regular municipal election, the newly elected members of the council shall assume their duties. Thereafter the council shall meet at such times each month as may be prescribed by ordinance or resolution. The mayor or any two members of the council may call special meetings of the council upon at least twelve hours notice to each member of the council. Such notice shall be delivered personally to each member or shall be left at his usual place of residence with some responsible person. All meetings of the council shall be public, and any citizen shall have access to the minutes and records thereof at all reasonable times.

Sec. 3.02. Secretary of council. The council shall have the power to appoint a secretary of the council. He shall keep a journal of council proceedings and such other records and perform such other duties as this charter or the council may require. The council shall choose such other officers and employees as may be necessary.

Sec. 3.03. Rules of procedure and quorum. The council shall determine its own rules and order of business. Three aldermen shall constitute a quorum to do business, but a smaller number may adjourn from time to time. The council may by ordinance provide a means by which a minority may compel the attendance of absent members.

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

Sec. 3.05. Procedure on ordinances. The enacting clause of all ordinances shall be in the words, "The City of Luverne does ordain." Every ordinance shall be presented in writing. No ordinance, except an emergency ordinance, shall be passed at the meeting at which it is introduced. At least three days shall elapse between the introduction and final passage of all ordinances other than emergency ordinances.

Sec. 3.06. Emergency ordinances. An emergency ordinance is an ordinance necessary for the immediate preservation of the public peace, health, morals, safety or welfare in which the emergency is defined and declared in a preamble thereto, and is adopted by a vote of at least three members of the council. No prosecution shall be based upon the provisions of any emergency ordinance until twenty-four hours after the ordinance has been filed with the City Administrative Assistant and posted in three conspicuous places or until the ordinance has been once published in the official newspaper, unless the person charged with violation had actual notice of the passage of the ordinance prior to the act or omission complained of.

Sec. 3.07. Procedure on resolutions. Every resolution shall be presented in writing and read in full before a vote is taken thereon, unless such presentation and reading of a resolution are dispensed with by unanimous consent.

Q Sec. 3.08. Signing, posting and publication of ordinances and resolutions. Every ordinance or resolution passed by the council shall be signed by the mayor or by two other members, attested by the City Administrative Assistant and filed and preserved by him. Every ordinance shall be published once in the official newspaper or posted in three conspicuous places within the City. To the extent and in the manner provided by law an ordinance may incorporate by reference a statute of Minnesota, a state administrative rule or a regulation, a code, or ordinance or part thereof without publishing or posting the material referred to in full.

Sec. 3.09. When ordinances and resolutions take effect. A resolution and an emergency ordinance shall take effect immediately upon its passage or at such later date as is fixed in it. Every other ordinance shall take effect thirty days after publication or posting or at such later date as is fixed therein. Every ordinance and resolution adopted by the voters of the City shall take effect immediately upon its adoption, or at such later time as is fixed therein.

Sec. 3.10. Amendment and repeal of ordinances and resolutions. Every ordinance or resolution repealing a previous ordinance or resolution or section or subdivision thereof shall give the number, if any, and the title of the ordinance or resolution to be repealed in whole or in part. No ordinance or resolution or section or subdivision thereof shall be amended by reference to the title alone, but such an amending ordinance or resolution shall set forth in full each section or subdivision to be amended and shall indicate new matter by underscoring and old matter to be omitted by enclosing it in parentheses. In newspaper publication, or posted notices, the same indications of omitted and new matter shall be used except that italics or bold-faced type may be substituted for underscoring and omitted matter may be printed in capital letters within parentheses.

Sec. 3.11. Revision and codification of ordinances. The City may revise, re-arrange and codify its ordinances with such additions and deletions as may be deemed necessary by the council. Such ordinance code shall be published in book, pamphlet or continuously revised loose-leaf form and copies shall be made available by the council at the office of the City Administrative Assistant for general distribution to the public free or at a reasonable charge. Distribution in such published

form shall be a sufficient notice of any ordinance provision not previously published or posted if a notice that copies of the codification are available at the office of the City Administrative Assistant is published in the official newspaper or posted in three conspicuous places within the City for at least two successive weeks.

CHAPTER 4

Nominations and elections.

Sec. 4.01. The regular municipal election. A regular municipal election shall be held on the first Tuesday after the first Monday in November of each even-numbered year commencing in 1958 at such place or places as the City council may designate. The City Administrative Assistant shall give at least two weeks previous notice of the time and place of holding such election and of the officers to be elected by posting in at least one public place in each voting precinct or by publication at least once in the official newspaper, but failure to give such notice shall not invalidate such election. At the regular election there shall be elected, in addition to the members of the council, such municipal judges as may be provided by law.

