

CERTIFICATE

That the Revised Charter of the City of Wayzata, to which this certificate is appended, was duly and properly submitted, according to law, at the general election of the City held on December 3, 1963, at which 600 votes were cast on the proposition of adoption of said Revised Charter; that 526 votes were cast "Yes" in favor of the proposed Revised Charter and 65 "No" votes were cast; that as in excess of 55% of the votes cast were in favor, thereby the said Revised Charter was duly adopted.

Wayne Fadden
Wayne Fadden

Eva Jasseltine
Notary Public, Hennepin County, Minnesota

STATE OF MINNESOTA
DEPARTMENT OF STATE
FEB 11 1963
DEC 30 1963

John L. Hammond
Secretary of State

Revision of the Wayzata City Charter

CITY ELECTION

Notice is Hereby Given: That the Regular City Election of the City of Wayzata, in the County of Hennepin, State of Minnesota, will be held on the first Tuesday after the first Monday in December 1963 (being the 3rd day of December 1963), between seven o'clock a.m. and eight o'clock p.m. at the City Hall, 600 Rice Street in said City to fill the following offices and to vote upon the following question:

One Councilman for the term of three (3) years.

One Constable for the term of two (2) years.

Shall the City Charter of Wayzata be amended to the form of the revision thereof printed in the notice of election published on November 7 and November 14, 1963?

The proposed revision is as follows:

WAYZATA CITY CHARTER

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REVISION OF THE WAYZATA CITY CHARTER

CHAPTER I

General Provisions

Section 1. Powers of the City. The municipal corporation in the County of Hennepin, State of

Minnesota, known as the City of Wayzata with boundaries as now established, or as hereafter established in the manner provided by law, shall have all the powers of a municipal corporation under the common law; shall have perpetual succession; may use a corporate seal; may sue and be sued; may acquire property of any kind or description, or any right, title or interest in the same within or without its boundaries for any municipal purpose by purchase, gift, devise, condemnations or lease or otherwise, and may sell, convey, lease, hold, encumber, manage and control or otherwise dispose of such property as its interests require; and except as prohibited by the constitution or statutes of the State of Minnesota or the United States, the City of Wayzata shall have all other municipal powers, functions, rights, remedies, privileges and immunities of every name and nature whatsoever. The enumeration of particular powers in other sections of this charter shall not be construed to limit the powers of the city to those thus enumerated. The provisions of this charter shall be construed liberally in favor of the city, to the end that it may have all necessary powers for the efficient conduct of its municipal affairs, as contemplated by the municipal home rule provisions of the constitution and laws of the State of Minnesota.

Section 2. Form of Government.

The form of government established by this charter shall be known as the "Council-Manager Plan." All discretionary powers of the City, both legislative and executive, shall vest in and be exercised by the council. It shall

have complete control over the city administration, but shall exercise this control exclusively through the city manager and shall not itself attempt to perform any administrative work.

Section 3. Reserved.

CHAPTER II

Officers, Nominations and Elections

Section 4. **Elective Officers.** There shall be elected at large in the City of Wayzata, a mayor and four councilmen, who together shall constitute the council of said city.

Section 5. **Elections.** The regular municipal elections held hereunder shall be held annually on the first Tuesday after the first Monday of December at such place or places as the City Council may designate. At least fifteen days public notice shall be given by the secretary of the council of the time and place of holding regular and special elections, and of the officers to be elected and the propositions to be voted upon, but failure to give such notice of regular election shall not invalidate such election.

Section 6. **Candidates for Elective Offices.** Any person eligible and desiring to have his name placed on the ballot as a candidate for an elective office to be voted for at the municipal election shall file his affidavit of candidacy with the office of the city manager not more than 45 nor less than 20 days before such election. If no such affidavit of candidacy is filed for an office to be voted for at said election, the City Council promptly by motion may nominate one person for such office; said person shall file his affidavit of candidacy within two days following adoption of such motion, in order to have his name placed on the ballot. The city manager shall prepare the ballots in a manner to be provided by ordinance and shall include thereon the names of all persons as to

whom affidavits of candidacy have been filed as herein stated.

Section 7. **Affidavits of Candidacy.** The affidavit of candidacy shall be signed by the person who desires to have his name placed on the ballot as a candidate for any elective office to be filled at the municipal election and shall state the office for which he desires to be a candidate, that he is a qualified voter in the City of Wayzata and that he has not filed as a candidate for any other office at the same election. The fee to be paid the city upon filing an affidavit of candidacy for city office shall be the sum of \$5.00.

