

CERTIFICATE OF ADOPTION OF CHARTER

STATE OF MINNESOTA )  
                          ) ss  
COUNTY OF LYON      )

The undersigned, L.W. Mannion, certifies that:

1. He is the duly elected, qualified and acting City Clerk of the City of Marshall, Minnesota.

2. Accompanying this certificate and made a part hereof is a true and accurate copy of the charter prepared and delivered to the Common Council of the City of Marshall by the Charter Commission of said City which charter was duly adopted at a special election held on July 22, 1969 in said City by an affirmative vote of more than 51% of the votes cast on the proposition, to-wit:

For the adoption of such charter - 774;

Against the adoption of such charter - 155;

Other ballots, spoiled or not counted - None.

IN WITNESS WHEREOF the undersigned has hereunto set his hand and seal this 24th day of July, 1969.

(SEAL)

L.W. Mannion  
City Clerk  
City of Marshall, Minnesota

#20743  
STATE OF MINNESOTA  
DEPARTMENT OF STATE  
FILED  
JUL 30 1969

James A. Holmquist  
Secretary of State

CHARTER OF THE CITY OF MARSHALL  
LYON COUNTY, MINNESOTA

STATE OF MINNESOTA  
DEPARTMENT OF STATE  
FILED  
JUL 30 1969

Chapter 1

*Joseph L. Anderson*  
Secretary of State

Name, boundaries, powers, and general provisions

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

Section 1.02. Powers of the city. The city shall possess all the powers 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 Marshall might lawfully confer upon themselves as a municipal corporation shall be understood to have been so conferred by specific enumeration in this charter under the the provisions of this section. This charter shall be interpreted liberally in favor of the city, and the specific mention of particular powers in the charter shall not be interpreted as limiting in any way the generality of the powers possibly conferred.

Section 1.03. Charter a public act. This charter shall be a public act and neither it nor any ordinance regularly passed by the Common Council need be pleaded or proved in any case. It shall take effect thirty (30) days from and after its adoption by the voters.

Chapter 2

Form of government

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

Section 2.02. Boards and commissions. The council, by ordinance may establish, regulate, and abolish any board,

commission, or administrative body which it may determine to be necessary or desirable. Every board, commission, and body shall possess only that power and authority which the City Council grants, and will function as advisory or independent agency as determined by the council.

Section 2.03. Elective offices. The council shall be composed of a mayor and councilmen who shall be qualified electors. Two (2) councilmen shall be elected from each ward and the mayor shall be elected at large. Each councilman shall serve for a period of four (4) 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 (4) years and the candidate in each ward receiving the next largest number of votes shall serve for two (2) years. The mayor shall serve for a period of two (2) years and until his successor is elected and qualified.

Section 2.04. Incompatible offices. No member of the council shall be appointed city administrative assistant, nor shall any member of the council hold any paid municipal office or employment under the city other than as a member of the council.

Section 2.05. Vacancies in the council. A vacancy in the council shall be deemed to exist in accordance with the provisions of the State law, and, in addition thereto, in case of continuous absence of the official from the city for more than ninety (90) days, or by reason of failure of any member of the council, without good cause, to perform any duties of membership in the council for a period of ninety (90) days. In each such case the council, by resolution shall declare the vacancy and, if the unexpired term of the vacated council member is less than one hundred eighty (180) days, shall appoint as soon as possible, a person eligible for election from the partially represented ward to serve until the next regular municipal election. If the unexpired term of such councilman or mayor is one hundred eighty (180) days or more, the vacancy shall be filled by special election within the area to be represented. The special election shall be ordered by the council within thirty (30) days after vacancy is declared and reasonable public notice of the election shall be given.

Section 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 a mayor in case of the mayor's disability or absence from the city. The mayor shall have a vote as a member of the

council. 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 law.

Section 2.07. Salaries. Salaries of the councilmen and mayor shall be determined by the council in accordance with the applicable state law.

Section 2.08. Investigation of city affairs. The council shall have power to investigate the city's affairs, to subpoena witnesses, to administer oaths, and to compel the inspection 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 selected by the council. The council may at any time provide for an examination or audit of the accounts of any officer or department of the city government and it may cause to be made any survey or research study of any subject of municipal concern.