Sec. 4.02. Special elections. The council may by resolution order a special election and provide all means for holding it. At least two weeks' published notice of a special election shall be given in the official newspaper or by posting such notice in at least one public place in each voting precinct. The procedure at such election shall conform as nearly as possible to that prescribed for other municipal elections.

Sec. 4.03. Nominations by petition. All elective officers provided for by this charter shall be nominated by petition. The name of any elector of the City shall be printed upon the ballot as a candidate for an office whenever a petition signed by at least fifty electors has been filed with the City Administrative Assistant in his behalf at least fifteen days before the election. Any elector may sign petitions for any number of candidates for any office, and his signature shall not be void as to any petition or petitions by reason of the fact that he signed more than one such petition.

Sec. 4.04. Nomination petitions. The signatures to the nomination petition need not all be appended to one paper, but to each separate paper there shall be attached an affidavit of the circulator thereof stating the number of signers of such paper and that each signature appended thereto was made in his presence and is the genuine signature of the person whose name it purports to be. With each signature shall be stated the place of residence of the signer, giving the street and number or other description sufficient to identify the same. The form of the nomination petition shall be substantially as follows:

Nomination petition

We, the undersigned electors of the City of Luverne, hereby nominate _____, whose address is _____, for the office of _____, to be voted for at the election to be held on the _____ day of _____, 19__; and we individually certify that we are qualified electors.

Name

Street and number

_____, being duly sworn, deposes and says that he is/sre the circulator of the foregoing petition paper containing _____ signatures, and that the signatures appended thereto were made in h presence and are the original signatures of the persons whose names they purport to be.

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

Notary Public

This petition, if found insufficient by the City Administrative Assistant, shall be returned to _____, at No. _____, _____ Street.

I here indicate my willingness to accept the office of _____ if duly elected thereto.

I hereby certify that the foregoing petition was filed in my office on the _____ day of _____, 19__, at _____ M.

Sec. 4.05. 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 Administrative Assistant. 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 Administrative Assistant shall forthwith notify all persons elected of their election.

Sec. 4.06. Procedure at elections. Subject to the provisions of this charter and applicable state laws, the council may by ordinance further regulate the conduct of municipal elections. Except as otherwise provided in this charter or in ordinances adopted pursuant thereto, the general laws of the State of Minnesota pertaining to elections shall apply to municipal elections.

CHAPTER 5

Initiative, referendum, and recall

Sec. 5.01. Powers reserved by the people. The people of Luverne reserve to themselves the power, in accordance with the provisions of this charter, to initiate and adopt any ordinance, except an ordinance appropriating money or authorizing the levy of taxes, to require such an ordinance when passed by the council to be referred to the electors for approval or disapproval, and to recall elected public officials. These powers shall be called the initiative, the referendum, and the recall, respectively.

Sec. 5.02. Expenditures by petitioners. No member of any initiative, referendum, or recall committee, no circulator of a signature paper, and no signer of any such paper, or any other person, shall accept or offer any reward, pecuniary or otherwise, for service rendered in connection with the circulation thereof, but this shall not prevent the committee from paying for legal advice and from incurring an expense not to exceed \$150.00 for stationery, copying, printing, and notaries' fees. Any violation of the provisions of this section is a misdemeanor.

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

Initiative

Sec. 5.04. Initiation of measures. Any five electors may form themselves into a committee for the initiation of any ordinance except as provided in Sec. 5.01. Before circulating any petition they shall file a verified copy of their proposed ordinance with the City Administrative Assistant together with their names and addresses as members of such committee. They shall also attach a verified copy of the proposed ordinance to each of the signature papers herein described, together with their names and addresses as sponsors therefor.

Sec. 5.05. Form of petition and of signature papers. The petition for the adoption of any ordinance shall consist of the ordinance, together with all the signature papers and affidavits thereto attached. Such petition shall not be complete unless signed by one hundred voters. All the signatures need not be on one signature paper, but the circulator of every such paper shall make an affidavit that each signature appended to the paper is the genuine signature of the person whose name it purports to be. Each signature paper shall be in substantially the following form:

Initiative petition

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

	<u>Name</u>	<u>Address</u>
1.	_____	_____
2.	_____	_____
3.	_____	_____
4.	_____	_____
5.	_____	_____

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

	<u>Name</u>	<u>Address</u>
1.	_____	_____
2.	_____	_____
3.	_____	_____

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

Sec. 5.06. Filing of petitions and action thereon. All the signature papers shall be filed in the office of the City Administrative Assistant as one instrument. Within five days after the filing of the petition, the City Administrative Assistant shall ascertain by examination the number of electors whose signatures are appended thereto and whether this number is at least one hundred. If he finds the petition insufficient or irregular, he shall at once notify one or more of the committee of sponsors of that fact, certifying the reasons for his finding. The committee shall then be given 30 days in which to file additional signature papers and to correct the petition in all other particulars. If at the end of that period the petition is found to be still insufficient or irregular, the administrative assistant shall file it in his office and shall notify each member of the committee of that fact. The final finding of the insufficiency or irregularity of a petition shall not prejudice the filing of a new petition for the same purpose, nor shall it prevent the council from referring the ordinance to the electors at the next regular or any special election at its option.