Section 8. **Judges and Clerks of Election.** The council shall at least twenty-five days before each regular or special election, appoint such judges and clerks of the election as may be provided by ordinance.

Section 9. **Procedure At Election.** The conduct of elections may be regulated by ordinance, subject to the provisions of this charter. The general election laws of the state shall govern in all matters not otherwise provided for in this charter or the ordinances passed hereunder.

Section 10. **Canvass of Election.** The council shall meet and canvass the election returns within twenty-four hours after the polls have closed at any regular or special election. The city manager shall present a certificate of election under the seal of the city to each person elected.

Section 11. **Calling Special Elections.** The council may by a resolution passed by a vote of four-fifths of its members call a special election for any purpose not forbidden by law and fix the time and place of holding the same.

Section 12. **Term of Office.** The term of office of the mayor shall be two years. The term of office of the councilmen shall be three years. All elective officers shall take office on the first day of January following their election

and qualification. All officers in office when this charter takes effect shall remain in office for their full terms, except the assessor and the constables, and shall continue to govern the city in the usual manner until their successors have been elected and qualified. Elective officers shall be elected for only the offices the terms of which expire at the time, or for the unexpired terms and vacancies in such elective offices.

Section 13. Vacancies. An elective office shall be deemed vacant in case of the failure of the person elected to qualify within fifteen days after official canvass of the election at which he is elected, or by reason of death, resignation, removal from the city, conviction of a felony, removal from office, or failure without good cause to perform the duties of his office for a period of three months. If a vacancy occurs in an elective office, the council shall forthwith appoint an eligible person to fill the office until the next general municipal election, when the office shall be filled by election for the unexpired term, if any; if not, then for a full term.

Section 14. Salaries of Elective Officers. The salary of the mayor and councilmen shall be fixed by resolution of the council. Such salary so fixed shall not exceed ten dollars to the mayor and each councilman for each meeting and not for more than two meetings each month. They may be reimbursed for reasonable expenses incurred in the performance of the duties of their office.

Section 15. Reserved.

CHAPTER III

Legislation and Administration

Section 16. Presiding Officer. The mayor shall be the president of the council and shall preside at all its meetings. At the first regular meeting of the council which shall be held on the first Tuesday after the first Monday in January after the municipal election, the

council shall elect one of its members president pro-tem. Such president pro-tem shall preside at the meetings of the council in the absence of the mayor from the city and shall during the absence of the mayor from the city or during his disability be acting mayor with full power as mayor. The mayor shall be recognized as the official head of the city for all ceremonial purposes, by the courts for the purpose of serving processes, and by the governor for purposes of martial law.

Section 17. Council Meetings. All meetings of the council shall be held at a time and place designated by resolution. The council shall keep a journal of its proceedings, which shall be a public record. It shall hold at least one regular meeting each month and may hold other meetings as provided by its rules. At any meeting of the council a majority of the members shall constitute a quorum, but a smaller number may adjourn from time to time. The council shall provide by ordinance a means by which a minority may compel the attendance of absent members. All meetings of the council shall be open to the public.

Section 18. Boards. The council shall itself be, and shall perform the duties and exercise the powers of the local board of health, park board, library board and sinking fund commission. It may, however, create and appoint a Board of Health, a City Planning Commission and such other permanent or temporary commissions as it so desires with advisory powers to investigate any subject of interest to the municipality. Such commissions may be given the power to administer oaths, and to compel the attendance of witnesses and the production of books, papers, and other documentary evidence.

Section 19. Secretary of Council. The council shall choose a secretary and such other officers

and employees as may be necessary to serve at its meetings. The secretary shall be known as secretary of the council, and 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, or a member of the council, to act as secretary of the council.

Section 20. Ordinances and Resolutions. The council shall have full power and authority to make, ordain, publish and enforce, alter, amend or repeal all such ordinances for the government and good order of the City, for the regulation and promotion of the safety, health, morals, convenience and the economic well being of the community, for the suppression of vice and intemperance, and for the prevention of crime, as it shall deem expedient, and in and by the same to declare and impose penalties and punishment, and enforce the same against any person or persons who may violate the provisions of any ordinance passed and ordained by it. All actions not required in this charter or by law to be taken by ordinance may be taken by resolution. All administrative business may be transacted by ordinary motion. Upon the final passage of all ordinances and resolutions the ayes and noes shall be recorded. A majority vote of all the members of the council shall be required for the passage of all ordinances and resolutions and motions except as otherwise provided in this charter.