Section 2.09. City employees, their wages, salaries, benefits and regulation. The council shall have complete authority in determining the employment or discharge of all city employees, wages and salaries to be paid to such employees, employer benefits, supervision, and lines of authority, and all other matters of regulation and control.

Section 2.10. Wards. The council shall, by ordinance, provide for the establishment of wards, define or change their boundaries, and increase or eliminate the number of wards in the city. No change, increase, or elimination shall be made within three (3) months prior to any election held in the city governmental offices. Within six (6) months following the official certification of the decennial census of the United States and the filing of the census list with the city, the council shall, by ordinance, re-determine ward boundaries so as to make said wards as nearly equal in population as practicable.

### Chapter 3

#### Procedure of the council

Section 3.01. Council meetings. On the first business day

of December following a regular municipal election, the council shall meet at the usual place and time for the holding of council meetings. At this time the newly elected members of the council shall assume their duties. Thereafter the council shall meet at such time each month as may be prescribed by ordinance or resolution. The mayor or any three members of the council may call special meetings of the council upon at least twelve (12) hours' written 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. The business to be taken up at any special meeting shall be specifically stated in the notice, and no other business shall be transacted unless all members are present and consent thereto. All meetings of the council shall be public, and any citizen shall have access to the minutes and records thereof at all reasonable times.

Section 3.02. City Clerk. The city clerk shall be appointed by the council for an indefinite period and may be removed by the council at any time. He shall attend all sessions of the city council. He shall be the official secretary of the council. He shall preserve all votes and minutes of all proceedings in books kept for that purpose. He shall give or cause to be given notice of all meetings of the council. He shall perform such other duties as may be prescribed by the city council or the city administrative assistant under whose supervision he shall act. When authorized by the city council, he shall affix his signature to any instrument requiring it. He shall prepare and maintain, in an orderly fashion, all ordinances and resolutions passed by the city council. He shall perform all duties previously performed by the city treasurer.

Section 3.03. City attorney. The common council shall have the power to appoint a duly licensed attorney at law as city attorney. He shall serve for a term of two (2) years, his term of office coinciding with that of the mayor, except that he shall continue in office until his successor is appointed. No commission, board, department or officer of the city shall use or employ any other attorney to represent them in their official capacities, provided that in any case of special or unusual circumstances or in any case where the city attorney by reason of interest cannot represent the city, the council, at the request of the city attorney may by motion appoint special counsel and fix his compensation. The Municipal Water, Light, Power and Building Commission and the Hospital Board are hereby authorized to employ the city attorney in official matters and to pay for his services from their respective funds. The city attorney may employ such staff and assistants as necessary with the approval of the council.

Section 3.04. Rules of procedure and quorum. The council

shall determine its own rules and order of business. A majority of all members shall constitute a quorum to do business. The council may by ordinance provide a means by which a minority may compel the attendance of absent members.

Section 3.05. Ordinances, resolutions and motions. Except as in this charter otherwise provided, all legislation shall be by ordinance. The "yes" and "no" vote on ordinance, resolutions and motions shall be recorded. An affirmative vote of a quorum shall be required for the passage of all ordinances and resolutions. The vote of each member shall be recorded on each appropriation of money, except for payments of judgments, claims and amounts fixed by statute.

Section 3.06. Procedure on ordinances. The enacting clause of all ordinances shall be in the words, "The Common Council of the City of Marshall do 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 and at least three (3) days shall elapse between its introduction and final passage.

Section 3.07. Signing and publication of ordinance and resolutions. Every ordinance or resolution passed by the council shall be signed by the mayor or, in his absence, by the president of the council, attested by the city clerk and filed and preserved by him. Every ordinance shall be published once in the official newspaper.

Section 3.08. Emergency ordinances. An emergency ordinance is an ordinance necessary for the immediate preservation of the public peace, health, morals, safety or welfare and one in which the emergency is defined and declared in a preamble thereto, and shall be adopted by a vote of at least five (5) members of the council. No prosecution shall be based upon the provisions of any emergency ordinance until twenty-four (24) hours after the ordinance has been filed with the city clerk and has been published, unless the person charged with violation had actual notice of the passage of the ordinance prior to the act or omission complained of.