Sec. 5.07. Action of council on petition. When the petition is found to be sufficient, the City Administrative Assistant shall so certify to the council at its next meeting, stating the number of petitioners and the percentage of the total number of voters which they constitute, and the council shall at once read the ordinance and refer it to an appropriate committee, which may be a committee of the whole. The committee or council shall thereupon provide for public hearings upon the ordinance, after the holding of which the ordinance shall be finally acted upon by the council not later than 65 days after the date upon which it was submitted to the council by the City Administrative Assistant. If the council fails to pass the proposed ordinance, or passes it in a form different from that set forth in the petition and unsatisfactory to the petitioners, the proposed ordinance shall be submitted by the council to the vote of the electors at the next regular municipal election; but if the number of signers of the petition is at least 200, the council shall call a special election upon the measure. Such special election shall be held not less than 30 nor more than 45 days from the date of final action on the ordinance by the council or after the expiration of 65 days from the date of submission to the council when there has been no final action; but if a

regular election is to occur within three months, the council may submit the ordinance at that election. If the council passes the proposed ordinance with amendments and at least $\frac{4}{5}$ of the committee of petitioners do not express their dissatisfaction with such amended form by a statement filed with the City Administrative Assistant within 10 days of the passage thereof by the council, the ordinance need not be submitted to the electors.

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

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

Referendum

Sec. 5.10. The referendum. If prior to the date when an ordinance takes effect a petition signed by at least 200 qualified electors of the City, is filed with the City Administrative Assistant requesting that any such ordinance be repealed or be submitted to a vote of the electors, the ordinance shall thereby be prevented from going into operation. The council shall thereupon reconsider the ordinance at its next regular meeting, and either repeal it or by aye and no vote re-affirm its adherence to the ordinance as passed. In the latter case the council shall immediately order a special election to be held thereon, or submit the ordinance at the next regular municipal election, pending which the ordinance shall remain suspended. If a majority of the electors voting thereon is opposed to the ordinance, it shall not become effective; but if a majority of the electors voting thereon favors the ordinance, it shall go into effect immediately or on the date therein specified.

Sec. 5.11. Referendum petitions. The requirements laid down in Sections 5.04 and 5.05 above as to the formation of committees for the initiation of ordinances and as to the form of petitions and signature papers shall apply to the referendums as far as possible, but with such verbal changes as may be necessary. A referendum petition shall read as follows:

Referendum petition

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

	<u>Name</u>	<u>Address</u>
1.	_____	_____
2.	_____	_____
3.	_____	_____
4.	_____	_____
5.	_____	_____

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

	<u>Name</u>	<u>Address</u>
1.	_____	_____
2.	_____	_____
3.	_____	_____

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

Recall

Sec. 5.13. The recall. Any five electors may form themselves into a committee for the purpose of bringing about the recall of any elected officer of the City. The committee shall certify to the City Administrative Assistant the name of the officer whose removal is sought, a statement of the grounds for removal in not more than 250 words, and their intention to bring about his recall. A copy of this certificate shall be attached to each signature paper and no signature paper shall be put into circulation previous to such certification.

Sec. 5.14. Recall petitions. The petition for the recall of any official shall consist of a certificate identical with that filed with the City Administrative Assistant together with all the signature papers and affidavits thereto attached. All the signatures need not be on one signature paper, but the circulator of every paper shall make an affidavit that each signature appended to the paper is the genuine signature of the person whose name it purports to be. Each signature paper shall be in substantially the following form:

Recall petition

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

	<u>Name</u>	<u>Address</u>
1.	_____	_____
2.	_____	_____
3.	_____	_____
4.	_____	_____
5.	_____	_____

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

	<u>Name</u>	<u>Address</u>
1.	_____	_____
2.	_____	_____
3.	_____	_____

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

Sec. 5.15. Filing of petition. Within 30 days after the filing of the original certificate, the committee shall file the completed petition in the office of the City Administrative Assistant. The City Administrative Assistant shall examine the petition within the next five days, and if he finds it irregular in any way, or finds that the number of signers is less than 500, 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 Administrative

Assistant 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. 5.16. Recall election. If the petition or amended petition is found sufficient, the City Administrative Assistant shall transmit it to the council without delay, and shall also officially notify the person sought to be recalled of the sufficiency of the petition and of the pending action. The council shall at its next meeting, by resolution, provide for the holding of a special recall election not less than 30 nor more than 45 days after such meeting, but if any other election is to occur within 60 days after such meeting, the council may in its discretion provide for the holding of the recall election at that time.