Section 21. Enacting Clause. The enacting clause of all ordinances shall be in the words: "The City of Wayzata Ordains."

Section 22. Filing and Reading Ordinances. Every ordinance other than an emergency ordinance shall be presented in writing and read at two consecutive regular meetings of the council or adjourned regular meetings not less

than one week apart. A resolution may be adopted at the same meeting at which it is introduced. An emergency ordinance is one 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, separately voted upon. Such preamble shall receive the affirmative vote of four-fifths of the members of the council. No grant of any franchise shall be construed to be an emergency ordinance. An emergency ordinance may be enacted without previous filing, and on the same day it is introduced.

Section 23. Signature and Publication of Ordinance. Every ordinance, except as otherwise provided in this charter, shall be signed by the mayor, or in his absence, by the president pro-tem of the council, attested by the secretary, published and recorded by the city manager in a properly indexed book kept by him for that purpose. Every ordinance not so published and recorded shall be void.

Section 24. When Ordinances and Resolutions Take Effect. All ordinances except emergency ordinances shall take effect upon their passage and publication, unless a later date is fixed therein in which event they shall take effect at such later date. The council may provide in any ordinance that the same shall not go into effect until approved by a majority of those voting upon the question of its approval at a regular election or at a special election called for that purpose in the manner provided in this charter. Such an ordinance, if so approved by the voters, shall go into effect upon the completion of the official canvass of the vote thereon by the council. Resolutions shall take effect upon their passage, unless a later date is fixed therein in which event they shall take effect at such later date.

Section 25. Revision and Codification of Ordinances. The ordinances of the City may from time to time, by a single ordinance, be revised, re-arranged and codified and any new matter may be added which may be deemed necessary by the council. Such revision and codification may be published in book form and such publication shall be held to be a sufficient publication of all of the ordinances contained therein. Or such revision may be published by filing the same in typewritten form in the office of the city manager for public inspection and by publishing in the manner prescribed by this charter a notice to the effect that such revision has been made and is on file for public inspection. When published in book form every such book shall contain a printed certificate of the mayor and secretary that the publication is correct; and such book so published shall be received in evidence in any court for the purpose of proving the ordinances therein contained the same and for the same purpose as the original ordinances, books, minutes, or journals would be received.

CHAPTER IV

Administration of City Affairs

Section 26. The City Manager. The city manager shall be the chief administrative officer of the city. He shall be chosen by the council solely on the basis of his training, experience and administrative qualifications; the choice shall not be limited to inhabitants of the city or state. The city manager shall be appointed for an indefinite period, and he shall be removable by the council at any time. If removed at any time after one year of service he may request written charges and a public hearing on the same before the council prior to the date on which his final removal shall take effect, but pending and during such hearing the council may suspend him from office. During the

absence or disability of the city manager, the duties of his office shall be performed by some properly qualified person designated by the council.

Section 27. Powers and Duties of the City Manager. Subject to provisions of this charter and any regulations consistent therewith which may be adopted by the council, the city manager shall control and direct the administration of the city's affairs. His powers and duties as city manager shall be:

- a) To see that this charter and the laws, ordinances and resolutions of the city are enforced;
- b) To appoint, and, except as herein provided, remove all heads of departments, and all subordinate officers and employees in the departments, all appointments to be upon merit and fitness alone;
- c) To exercise control over all departments and divisions of the city administration created by this charter or which may be hereafter created by the council;
- d) To attend all meetings of the council, with the right to take part in the discussions but having no vote; but the council may at its discretion exclude him from meetings at which his removal is considered;
- e) To recommend to the council for adoption such measures as he may deem necessary for the welfare of the people and the efficient administration of the city's affairs;
- f) To keep the council fully advised as to the financial condition and needs of the city, and to prepare and to submit to the council the annual budget;
- g) To prepare and to submit to the council for adoption an administrative code incorpor-

ating the details of administrative procedure, and from time to time to suggest amendments to the same; and

- h) To perform such other duties as may be prescribed by this charter or required of him by ordinance or resolutions adopted by the council.

Section 28. 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 the powers and organization of the same. It shall, in conjunction with the city manager, prepare a complete administrative code for the city and enact the same in the form of an ordinance, which may be amended from time to time by ordinance.

Section 29. Subordinate Officers. There shall be such officers subordinate to the city manager as the council may create by ordinance. The council may by ordinance abolish offices which have been created by ordinance, and it may combine the duties of various offices as it may see fit.

Section 29 (a). Assessor and Attorney. The council shall appoint a city attorney and an assessor to serve at the will of the council.