Section 3.09. Procedure on resolutions. Every resolution shall be presented in writing and read in full before a vote is taken thereon, unless the reading of the resolution is dispensed with by unanimous consent.

Section 3.10. When ordinances and resolutions take effect. A resolution and or 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 at the time of publication

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 public notice of adoption, or at such later time as is fixed therein.

Section 3.11. Amendment and repeal of ordinances and resolutions. Every ordinance or resolution repealing or amending an existing ordinance or resolution shall give the number, if any, and the title, if any, of the ordinance or resolutions to be repealed or amended. The repeal of an ordinance or resolution, or any part thereof, shall not affect any right reserved, any duty imposed, any penalty incurred or any proceeding commenced under or by virtue of the ordinance or resolution repealed.

Section 3.12. Revision and codification of ordinances. The city may revise, rearrange 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 clerk for general distribution to the public free or at a reasonable charge. Publication in such a code shall be a sufficient publication of any ordinance provision not previously published if a notice that copies of the codification are available at the office of the city clerk is published in the official newspaper for at least two (2) successive weeks.

#### Chapter 4

##### Nominations and elections

Section 4.01. The regular municipal election. A regular municipal election shall be held on the Tuesday after the first Monday of November of each odd-numbered year commencing in 1969 at such place or places as the common council may designate. The city clerk shall give at least two (2) weeks previous notice of the time and place of holding such election and of the officers to be elected by publication at least twice 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 and mayor, such municipal judges as may be provided by law.

Section 4.02. Special elections. The council may by resolution order a special election and provide all means for holding it. At least two (2) weeks published notice of a special election shall be given in the official newspaper.

Section 4.03. Nominations by affidavit. Not more than thirty

(30) days and not less than fifteen (15) days before the election, any eligible person desiring to have his name placed on the official ballot as a candidate for an office to be voted for at the election shall file his affidavit of candidacy with the city clerk. The affidavit shall be substantially the same form as required of candidates for state offices and shall be furnished by the clerk upon request. Upon payment of the proper filing fee to the clerk, the clerk shall place the name of the candidate on the official ballot without partisan designation. Unless a candidate has filed an affidavit of candidacy and paid a filing fee, his name may not be placed upon the official ballot for the municipal election.

Section 4.04. Procedure at elections. The conduct and procedure of all elections shall be governed by applicable statutes, together with supplementary ordinances, if any, passed by the city council.

## Chapter 5

### Initiative, referendum, and recall

Section 5.01. Powers reserved by the people. The people of Marshall, Minnesota, 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. Those powers shall be called the initiative, the referendum, and the recall, respectively.

Section 5.02. Expenditures by petitioners. No member of any initiative, referendum, or recall committee, no circulator of a signature paper, and no signer of any such paper, or any other person, shall accept or offer any rewards, pecuniary or otherwise, for service rendered in connection with the circulation thereof, but this shall not prevent the committee from paying for legal services or 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.

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

### Initiative

Section 5.04. Initiation of measures. Any five (5) electors



may form themselves into a committee for the initiation of any ordinance except as prohibited in Section 5.01. Before circulating any petition they shall file a verified copy of their proposed ordinance with the city clerk together with their names and addresses as members of such committee. They shall also attach a verified copy of the proposed ordinance to each of the signature papers herein described, together with their names and addresses as sponsors therefor.

Section 5.05. Form of petition and of signature papers. The petition for the adoption of any ordinance shall consist of the ordinance, together with all the signature papers and affidavits thereto attached. Such petition shall not be complete unless signed by one hundred (100) voters or ten (10%) per cent of the total votes cast at the last municipal election, whichever is greater. 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. Initiative petition forms shall be provided upon request at the office of the city clerk.