Sec. 5.17. Procedure at recall election. The City Administrative Assistant shall include with the published or posted notice of the election the statement of the grounds for the recall and also, in not more than five hundred words, the answer of the officer concerned in justification of his course in office. Candidates to succeed the officer to be recalled shall be nominated in the usual way, and the election shall be conducted as far as possible, in accordance with the usual procedure in municipal elections.

Sec. 5.18. Form of recall ballot. Unless the officer whose removal is sought resigns within ten days after the receipt by the council of the completed recall petition, the form of the ballot at such election shall be as near as may be: "Shall _____ be recalled?" the name of the officer whose recall is sought being inserted in the blank, and the electors shall be permitted to vote separately "yes" or "no" upon this question. The ballot shall also contain the names of the candidates to be voted upon to fill the vacancy, in case the recall is successful, under the caption: "Candidates to fill the place of _____, if recalled"; but the officer whose recall is sought shall not himself be a candidate upon such ballot. If a majority of those voting on the question of recall vote in favor of recall, the official shall be thereby removed from office, and the candidate who receives the highest number of votes for his place shall be elected thereto for the remainder of the unexpired term. If the officer sought to be recalled resigns within ten days after the receipt by the council of the completed recall petition, the form of ballot at the election shall be the same, as nearly as possible, as the form in use at a regular municipal election.

CHAPTER 6

Administration of City affairs

Sec. 6.01. The council. The council shall be the chief administrative body of the City. Its administrative powers may be enforced by an Administrative Code enacted in the form of an ordinance.

Sec. 6.02. Powers and duties of the council. It shall be the duty of the council to act in the best interests of the entire City and it shall have all powers to so act, except as limited by statute or the provisions of this charter.

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

Sec. 6.04. Purchases and contracts. The council shall be the chief purchasing agent of the City. All City purchases and contracts shall be made by the council when the amount of the purchase or contract does not exceed \$2,000.00. All other purchases shall be made and all other contracts and instruments of any kind to which the City is a party shall be signed by the mayor and the City Administrative Assistant on behalf of the City and shall be executed in the name of the City.

Sec. 6.05. Contracts; how let. In all cases of work to be done by contract, or of the purchase of chattels of any kind, where the amount involved is more than \$2,000.00, unless the council shall by an emergency ordinance otherwise provide, the council shall advertise for bids in such manner as may be designated by the council. Contracts of this magnitude shall be let only by the council to the lowest responsible bidder. The council may, however, reject any and all bids. Nothing contained in this section shall prevent the council from contracting by a three-fourths vote for the doing of work with patented processes, or from the purchasing of patented appliances by the same majority. Subject to the provisions of this charter, the council may by ordinance adopt further regulations for the making of bids and the letting of contracts. All contracts shall be let to the lowest responsible bidder, by "the lowest responsible bidder" shall be interpreted as giving the council the right to accept any bid which it determines is most advantageous to the City.

CHAPTER 7

Taxation and finances

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

Sec. 7.02. Fiscal years. The fiscal year of the City shall be the calendar year.

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

Sec. 7.04. Board of equalization. The council shall constitute a board of equalization to equalize assessments of property for taxation purposes according to law.

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

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

balance of the year. In addition to the estimates of expenditures, the budget shall include for each budgeted fund a statement of the revenues which have accrued for the past two completed fiscal years with the amount collected and the uncollected balances together with the same information, based in so far as necessary on estimates, for the current fiscal year, and an estimate of the revenues for the ensuing fiscal year. The statement of revenues for each year shall specify the following items: sums derived from (a) taxation, (b) fees, (c) fines, (d) interest, (e) miscellaneous, not included in the foregoing, (f) sales and rental, (g) earnings of public utilities and other public service enterprises, (h) special assessments, and (i) sales of bonds and other obligations. Such estimates shall be printed or typewritten and there shall be sufficient copies for each member of the council, for the City Administrative Assistant, and three, at least, to be posted in public places in the City. The estimates shall be submitted to the council at its first regular meeting in September and shall be made public. The City Administrative Assistant may submit with the estimates such explanatory statement or statements as he may deem necessary, and during the first three years of operation under this charter he shall be authorized to interpret the requirements of this section as requiring only such comparisons of the City's finances with those of the previous government of the City as may be feasible and pertinent.