Section 30. Purchases and Contracts. The city manager shall be the chief purchasing agent of the city. All purchases on behalf of the city shall be made, and all contracts let by the city manager subject to the approval of the council. Such approval must be given in advance whenever the amount of such purchase or contract exceeds five hundred dollars (\$500.00). All contracts, bonds, and instruments of every kind to which the city shall be a party shall be signed by the mayor on behalf of the city as well as by the city manager, and shall be executed in the name of the city.

Section 31. Contracts. In all

cases of work to be done by contract, or for the purchase of property of any kind, when the amount involved is more than one thousand dollars (\$1,000.00), unless the council by an emergency ordinance shall provide otherwise the city manager shall give not less than ten days public notice of the time and place of receiving bids therefor. The council may reject any or all bids. The council may regulate by ordinance the making of bids and the letting of contracts.

CHAPTER V

Taxation and Finance

Section 32. Council to Control Finances. The council shall have full authority over the financial affairs of the city, and shall provide for the collection of all revenue, the auditing and settlement of accounts, and the safe keeping and disbursement of public moneys.

Section 33. System of Taxation. Subject to the state constitution, and except as forbidden by it or by state law, the council shall have full power to provide by ordinance for a system of local taxation and to change the same from time to time. Insofar as the city procures a revenue from taxes upon real estate and personal property on an ad valorem basis, it shall conform as fully as possible to the general laws of the state as to assessment of such property and the collection of such taxes.

Section 34. Fiscal Period. The fiscal period of the city shall begin on the first day of January and end on the last day of December in each year.

Section 35. Preparation of the Annual Budget. The city manager shall prepare the estimates for the annual budget and submit the budget to the council for approval. The estimates of expenditures shall be arranged in such manner as to give the following information.

1. For each department and division of the city,
 - a. General operating expenses, subdivided into supplies, wages, repairs and other similar expenditures with supporting details;
 - b. Capital outlays (for new construction, new equipment, and all improvements of a lasting character); and
2. Fixed charges. The estimates shall be in detail to show clearly the purpose for which the moneys to be expended in each department are to be used. In parallel columns shall be shown the amounts expended under similar heads for the past two completed fiscal years, and as far as possible for the completed portion of the current year. All increases and decreases as compared with preceding years shall be clearly shown. The estimates of revenue shall be arranged under the following headings or such others as may be desirable; Sums derived from
 - a. General Property tax,
 - b. Fines,
 - c. Fees,
 - d. Interest,
 - e. Sales and Rentals,
 - f. Operation of Public Utilities,
 - g. Special Assessments,
 - h. Sales of Bonds or other obligations and
 - i. Miscellaneous, not included in any other item.

In parallel columns shall be shown the actual revenues and uncollected balances receivable under similar headings for the last two fiscal years. The budget estimates shall also show the funds into which each item of receipts will be paid and the funds out of which each item of expenditure will

be disbursed. Copies of the budget estimates shall be given to each member of the council.

Section 36. Passage of the Budget. The budget shall be the principal item of business at the first regular meeting of the city council in September of each year, 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 amount of time in which to be heard, and an opportunity to ask such questions as may seem pertinent to them. The budget estimates shall be read in full and the city manager shall explain the various items thereof as fully as may be deemed necessary by the council. The annual budget finally agreed upon shall be a resolution setting forth in detail the complete financial project of the city for the ensuing budget year. It shall indicate the sums to be raised and from what sources, and the sums to be spent and for what purposes, and a reasonable amount, not to exceed ten per cent of the total amount of the budget, may be included, not allotted to any item of expenditure as a contingency fund which may be used for any lawful purpose upon a four-fifths vote of all the members of the council. The total sum appropriated shall be less than the total estimated revenue by a safe margin. The council shall adopt the budget resolution not later than the 8th day of October of each year.

Section 37. Alterations in the Budget. After the budget shall have been duly adopted, the council shall have no power to increase the amounts therein fixed (by the insertion of new items or otherwise) beyond the estimated revenue, unless actual receipts exceed the estimates and in that event any increase adopted for expenditures shall not ex-

ceed the actual receipts. Further, when bonds or emergency debt certificates have been authorized in the manner provided in this charter, or by state law, such authorization shall be deemed an additional appropriation of funds for the purpose of which such obligations were authorized, so far as the amount thereof exceeds the estimate in the then next succeeding budget of receipts from the sale of bonds for the same purpose. The sums fixed in the budget shall be appropriated as of the first day of January for the purpose named therein. The council may, by resolution passed by a four-fifths vote of all its members, reduce salaries or the sums appropriated for any other purpose. Upon the written recommendation of the mayor or the city manager, the council may at any time by a four-fifths vote transfer any portion of an unencumbered balance of an appropriation to any other purpose or object, but no such transfer shall be made in any other manner.