Section 5.06. Filing of petitions and action thereon. All the signature papers shall be filed in the office of the city clerk as one instrument. Within five (5) days after the filing of the petition, the city clerk shall ascertain by examination the number of electors whose signatures are appended thereto and whether this number is at least one hundred (100). If he finds the petition insufficient or irregular, he shall at once notify one or more of the committee of sponsors of the fact, certifying the reasons for his finding. The committee shall then be given thirty (30) days in which to file additional signature papers and to correct the petition in all other particulars. If at the end of that period the petition is found to be still insufficient or irregular, the clerk shall file it in his office and shall notify each member of the committee of that fact. The final finding of the insufficiency or irregularity of a petition shall not prejudice the filing of a new petition for the same purpose, nor shall it prevent the council, at its option, from referring the ordinance to the electors at the next regular or any special election.

Section 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 council shall at once read the ordinance and refer it to an appropriate committee of the council, which may be a committee of the whole. The committee or council, shall thereupon provide for one or more public hearings upon the ordinance, after the holding of which the ordinance shall be finally acted upon by the council not later than sixty-five (65)

days after the date upon which it was submitted to the council by the city 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 equal to at least two hundred (200) voters, the council shall call a special election upon the measure. Such special election shall be held not less than thirty (30) nor more than forty-five (45) days from date of final action on the ordinance by the council or after the expiration of sixty-five (65) days from the date of submission to the council when there has been no final action; but if a regular election is to occur within three (3) months, the council may submit the ordinance at that election. If the council passes the proposed ordinance with amendments and at least four-fifths (4/5) of the committee of petitioners do not express their dissatisfaction with such amended form by a statement filed with the city clerk within ten (10) days of the passage thereof by the council the ordinance need not be submitted to the electors.

Section 5.08. Initiative ballots. The ballots used when voting upon any such proposed ordinance shall state the substance of the ordinance and shall give the voters the opportunity to vote either "yes" or "no" on the question of adoption. If a majority of the 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.

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

#### Referendum

Section 5.10. The referendum. If prior to the date when an ordinance takes effect a petition signed by qualified electors of the city equal in number to one hundred fifty (150) or fifteen (15%) per cent of the total votes cast at the last municipal election, whichever is greater, is filed with the city clerk requesting that any such ordinance be repealed or be submitted to a vote of the electors, the ordinance shall thereby be prevented from going into operation. The council shall thereupon reconsider the

ordinance at its regular meeting, and either repeal it or by "yes" and "no" vote reaffirm its adherence to the ordinance as passed. In the latter case the council shall immediately order a special election to be held thereon, or submit the ordinance at the next regular municipal election, pending which the ordinance shall remain suspended. If a majority of the electors voting thereon is opposed to the ordinance, it shall not become effective, but if a majority of the electors voting thereon favors the ordinance, it shall go into effect immediately or on the date therein specified.

Section 5.11. Referendum petitions. The requirements laid down in Section 5.04 and 5.05 above as to the formation of committees for the initiation of ordinances and as to the form of petitions and signature papers shall apply to the referendum as far as possible but with such verbal changes as may be necessary. A referendum petition shall be available upon request at the office of the city clerk.

Section 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

Section 5.13. The recall. Any five (5) electors may form themselves into a committee for the purpose of bringing about the recall of any elected officer of the city on the grounds of misfeasance or malfeasance in office by petition. The committee shall certify to the city clerk the name of the officer whose removal is sought, a statement of the grounds for removal in not more than two hundred fifty (250) words, and their intention to bring about his recall. A copy of this certificate shall be attached to each signature paper and no signature paper shall be put into circulation previous to such certification.

Section 5.14. Recall petitions. The petition for the recall of any official shall consist of a certificate identical with that filed with the city clerk, together with all the signature papers and affidavits thereto attached. All the signatures need not be on one signature paper, but the circulator of every paper shall make an affidavit that each signature appended to the paper is the genuine signature of the person whose name it purports to be. Recall petition forms shall be provided upon request at the office of the city clerk.