Sec. 7.06. Passage of the budget. The budget shall be the principal item of business at the first regular monthly meeting of the council in September and the council shall hold adjourned meetings from time to time until all the estimates have been considered. The meetings shall be so conducted as to give interested citizens a reasonable opportunity to be heard. The budget estimates shall be read in full and the City Administrative Assistant shall explain the various items thereof as fully as may be deemed necessary by the council. The annual budget finally agreed upon shall set forth in detail the complete financial plan of the City for the ensuing fiscal year for the funds budgeted and shall be signed by the majority of the council when adopted. It shall indicate the sums to be raised and from what sources and the sums to be spent and for what purposes according to Section 7.05. The total sum appropriated shall be less than the total estimated revenue by a safe margin. The council shall adopt the budget not later than the first week of October by a resolution which shall set forth the total

for each budgeted fund and each department with such segregation as to objects and purposes of expenditures as the council deems necessary for purposes of budget control. The council shall also adopt a resolution levying whatever taxes it considers necessary within statutory limits for the ensuing year for each fund. The tax levy resolution shall be certified to the county auditor in accordance with law not later than October 10. At the beginning of the fiscal year, the sums fixed in the budget resolution shall be and become appropriated for the several purposes named in the budget resolution and no other.

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

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

Sec. 7.09. Emergency Appropriation in budget. The council may include an emergency appropriation as a part of the budget but not to exceed 10% of the total budget. A transfer from the emergency appropriation to any other appropriation shall be made only by unanimous vote, of the council and shall be used only for the purposes designated by the council.

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

Sec. 7.11. Funds to be kept. Subdivision 1. There shall be maintained in the City treasury the funds provided for ⁱⁿ the following subdivisions.

Subd. 2. A general fund for the payment of such expenses of the City as the council may deem proper. Into this fund shall be paid all money not provided herein or by statute to be paid into any other fund.

Subd. 3. A debt service fund, into which shall be paid all receipts from taxes or other sources for the payment of principal and interest of all obligations issued by the City except bonds issued on account of any local improvement to be financed wholly or partly by special assessments and bonds issued on account of any municipally owned utility. Out of this fund shall be paid the principal and interest of such obligations when due. Any surplus in such fund not needed immediately for debt service may be invested under the direction of the council in such securities as are authorized by statute for the investment of such funds; and such investments may be liquidated at any time. To the extent required by law, a separate account in the debt service fund shall be maintained for each issue of City obligations.

Subd. 4. A bond fund, into which shall be paid and disbursed the proceeds of all bonds issued by the City except bonds issued on account of any local improvement to be financed wholly or partly by special assessments and bonds issued on account of any municipally owned utility. A separate bond account shall be kept for each issue of such bonds.

Subd. 5. A special assessment fund, which shall be used to finance local improvements to be paid for, in whole or in part, from special assessments against benefited property. There shall be paid into this fund: (1) collections of special assessments, with interest, levied against benefited property; (2) proceeds of bonds or warrants sold by the City to finance local improvements to be paid for in whole or in part, by special assessments; and the proceeds of inter-fund loans; (3) amounts from other City funds representing either (a) apportionments of costs against the City at large, (b) benefit assessments against City property, or (c) appropriations to maintain the integrity of the fund. There shall be paid out of this fund: (1) all expenses and costs of the improvement projects financed through the fund; (2) the redemption of all special assessment fund obligations, with interest, at or before maturity; and any inter-fund loans; and (3) abatements of assessments and refunds of receipts in error. The council shall maintain the integrity of this fund by appropriations from tax funds if necessary, and in addition may by ordinance create and maintain in the fund a cash reserve sufficient for working capital purposes. In order to anticipate the collection of special assessments and the municipal share of the cost of a local improvement, the council may by a majority vote issue and sell obligations pledging the full faith and credit of the City, or pledging only special assessments, in such amounts and maturities as it may determine; but the aggregate amount of such obligations outstanding at any time shall not exceed the sum of the following: (1) all assessments levied and uncollected; (2) cost of work in progress to be financed in whole or in part by special assessments, and (3) the cash reserve for working capital as previously determined by ordinance. In order that the fund may be administered on a self-sustaining basis, all local improvement projects financed through it shall upon completion be certified by the City Administrative Assistant as to total cost, which shall thereupon be apportioned by the council either as assessments against benefited property or as amounts due from other City funds. Amounts apportioned against other City Funds shall be due when installments of special assessments levied for the same project are due, corresponding assessment rolls shall be charged interest as in the case of assessments and shall be credited to the fund, with any interest due, when collected. To the extent required by law, a tax for the City's share of the cost shall be levied before any obligations against the fund are issued and

sold. When a local improvement to be financed wholly or partly from special assessment is undertaken under any applicable statute, any provision of this subdivision inconsistent with the statute shall not apply.