Section 38. Enforcement of the Budget. It shall be the duty of the mayor and the city manager to enforce strictly the provisions of the budget. They shall not approve any expenditure or any contract involving an expenditure, except such as are to be paid by the issuance of bonds or emergency debt certificates as authorized in this charter, unless an appropriation has been made for it in the budget, nor for an expenditure mentioned in the budget unless there is a sufficient unexpended balance left after deducting the total past expenditures and encumbrances against the item in question. No expenditure except for salaries previously fixed by resolution may be made except in pursuance of a signed requisition or contract. Such requisitions and contracts shall be deemed to be encumbrances upon the budget items

from which they are to be paid to the same extent as though the expenditure therefor had actually been made.

Section 39. Levy and Collection of Taxes. On or before the eighth day of October of each year the council shall by resolution levy the taxes necessary to meet the requirements of the budget for the ensuing budget period, taking into account estimated revenues from sources other than taxation. The city manager shall transmit to the County Auditor annually, not later than the tenth of October, a statement of all taxes; and assessments levied, and such taxes and assessments shall be collected with and the payment thereof enforced in like manner as state taxes. No tax shall be invalid by reason of any informality in the manner of levying the same.

Section 40. Board of Equalization. The council shall constitute a board of equalization and shall meet as such in the usual place for holding council meetings between the first day of June and 15th day of July in each year, to equalize the assessments according to law. Public notice of such meeting shall be given at least ten days prior to the date fixed, as provided by law. The assessor shall be in attendance but shall have no vote.

Section 41. Receipts. All income of the city from any source shall be paid to the city manager who shall receipt for it in duplicate the receipt as a permanent record. The city manager shall deposit promptly all money received by him in his official capacity in such depositories as may be designated by the council, and then only after such depositories shall have furnished a surety bond or collateral, approved by the council, in an amount adequate to protect the city. The city manager shall not deposit any money in any bank in excess of the bond or collateral so furnished, plus

the amount of such deposit covered by federal deposit insurance. Funds not presently needed for other purposes may be invested and reinvested in any obligations in which sinking funds are authorized to be invested, when so directed by the council, and such securities may be deposited for safekeeping with any bank or trust company maintaining a safekeeping department.

Section 42. Disbursements. Disbursements other than those made to pay the principal or interest on bonds of the city shall be made only upon orders signed by the mayor or president pro-tem of the council, in the absence of the mayor, and by the city manager or in his absence or disability, some properly qualified person designated by the council. Every such order shall specify the purpose for which the disbursement is made, and indicate the fund out of which it is to be paid. Principal and interest on bonds or other similar obligations of the city shall be paid by or under the direction of the city manager, without such order, by check mailed a sufficient time before the due date to the bank at which the principal or interest is payable.

Section 43. Funds. There shall be maintained in the city treasury the following funds:

- a) A general fund for the payment of such expenses of the city as the council may deem proper. Into this fund shall be paid all money not herein provided to be paid into any other fund;
- b) A permanent improvement fund into which shall be paid all moneys received from special assessments for local improvements and from the sale of bonds issued in anticipation of the collection of special assessments or bonds issued for the city's share of the cost of any local improvement. Any

other contribution by the city to the cost of an improvement shall be transferred from the general fund to this fund. There shall be paid out of this fund such amounts as may become due on account of the making of any public improvement in the city the cost of which has been specially assessed in whole or in part, provided that when the cost of any improvement for which bonds have been issued is paid in full, the remainder of the special assessments levied for such improvement shall be paid into an account in the bond and interest fund appropriated to the payment of such bonds.

- c) A bond and interest fund for the purchase or payment when due of the principal of and interest upon any bonds of the city. Separate accounts for the payment of individual issues or groups of issues shall be maintained within this fund, to the extent and in the manner required by the laws of the state and ordinances and resolutions authorizing and establishing the terms of such bonds. The council shall annually levy a tax sufficient to meet all obligations against this fund when due, unless otherwise provided for;
- d) A public utility fund into which shall be paid all money derived from the sale of bonds issued on account of any municipally owned utility, all proceeds of any tax levy for the public utility fund, and all money derived from the sale of utility services, 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, con-

struction, extension, improvement, operation, maintenance and repair of all utilities. Moneys sufficient, together with any special assessments collected for such purpose, to pay the principal and interest upon bonds issued for the purchase, construction, extension or improvement of any utility shall be transferred from this fund to the appropriate account in the bond and interest fund at the times required for such payments. Separate accounts shall be kept for all utilities which are operated separately; but the operations of any two or more utilities may be combined by ordinance, and the combined revenues thereof pledged for the payment of bonds issued to finance improvements of any part of the combined utility.