Section 5.15. Filing of petition. Within thirty (30) days after the filing of the original certificate, the committee shall file the completed petition in the office of the city clerk. The city clerk shall examine the petition within the next five (5)

days, and if he finds it irregular in any way, or finds that the number of signers is less than five hundred (500) electors, he shall so notify one or more members of the committee. The committee shall then be given ten (10) days in which to file additional signature papers and to correct the petition in all other respects, but they may not change the statement of the grounds upon which the recall is sought. If at the end of that time the city clerk finds the petition still insufficient or irregular, he shall notify all the members of the committee to that effect and shall file the petition in his office. No further action shall be taken thereon.

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

Section 5.17. Procedure at recall election. The clerk shall include with the published notice of the election the statement of the grounds for the recall and also, in not more than five hundred (500) words, the answer of the officer concerned in justification of his conduct 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.

Section 5.18. Form of recall ballot. Unless the officer whose removal is sought resigns within ten (10) 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 (10) days after the re-

ceipt by the council of the completed recall petition, the form of ballot at the election shall be the same, as nearly as possible, as the form in use at a regular municipal election.

## Chapter 6

### Administration of city affairs

Section 6.01. Departments of administration. The council shall create such departments, divisions and bureaus for the administration of the city's affairs as it may deem necessary, and from time to time, alter their powers and organizations.

Section 6.02. 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, in addition to the specific duties set out in Section 6.03. He shall be the chief administrative officer of the city. He shall be so chosen by the council solely on the basis of his training, experience and administrative qualifications and need not be a resident of the city at the time of his appointment. He shall be appointed for an indefinite period of time and may be removed by the council at any time. The council may designate some properly qualified person to perform the duties of the administrative assistant during his absence or disability or while the office of the administrative assistant is vacant.

Section 6.03. Duties of city administrative assistant. The city administrative assistant shall be directly responsible to the city council for the proper administration of all affairs of the city, and to that end he shall perform the following specific duties:

- Subd. 1. See that this charter and the laws, ordinances and resolutions of the city are enforced;
- Subd. 2. He shall, under direction of the council, exercise control over the departments and divisions of the city administration as provided by this charter;
- Subd. 3. Attend all meetings of the council, unless excused, with the right to take part in discussion but not to vote. He shall, however, be excluded from any meeting of the council at which his removal is considered, unless his presence is requested by a majority vote of the council;
- Subd. 4. He shall keep the council advised of the financial condition and needs of the city and prepare in con-

junction with the Ways and Means Committee of the city council and submit annually to the council an administrative budget which shall be compiled from the various department budget requests;

Subd. 5. He shall prepare and submit to the council for adoption, an administrative code incorporating details of administrative procedure, prescribing the duties of the city clerk and other subordinate officers. He shall from time to time suggest amendments to such code. He shall establish lines of communication between all boards and commissions and the council and provide for each procedure in the administrative code;

Subd. 6. He shall perform such other duties as may be prescribed by this charter or by law or required by him by ordinances or resolutions adopted by the council.

Section 6.04. Departments of administration. There shall be such other officers subordinate to the city administrative assistant as the council may create by ordinance. The council may by ordinance establish, modify or abolish offices and may combine the duties of various officers as it deems fit.

Section 6.05. Purchases and contracts. The city administrative assistant shall be the chief purchasing agent of the city. All city purchases and contracts shall be made or let by the city administrative assistant when the amount of the purchase or contract does not exceed One Thousand (\$1,000.00) Dollars, except that he may purchase merchandise for resale by the city in a greater amount. All other purchases shall be made and all other contracts let by the council after the recommendation of the city administrative assistant has first been obtained. All contracts, bonds and instruments of any kind to which the city is a party, except checks drawn on the city, 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.

Section 6.06. Contracts: how let. In all cases of work to be done by contract, or of the purchase of personal property of any kind except for resale, where the amount involved is more than One Thousand (\$1,000.00) Dollars, unless the council shall by an emergency ordinance otherwise provide, the city administrative assistant 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 upon the recommendation of the city administrative assistant 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 five-sevenths (5/7) 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.

## Chapter 7

### Taxes and finance

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

Section 7.02. Fiscal year. The fiscal year of the city shall end on the 30th day of September, of each year.

Section 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.