Subd. 6. A public utility fund into which shall be paid all money derived from the sale of obligations issued on account of any municipally owned utility and all money derived from the sale of utility services, and from the sale of any property acquired for or used in connection with any such utility. There shall be paid out of this fund the cost of the purchase, construction, operation, maintenance and repair of such utility, including the principal of and interest upon obligations which have been or shall be issued on its account. Separate accounts within the public utility fund shall be kept for all utilities which are operated separately.

Subd. 7. In addition to the foregoing funds, there may be maintained in the City treasury, whenever the council deems it advisable, the following funds:

(a) One or more working capital or revolving funds, for financing self-sustaining activities not accounted for through other funds;

(b) One or more trust and agency funds, for the care and disbursement of money received and held by the City as trustee or custodian or in the capacity of any agent for individuals or other governmental units;

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

Subd. 8. In lieu of establishing any of the types of funds specified in Subd. 7, the council may provide for the recording of operations or activities for which the use of such funds might be suitable through the maintenance of separate accounts in any appropriate fund already established. The council shall have full power by ordinance or resolution to make inter-fund loans, except from trust and agency funds, as it may deem necessary and appropriate from time to time.

Sec. 7.12. Accounts and reports. The City Administrative Assistant shall be the chief accounting officer of the City and of every branch thereof, and the council may prescribe and enforce proper accounting methods, forms, blanks, and other devices consistent with the law, this charter, and the ordinances adopted in accord therewith. He shall submit to the council a statement each month showing the

amount of money in the City treasury, 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 about the finances of the City as the council may require. Once each year, on or before the last day of February, the City Administrative Assistant shall submit a report to the council covering the entire financial operations of the City for the past year. This report shall show: the actual receipts and expenditures, omitting duplications and stating the cash balance at the beginning of the last fiscal year and at the close; the total outlays for operation and maintenance, and the total capital outlays; the condition of each of the funds; the total receipts by sources and the total expenditures by general purposes; the total outstanding bonds and debts of the City, when due, the amount of new bonds issued and the amount redeemed, and the interest rate of each; the condition of all the annual budget allowances; an inventory of all the property owned by the City; and such further information as the City Administrative Assistant deems advisable or the council requires.

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

Sec. 7.14. Tax anticipation certificates. At any time after January 1st following the making of an annual tax levy, the council may issue certificates of indebtedness in anticipation of the collection of taxes levied for any fund and not yet collected. The total amount of certificates issued against any fund for any year with interest thereon until maturity shall not exceed 90% of the total current taxes for the fund uncollected at the time of issuance plus the cash on hand in the fund. Such certificates shall be issued on such terms and conditions as the council may determine and shall bear interest at a rate not to exceed 6% per annum, but they shall become due and payable not later than the 1st day of April of the year following their issuance. The proceeds of the tax levied for the fund against which tax anticipation

certificates are issued and the full faith and credit of the City shall be irrevocably pledged for the redemption of the certificates in the order of their issuance against the fund.

Sec. 7.15. Emergency debt certificates. If in any year the receipts from taxes or other sources should from some unforeseen cause become insufficient for the ordinary expenses of the City, or if any calamity or other public emergency should subject the City to the necessity of making extraordinary expenditures, the council may by ordinance issue and sell on such terms and in such manner as the council determines emergency debt certificates to run not to exceed two years and to bear interest at not more than six per cent per year. A tax sufficient to pay principal and interest on such certificates with the margin required by law shall be levied as required by law. The ordinance authorizing an issue of such emergency debt certificates shall state the nature of the emergency and be approved by unanimous vote of the council. It may be passed as an emergency ordinance.

CHAPTER 8

Public Improvements and Special Assessments

Sec. 8.01. Power to make improvements and levy assessments. The City shall have the power to make any and every type of public improvement not forbidden by the laws of this State and to levy special assessments to pay all or any part of the cost of such improvements as are of a local character. The amounts assessed to benefited property to pay for such local improvements may equal the cost of the improvement, including all costs and expenses connected therewith, with interest, until paid, but shall in no case exceed the benefits to the property.

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

Sec. 8.03. Local improvements regulations. After this charter takes effect local improvements commenced prior thereto shall be completed and assessments may be levied and securities issued for the financing thereof as prescribed by the law (or charter provisions) applicable thereto. The council may prepare and adopt a comprehensive ordinance prescribing the procedure which shall be followed thereafter in making all local improvements and levying assessments therefor. Such

ordinance shall supersede all other provisions of the law on the same subject and may be amended only by unanimous vote of the council. In the absence of such ordinance all local improvements may be made and assessments levied therefor as prescribed by an applicable law.

Sec. 8.04. Public works; how performed. Public works, including all local improvements, may be constructed, extended, repaired, and maintained either directly by day labor or by contract. The City shall require contractors to give bonds for the protection of the City and all persons furnishing labor and materials pursuant to the laws of the State.