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

- e) Working capital or revolving fund, for financing self sustaining activities not accounted for through other funds.
- f) A trust and agency fund for the care and disbursement of money received and held by the city as trustee or custodian or in the capacity of an agent for individuals or other governmental units;
- g) Such other funds as may be required by statute or ordinance.

In lieu of establishing any of the three foregoing types of funds, (e), (f), and (g), 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.

Section 44. Accounts and Reports. The city manager shall be the chief accounting officer of the city. The council may prescribe and enforce proper accounting methods, forms, blanks and other devices consistent with the law, this charter, and the ordinance passed under it. The manager shall submit to the council a monthly statement showing the amount of money in the custody of the city manager, the status of all funds, the amounts spent or chargeable against each of the budget allowances and the balances left in each, and such other information relative to the finances of the city as the council may require. The accounts of all city officers who receive or have custody of public funds shall be audited annually by a competent public accountant or by the state comptroller, and an annual statement showing the receipts and disbursements of the city shall be published.

Section 45. Bonded Debt. The city may borrow money and issue and sell bonds for any and all of the purposes authorized and subject to the limitations and procedural requirements now or hereafter provided by the general laws of the State of Minnesota applicable to cities of the same class, and subject to the further provisions of this section. No bonds shall ever be issued to pay current expenses. A resolution submitting the proposition of issuance of bonds to the electors of the city shall be adopted only by a vote of four-fifths of all the members of the council. In cases where an election on bonds is not required by law, the issuance thereof shall be authorized by ordinance adopted by a four-fifths vote of all the members of the council and stating the maximum amount and purpose or purposes of the issue. The form and details of bonds, and all covenants to be made by the city for the security thereof may be estab-

lished by the council by resolution adopted after the bonds have been authorized by the electors or by ordinance. The full faith and credit of the city shall be pledged for the payment of all bonds, except that when net revenues to be derived from the operation of any public utility or combined utility or revenue-producing enterprise of the city are pledged for the payment of bonds issued for the acquisition or betterment of such utility or enterprise, such bonds may in the discretion of the council be issued as general obligations of the city or may be made payable solely from said net revenues. No election shall be required for the authorization of bonds for the following purposes:

- 1) Extending, enlarging or improving water, light, heat, power and sewage disposal plants and systems, or any of them, owned and operated by the city, and acquiring property needed in connection therewith.
- 2) Acquiring property, real or personal, for any municipal purpose, provided that the total amount of bonds authorized for this purpose without an election which are outstanding at any time shall not exceed \$25,000.
- 3) For any purpose authorized by the laws of the State of Minnesota, when such laws permit the issuance of bonds for such purpose without an election.

Section 46. Reserved.

Section 47. Reserved.

Section 48. Reserved.

Section 49. Reserved.

Section 50. **Certificates of Indebtedness.** In addition to bonds, the city may issue certificates of indebtedness, for the payment of which its full faith and credit shall be pledged, for the following purposes and subject to the following conditions:

- 1) If in any year the receipts

of the city shall from some unforeseen cause become insufficient for the ordinary expenses of the city, or if any calamity or other public emergency should make necessary extraordinary expenditures, the council may by a resolution approved by four-fifths of all the members thereof authorize the sale of emergency debt certificates to run not to exceed eighteen months, and to bear interest at a rate of not more than six percent per annum. A tax sufficient to redeem all such certificates at maturity shall be levied as a part of the budget of the next year following the issuance of such certificate.

- 2) At any time after the first day of the year following the making of an annual tax levy, the council may by a resolution approved by four-fifths of all the members thereof authorize the sale of tax anticipation certificates to an amount not exceeding and in anticipation of the collection of the taxes so levied which are not yet collected. Said certificates shall mature not later than the first day of April of the year following the year of issuance. The proceeds of said taxes shall be irrevocably pledged for the payment of the principal of and interest on said certificates when due, but if the collections of said taxes should be insufficient to make such payments in full, the same shall be made from any other available funds of the city, and the city shall levy additional taxes in amount sufficient to restore said deficiency. Said certificates shall bear interest at a rate of not more than six per cent per annum. Said certificates shall not be

- included within the net debt of the city for the purpose of any charter or statutory limitation upon such net debt.
- 3) The certificates authorized in this section may be sold in such manner and upon such terms as shall be directed by the council, and no election shall be required for the authorization thereof.