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

Section 7.05. Preparation of the annual budget. The classification of accounts used in the budget must conform to the classification of accounts used in reporting the actual results. The budget, together with the budget message, shall be printed or typewritten and there shall be sufficient copies for each member of the council, for the city clerk, and at least six (6) copies to be available for inspection by the public, at the city hall and the public library.

Section 7.06. Passage of the budget. The annual budget shall be approved and adopted by a majority of the council and shall set forth in detail, the complete financial plan of the city for the ensuing fiscal year, 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. The total sum appropriated shall be less than the total estimated revenue by a safe margin. The council shall by resolution adopt the budget not later than the first week in September. Within statutory limits the council shall adopt a resolution levying whatever taxes are necessary for each fund for the ensuing year. 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.

Section 7.07. Enforcement of the budget. It shall be the duty of the city council to enforce strictly the provisions of the budget. The city administrative assistant shall not approve any order upon the city treasury for any expenditure unless an appropriation has been made therefor 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 the personal obligation upon the person incurring the expenditure.

Section 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 when 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 a vote of five (5) members authorize the transfer of sums from unencumbered balances of appropriations in the budget resolution to other purposes.

Section 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 a vote of at least five (5) members of the council, and shall be used only for the purpose designated by the council.

Section 7.10. Disbursements - how made. No disbursement of city funds shall be made except by check signed by the city administrative assistant and city clerk specifying the purpose for which the disbursement is made and the fund from which it is drawn. No such checks 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 safekeeping and disbursement of the funds of the city.

Section 7.11. Funds to be kept.

Subd. 1. There shall be maintained in the city treasury a general fund for the payment of such expenses as the council may deem proper. Into this fund shall be paid all moneys levied for this fund and all moneys not required to be placed in some other fund.

Subd. 2. There shall also be maintained in the city treasury such other funds, or division of funds, as the budget shall require or the city administrative assistant and council shall direct. There shall also be maintained in the city treasury such other funds or division of funds as are required by law, ordinance or resolution.

Section 7.12. Accounting procedure. The council may prescribe and enforce proper accounting methods, forms, blanks, and other devices consistent with the law, the charter, and the ordinances adopted in accord therewith.

Section 7.13. City indebtedness. Except as provided in Sections 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 limitations 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 the majority of the electors of the city voting on the question at a general or special election.

Section 7.14. Tax anticipation certificates. At any time after November 1, following the making of an annual tax levy, the council may issue certificates of indebtedness in anticipation of the collection of taxes levied for any fund and not yet collected. The total amount of certificates issued against any fund for any year with interest thereon until maturity shall not exceed 70% of the total current taxes for the fund uncollected at the time of issuance. Such certificates shall be issued on such terms and

conditions as the council may determine, but they shall become due and payable not later than one (1) year following the date of 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.

Section 7.15. Emergency debt certificates. If in any year the receipts from taxes or other sources should for 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 extra-ordinary 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 (2) years. 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 at least five (5) members of the council. It may be passed as an emergency ordinance.

Section 7.16. Fees shall be paid to the city government. All fees received by any officer or employee shall belong to the city.

Section 7.17. Utility commission. The Municipal Light, Water, Power and Building Commission shall be governed by Minnesota Statutes, Chapter 453.

## Chapter 8

### Public improvements and special assessments

Section 8.01. Power to make improvements and levy assessments. The city shall have the power to make any and every type of public improvement not forbidden by the laws of this state and to levy special assessments for all or any part of the cost of such improvements as are of a local character, pursuant to the laws of the State of Minnesota.

Section 8.02. Local improvements, regulations. All proceedings for construction and improvements to be paid for by special assessment against benefited property may be instituted by either of two methods as follows: (1) The procedures authorized by the laws of the State of Minnesota, or, (2) The procedures established by the council by ordinance.

## Chapter 9

### Eminent domain

Section 9.01. Power to acquire property. The city may

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

Section 9.02. Proceedings in acquiring property. The necessity for the taking of any property by the city shall be determined by the council and shall be declared by a resolution which shall describe such property as 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.

Section 9.03. City may abandon proceedings. The city may, by resolution of the council at any stage of the condemnation proceeding or at any time within thirty (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.