CHAPTER 9

Eminent domain

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

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

Sec. 9.03. Payment of award. When an award of damages is confirmed in any proceeding for the taking of property for public use by right of eminent domain, or whenever the court renders final judgment in any appeal from any such award and the time for abandoning such proceedings by the City has expired, the City shall, as provided by statute, pay the amount of the award or judgment of the court, as the case may be; and if not so paid, judgment therefor may be had against the City.

Sec. 9.04. City may abandon proceedings. The City may, by resolution of the council at any stage of the condemnation proceedings or at any time within 30 days after final determination thereof, abandon such proceedings as to all or any part of the property sought to be acquired and shall pay all reasonable costs and expenses thereof, including fees of counsel.

Sec. 9.05. City may take entire plant. If the City condemns a public utility which is operated at the time of the commencement of the condemnation proceedings as one property or one system, it shall not be necessary in the condemnation proceedings or any of the proceedings of the council, to describe or treat separately the different kinds of property composing such system; but all of the property, lands, articles, franchises, and rights which comprise such system may, unless otherwise ordered by the court, be treated together as one property and an award for the whole property in one lump sum may be made by the commissioners or other body assessing the damages on condemnation. This does not prevent the City, when the plant and property are separable into distinct parts, from acquiring only such part or parts thereof as may be necessary in the public interest.

CHAPTER 10

Franchises

Sec. 10.01. Franchises defined. The word "franchise" as used in this chapter shall be construed to mean any special privileges 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. 10.02. Franchise ordinances. The council may grant franchises by ordinance adopted by a three-fourths vote, but in no case shall a franchise be granted by an emergency ordinance. Franchise rights shall always be subject to the superior right of the public to the use of streets and public places. All corporations, co-partnerships, or persons desiring to make an especially burdensome use of the streets or public places, inconsistent with the public's right in such places, or desiring the privilege of placing in, over, upon, or under any street or public place any permanent or semi-permanent fixtures for the purpose of constructing or operating street or other railways, telegraphing, or transmitting electricity, or transporting by pneumatic tubes, or for furnishing to the City or its inhabitants or any portion thereof, transportation facilities, water, light, heat, power, gas, telephone, or any other such utility, or for any other purpose, shall be required to obtain a franchise before proceeding to make such use of the streets or public places or before proceeding to place such fixtures in such places.

Sec. 10.03. Term of franchise limited. No perpetual franchise shall ever be granted, nor shall any franchise be granted for a longer period than twenty-five years.

Sec. 10.04. Power of regulation reserved. 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. 10.05. 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 the public 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 the 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 an 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 or rates thus fixed shall be as flexible as may be. 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 rates.

Sec. 10.06. Conditions in every franchise. All conditions specified in this section shall be a part of every franchise even though they may not be expressly contained in the franchise:

(a) That the grantee shall be subject to and will perform on its part all the terms of Sections 10.01 to 10.08, inclusive, as well as all other pertinent provisions of this charter.

(b) 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 Section 10.05 of this charter.

(c) 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.

(d) 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.

(e) That no sale or lease of said franchise shall be effective until the assignee or leasee shall have filed in the office of the City Administrative Assistant an instrument, duly executed, reciting the facts 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 leasee 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 obli-

gate the assignee or leasee to discharge all obligations and liabilities imposed by said franchise.

(f) That every grant in said franchise contained of 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 of 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 relocation or re-routing 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 under ground of all wires for whatsoever purpose used.

(g) 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 passage by the council and before its submission to a vote of the people in case of a referendum. 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 limitation contained in the ordinance granting the franchise as well as of the provisions of this charter.

(h) Every franchise shall contain a provision granting the City the right to require the same in accordance with statute.

Whenever two hundred legal voters of the City petition the council to acquire a franchise, the council shall within thirty days after the presentation of such petition, submit the same to the voters of the City, at an election for that purpose, provided that if any other municipal election is to occur within ninety days after the presentation of said petition, the council may in its discretion submit said matter at such election. The violation 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.

Sec. 10.07. 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 chapter limit any right of power possessed by the City over existing franchises.

CHAPTER 11

Public Ownership and operation of utilities

Sec. 11.01. Acquisition and operation of utilities. The City may own and operate any gas, water, heat, power, light, telephone or other public utility for supplying its own needs for utility service or for supplying utility service to private consumers or both. It may construct all facilities reasonably needed for that purpose and may acquire any existing utility properties so needed; but no proceedings to acquire any such public utility shall be consummated unless the City has the money in the treasury to pay for acquisition or has made provision for paying for the property proposed to be acquired. The operation of all public utilities owned by the City shall be under the supervision of the council.