CHAPTER VI

Public Improvements

Section 51. **City Plan.** The City Council may, with such assistance as they shall deem necessary, prepare and adopt a complete plan for the future physical development of the city. Such plan may be altered from time to time. It may include provisions for the planning and development of new areas, for the planning and location of public buildings, parks, playgrounds, bridges, and other public facilities, and for the laying out, grading and improvement of streets and public places, as well as for all other matters which may seem essential to such plan.

Section 52. **Public Improvements and Special Assessments.** The city shall have power to make any and every type of public improvement not forbidden by the laws of the State, and to levy special assessments therefor upon properties benefited thereby. The amounts assessed to benefited property may equal the cost of the improvements with interest until paid.

Section 53. **Improvements.** The council may adopt a comprehensive ordinance prescribing the procedure which shall be followed thereafter in making all improvements and making assessments therefor, and such ordinance when adopted shall supplant all other provisions of the law on the same subject and may be amended only by a vote of four-fifths of all the members of the council. Such ordinance shall provide for

such notice and hearing in the ordering of improvements and the making of assessments therefor as shall be necessary to meet constitutional requirements. All plans, specifications, maps, charts, and field notes prepared by order of the council shall be the property of the city.

Section 54. **Eminent Domain.** Condemnation proceedings by this city shall be carried out as provided in Minnesota Statutes, Chapter 117 and acts amendatory thereof.

CHAPTER VII

Franchises

Section 55. **Definition of Franchise.** The word "franchise" as used in this chapter shall be construed to include all privileges granted to any person, firm, association, or corporation in, over, upon, or under any of the highways or public places of the city, whether such privileges have been or shall hereafter be granted either by the city or by the State of Minnesota.

Section 56. **Franchise Ordinances.** The council may grant franchises by ordinance adopted by a four-fifths vote of all its members, but in no case shall a franchise be adopted by an emergency ordinance. Franchise rights shall always be subject to the superior right of the public to use 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 right in such places, or desiring the privilege of placing in, over, upon, or under any street or public place any permanent or semi-permanent fixtures for the purpose of constructing or operating street or other railways, or for telephoning, or telegraphing, or transmitting electricity, or transporting by pneumatic tubes, or for furnishing to the city or its inhabitants or any portion thereof, transpor-

tation facilities, water, light, heat, power, or any other public 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.

Section 57. Term Limited. The council in granting any franchise shall fix the term thereof. No franchise shall be granted for a longer term than twenty-five years.

Section 58. Rates and Charges. Every grantee of a franchise to operate a public utility shall give courteous, efficient and adequate service at reasonable rates.

Section 59. Conditions of Franchise. Every franchise which does not contain the provisions prescribed in this section shall be absolutely void and incapable of ratification by estoppel or otherwise. Every franchise shall contain the following provisions:

- a) That the grantee shall be subject to and will perform all the terms in this chapter provided.
- b) That the grantee shall not issue any capital stock on account of the franchise or the value thereof, and 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.
- c) 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 manager 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.
- d) A provision for the acceptance of the franchise in writ-

ing by the grantee within thirty days after its passage.

Section 60. Further Provisions in Franchises. The enumeration in this charter of particular provisions which must be included in every franchise shall not be construed to impair the right of the city to insert in such franchise such other and further conditions and restrictions as the council may deem proper to protect the city's interests, nor shall anything contained in this charter limit any right or power possessed by the city over existing franchises.

Section 61. Acceptance of Franchise. Every ordinance granting any franchise shall contain all the terms and conditions of the franchise. A franchise shall be without any validity whatever until it has been unconditionally accepted in all its terms by the grantee and until a written statement of such acceptance signed by the proper officers of the grantee shall have been filed with the city manager. The grantee shall bear the cost of publication of franchise ordinances and shall guarantee such payment in a manner satisfactory to the council before the ordinance is passed.

Section 62. Renewals or Extensions. Every extension, renewal or modification of any existing franchise or of any franchise granted hereunder shall be subject to the same limitations and granted in the same manner as a new franchise.

CHAPTER VIII

Miscellaneous and Transitory Provisions

Section 63. Charter a Public Act. This charter shall be a public act and need not be pleaded nor proved in any case. It shall take effect thirty days from and after its adoption by the voters of the city.