Section 9.04. 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

Section 10.01. Franchises required. Except as otherwise provided by law, no person, firm or corporation shall place or maintain any permanent or semi-permanent fixtures in, over, or

under any street or public place for the purpose of operating a public utility or for any other purpose, without a franchise therefor from the city. A franchise shall be granted only by ordinance, which shall not be an emergency ordinance. Every ordinance granting a franchise shall contain all the terms and conditions of the franchise. The grantee shall bear the costs of publication of the franchise ordinance and shall make a sufficient deposit with the clerk to guarantee publication before the ordinance is passed.

Section 10.02. Term. No exclusive or perpetual franchise shall ever be granted. No franchise for a term exceeding twenty (20) years shall be effective until approved by a majority of the electors voting thereon.

Section 10.03. Public hearing. Before any franchise ordinance is adopted or any rates, fares, or prices to be charged by a public utility are fixed by the council, the council shall hold a public hearing on the matter. Notice of such hearing shall be published at least once in the official newspaper not less than ten (10) days prior to the date of the hearing.

Section 10.04. Power of regulation reserved. Subject to any applicable law the council may by ordinance reasonably regulate and control the exercise of any franchise, including the maximum rates, fares, or prices to be charged by the grantee. No franchise value shall be included in the valuation of the grantee's property in regulating utility rates, fares, or prices under any applicable law, ordinance, or regulation or in proceedings for municipal acquisition of the grantee's property by purchase or eminent domain.

Section. 10.05. Renewals or extensions. Every extension, renewal or modification of any existing franchise or of any franchise granted hereafter shall be subject to the same limitations and shall be granted in the manner as a new franchise.

## Chapter 11

### Public ownership and operation of utilities

Section 11.01. Acquisition and operation of utilities. The city may own and operate any gas, water, heat, power, light, telephone, television transmission service, 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.

Section 11.02. Rates and finances. Upon recommendations made

by the administrative assistant or upon its own motion, except for those utilities whose rates are now governed by the Municipal Water, Light, Power and Building Commission, 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.

Section 11.03. Purchase in bulk. The city 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.

Section 11.04. Lease of plant. The city 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 at least five (5) members 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 (10) years.

Section 11.05. Public utility: how sold. No public utility owned by the city shall be sold or otherwise disposed of by the city unless the full terms of the proposition of sale or other dispositions 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

Section 12.01. Official publications. The council shall annually designate a local newspaper as provided by the laws of Minnesota, as its official newspaper.

Section 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, concilman, administrative

assistant, etc.) of the city of Marshall to the best of my judgment and ability".

Section 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.

Section 12.04. Official bonds. The administrative assistant, the city clerk and such 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 clerk. The provisions of the laws of the state relating to official bonds not inconsistent with this charter shall be complied with and the premiums on such bonds shall be paid by the city.

Section 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 resolution designate some other public use for the proceeds.

Section 12.06. Vacation of streets. The council may by ordinance approved by at least five (5) members of the council, vacate any street or alley or part thereof within the city. Such vacation may be made only after published notice and an opportunity for affected property owners and 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.

Section 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 any former charter or statute.

Section 12.08. Terms of present officers. The present officers of the city, including those elected at the regular municipal election held on April 1, 1969, shall continue in their respective

offices and functions, and shall continue to govern the city in the usual manner until the third Monday in November of 1969. They shall make such financial and other provisions as will serve to carry on the affairs of the city until a government has been set up under this charter, and they shall make provision for the election of the first council as provided for in Chapter 4 of this charter.

Section 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 Marshall, whether operating under home rule charters or otherwise and not inconsistent with the provisions of this charter, shall apply to the City of Marshall, and shall be construed as supplementary to the provisions of this charter.

Section 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.

Section 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.

Section 12.12. Ordinance 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.

Section 12.13. Forms prepared by city clerk. Forms for nomination, initiative, referendum and recall as required in Chapters 4 and 5 herein shall be prepared by the city clerk and available at that office upon request.

STATE OF MINNESOTA  
DEPARTMENT OF STATE  
FILED  
JUL 30 1969  
*Joseph A. Johnson*  
Secretary of State