Sec. 11.02. Rates and finances. Upon recommendations made by the City Administrative Assistant or upon its own motion, the council may fix rates, fares and prices, for municipal utilities but such rates, fares and prices shall be just and reasonable. In like manner the council may prescribe the time and manner in which payments for all such services shall be made, and may make such other regulations as may be necessary, and prescribe penalties for violation of such regulations.

Sec. 11.03. Purchase in bulk. The council may, in lieu of providing for the local production of gas, electricity, water, and other utilities, purchase the same in bulk and resell them to local consumers at such rates as it may fix.

Sec. 11.04. Lease of plant. The council may, if the public interests will be served thereby, contract with any responsible person, co-partnership, or corporation, for the operation of any utility owned by the City, upon such rentals and conditions as it may deem necessary; but such contract shall be embodied in and let only by an ordinance approved by unanimous vote of the council and subject to popular referendum. Such ordinance shall not be an emergency ordinance. In no case shall such contract be for a longer term than ten years.

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

CHAPTER 12

Miscellaneous and transitory provisions

Sec. 12.01. Official publications. The council shall annually designate a legal newspaper of general circulation in the City as its official newspaper in which shall be published ordinances and other matters required by law to be so published as well as such other matters as the council may deem it in the public interest to have published in this manner.

Sec. 12.02. 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, alderman, City Administrative Assistant, etc.) of the City of Luverne to the best of my judgment and ability."

Sec. 12.03. City officers not to be interested in contracts. Except as otherwise permitted by law, no officer of the City/^{who} is authorized to take part in any manner in any contract with the City shall voluntarily have a personal financial interest in such contract or personally benefit financially therefrom.

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

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

Sec. 12.06. Vacation of streets. The council may by resolution approved by unanimous vote, vacate any street or alley or part thereof within the City. Such vacation may be made only after published or posted notice and an opportunity has been given to affected property owners and the public to be heard, and upon such further terms and by such procedure as the council by ordinance may prescribe. A notice of completion of such proceedings shall be filed with the proper county officers in accordance with law.

Sec. 12.07. City to succeed to rights and obligations of former City. The City shall succeed to all the property, rights, and privileges, and shall be subject to all the legal obligations of the City under the former charter.

Sec. 12.08. Effective date of this charter and terms of present officers. This charter shall take effect at the end of 30 days from the date of the election thereon. The first election under this charter shall be held on November 4, 1958, and the terms of the present mayor and aldermen are hereby extended or shortened, as the case may be, and shall expire in January, 1959, when the newly elected members of the council shall assume their duties. The terms of all other City officers shall end on the effective date of this charter.

Sec. 12.09. Statutes not affected by charter. All general laws and statutes of the State applicable to all cities operating under home rule charters, or applicable to cities of the same class as the City of Luverne operating under home rule charters, and not inconsistent with the provisions of this charter, shall apply to the City of Luverne, and shall be construed as supplementary to the provisions of this charter.

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

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

Sec. 12.12. Ordinances to make charter effective. The council shall by ordinance make such regulations as may be necessary to carry out and make effective the provisions of this charter.

Sec. 12.13. Curtailement of tort liability of City. The City of Luverne shall be absolutely exempt from liability to any person or firm for damages or injuries suffered or sustained by reason of defective streets, sidewalks, storm sewers or sanitary sewers within said City unless actual notice in writing of such defects in said streets, sidewalks, or sewers shall have been filed with the City Administrative Assistant at least 10 days before the occurrence of such injury or damage on account of such defects, and in all cases such notice shall describe with particularity the place and nature of the defects of which complaint is made.

C E R T I F I C A T E

WE, THE UNDERSIGNED, BEING A MAJORITY OF THE BOARD OF FREE-
HOLDERS (CHARTER COMMISSION) FOR THE CITY OF LUVERNE, HAVING BEEN
DULY APPOINTED, QUALIFIED AND ACTING IN SUCH CAPACITY, AND KNOW-
ING THE CONTENTS OF THE FOREGOING PROPOSED CHARTER FOR THE CITY
OF LUVERNE, MINNESOTA, HEREBY AFFIX OUR SIGNATURES IN ACCORDANCE
WITH MINNESOTA LAW AND CERTIFY THAT THE SAME IS A TRUE, CORRECT
AND COMPLETE DRAFT OF SAID CHARTER AS DULY PASSED BY THIS COMMISSION.

Jack R. Smith
Virgil L. Hall
Bruce T. Hall
Jean Heland
Arthur Valleson
Howard P. Van Pelt
Ray Maxwell
Ray T. Cook
W. J. Cook
Alvin P. Fitzger
Maunus Christensen
Ed. [unclear]
Lloyd Kapp
Frank McClure
Chester C. Speasen

#1349
~~#1349~~
STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
SEP 30 1957
James L. [unclear]
Secretary of State