Section 64. Oath of Office. Every elected or appointed officer of the city shall before assuming his official duties, appear before the

city manager and take and subscribe the oath of office prescribed by law and file the same with the city manager. Every officer of the city shall hold over until his successor has been elected or appointed and has duly qualified. He shall deliver to his successor or to the city, all official books, papers, and records in his possession.

Section 65. Official Bonds. The city manager shall furnish, before assuming the duties of his office, a good and sufficient surety bond, of a surety company authorized to do business in this state, for the faithful performance of his duties in a sum fixed by the council and sufficient amply to protect the city. Such official bond shall be approved by the council. The council may require that bonds be furnished by other elective and appointive officers. The premium on such bonds shall be paid by the city.

Section 66. Officers Not to Accept Favors. 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, alteration or repair required by the city, or any contract to which the city shall be a party, except his lawful compensation or salary as such officer or employee, or except as his property may be benefited incidentally by the making of public improvements. No officer or employee of the city, except as otherwise provided by law, shall solicit, accept, or receive directly or indirectly from any public utility company or the grantee of any franchise any service upon terms more favorable than those granted to the public generally.

Section 67. Forfeiture of Office. Any willful violation by any elected officer of any of the provisions of this charter or of the ordinances lawfully enacted un-

der its authority or of his official oath, and any willful omission to perform any of the duties imposed upon such officer by this charter, the city ordinances, or such official oath shall constitute malfeasance or nonfeasance in office. The District Court of Hennepin County is hereby given exclusive jurisdiction to try such cases of malfeasance or nonfeasance in a summary manner, upon complaint of any fifty legal voters, and a judgment of conviction by such court shall work an immediate forfeiture of office. Such cases shall be preferenced cases and shall be tried within thirty days after said complaint is filed.

Section 68. Official Publication. The council shall designate as an official newspaper any newspaper of general circulation in this city, and shall designate by resolution three proper places in this city for the purpose of posting notices. Whenever any public notice or publication shall be required either by this charter or by any ordinance of the city, such notice or publication may be given either by publication once in such official newspaper or by posting for ten days in the three public places in said city designated for the purpose by the council, or by both such methods. The council may designate which method shall be used in each case, or require that both be used.

Section 69. Application of General Laws. All general laws of the state applicable to cities of the class to which the City of Wayzata belongs, not inconsistent with the provisions of this charter shall apply to the City of Wayzata and shall be construed as supplementary to the provisions of this charter. All acts and parts of acts giving the city authority and powers to be exercised outside of the corporate limits are hereby expressly retained.

Section 70. Vacation of Streets. The council shall have the exclusive power, by ordinance passed

Section 73. Recovery of Judgment. If any judgment shall be recovered in any action against the city for any injury or damage caused by any construction, excavation, opening or defect in any public place, caused or occasioned

WHEREAS, the Honorable Judges of the District Court in and for the Fourth Judicial District of Minnesota did, on the 9th day of May, 1963, duly make and

file their order, pursuant to the Constitution of the State of Minnesota, and laws enacted pursuant thereto, appointing a charter commission for the City of Wayzata, Hennepin County, Minnesota, and

WHEREAS, said charter commission did thereafter qualify in the manner required by law on June 19, 1963, and

WHEREAS, said charter commission, in obedience to said order, did thereafter duly prepare and frame a revision of the Charter of the City of Wayzata, of which the foregoing document, composed of 78 sections, numbered from 1 to 78 inclusive is a draft,

NOW, THEREFORE, we, the undersigned, members of said charter commission, under and pursuant to the power conferred upon us as aforesaid, and acting in accordance with the statutes in such case made and provided, do hereby fix our signatures to said draft in testimony of our

approval thereof, and do hereby deliver the same to the city council and city manager of Wayzata, for submission to the voters in the manner subscribed by law.

Dated at Wayzata, Minnesota, this 22nd day of October, 1963.

John Andrus III, Chairman
Marlon O. Haugen, Vice
Chairman

Mrs. David Koch, Secretary
Mrs. Sewall D. Andrews, Jr.
John C. Baker
Anthony Feser
Norman R. Osterby
Wayne Linman
Lee Lathrop
Michael Vukas
Mrs. Leonard L. Kallestad
Alfred E. Simpson
Rudolph Meehan
Mrs. John Slothower
Douglas Hail

By order of the City Council of the City of Wayzata, Minnesota.

Wayne Fadden,
City Manager
(11/7, 14, '63)

#16755
STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
DEC 30 1963

Joseph L. Harrison
Secretary of State