

PROPOSED CHARTER

FOR THE

CITY OF MADISON

DRAWN BY THE

BOARD OF FREEHOLDERS

AND DELIVERED TO THE

MAYOR

June 15 1923

2987

CHAPTER 1.

NAME, BOUNDARIES, POWERS, AND GENERAL PROVISIONS.

Section 1. -- NAME AND BOUNDARIES-- The City of Madison, in the County of Lac qui Parle, and State of Minnesota, shall, upon the taking effect of this charter, continue to be a municipal corporation, under the name and style of the City of Madison, with the same boundaries as now are or hereafter may be established.

Section 2.--POWERS OF THE CITY-- The City of Madison, by and in its corporate name, shall have perpetual succession, and save as herein otherwise provided and save as prohibited by the constitution or statutes of the State of Minnesota, it shall have and exercise all the powers, functions, rights and privileges possessed by it, prior to the adoption of this charter; also all powers, functions, rights, and privileges now or hereafter given or granted to municipal corporations having "home rule charters" by the constitution and laws of the State of Minnesota; also all powers, functions, rights and privileges usually exercised by, or which are incidental to, or inhere in, municipal corporations of like power and degree; also all municipal powers, functions, rights, privileges, and immunities, of every name and nature whatsoever; and in addition it shall have all the powers and be subject to the restrictions contained in this charter. In its corporate name it may take and hold, by purchase, condemnation, gift or devise, and lease and convey and all such real, personal, or mixed property, within or without its boundaries, as its purposes may require, or as may be useful or beneficial to its inhabitants; and it may contract with the State, county, or with other municipalities

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for such joint services and utilities as may seem desirable and for all other legitimate purposes.

Section 3.--CONSTRUCTION OF THIS CHARTER-- 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. The specific mention of particular municipal powers in other sections of this charter shall not be construed as limiting the powers of the city in the premises to those thus mentioned.

Section 4.--CHARTER A PUBLIC ACT-- This charter shall be a public act and need not be pleaded or proved in any case. It shall take effect thirty days from and after its adoption by the voters.

CHAPTER 2.

FORM OF GOVERNMENT.

Section 5. --FORM OF GOVERNMENT-- The form of government established by this charter shall be known as the "Council and Mayor Plan". All powers of the city, unless otherwise provided in this charter, shall vest in and be exercised by the city council, subject to the initiative, referendum, and recall powers of the people.

Section 6.--CITY MANAGER-- The council may by ordinance pass ^{by} by two-thirds vote, provide for a city manager, and regulate his powers and duties. The city manager must be a competent person, but need not be a resident or citizen of the state when engaged. He shall be given full control and management of the administrative departments of the city and he shall be given the power to appoint and remove all employees working under his direction. He shall be

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responsible to the council and subject to its ~~power~~ order and discretion. He may be removed at any time by a majority vote of the council and written notice stating the cause.

Section 7.--ELECTIVE OFFICERS-- The elective officers of the city shall be:- Mayor, city treasurer, justice of the peace, municipal judge, and special judge of the municipal court, and six councilmen, all of whom shall be elected at large, provided, however, that the six councilmen so elected at large, shall be two from each ward. Each of the said councilmen shall be a qualified voter and actual resident of the ward from which he is elected; all other elective officers shall be residents and qualified voters of the city. The council shall be judge of election of mayor, treasurer and councilmen.

Section 8.--TERM OF OFFICE-- The six councilmen shall serve for a term of four years and until their successors are elected and qualified, except that at the first election held after the adoption of this charter three councilmen, one from each ward, shall be elected for a term of two years, and the other three, one from each ward, for a term of four years. The mayor and city treasurer shall serve for a term of two years and until their successors are elected and qualified.

Section 9.--ADMINISTRATIVE BOARD AND OFFICERS-- The mayor, with the advice and consent of the council, shall appoint a chief of police and other police officers, when needed, a city attorney, board of health, library board, park board, and city planning commission; the city council shall appoint a city clerk, assessor, and a street commissioner. The term of office of all appointive officers shall be during the pleasure of the appointive power and

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may be removed at any time by the appointive power.

Section 10.--INCOMPATIBLE OFFICE/S-- No member of the council shall be appointed city manager, nor shall any member hold any paid municipal office or employment under the city; and until one year after the expiration of his term as mayor, or councilman no former member shall be appointed to any paid office or employment under the city which office or employment was created or the emoluments of which were increased during his term of ^{office} councilman.

Section 11.--VACANCIES IN THE COUNCIL-- A vacancy in the council shall be deemed to exist in case of the failure of any person elected thereto to qualify on or before the date of the second regular meeting of the new council, or by reason of the death, resignation, removal from office, removal from the ward from which he was elected, continuous absence from the city for more than three months, or conviction of a felony of any such person whether before or after his qualification, or by reason of the failure of any councilman, without good cause, to perform any of the duties of membership in the council for a period of three months. In each such case the council shall by resolution declare such vacancy to exist and shall forthwith appoint an eligible person to fill the same until the next regular municipal election, when the office shall be filled for the unexpired term; provided ~~that~~ that any vacancy resulting from a recall election or from a resignation following the filing of a recall petition and any vacancy in the office of the mayor shall be filled in the manner provided in such case.

Section 12.--THE MAYOR-- The mayor shall be the chief executive officer of the city, and shall exercise all the powers and perform all the 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 purpose of the military 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. In the event of a vacancy in the office of mayor, whether by death, resignation, or any other cause, the council shall order a special election to fill the vacancy for the unexpired term, but in the case of a recall the vacancy shall be filled in the manner provided in this charter. In case of a tie in the council, the mayor shall have a deciding vote.

Section 13.-- SALARIES-- The mayor, councilmen, members of board of health, library, parks, city planning commission shall serve without compensation, except that the member of the council serving on the board of equalization shall draw legal fees therefor. The other officers and employees of the city shall receive such compensation as may be fixed by the council or by law.

Section 14. --INVESTIGATION OF CITY AFFAIRS-- The council and the mayor or either of them, and any officer or officers formally authorized by them, or either of them, shall have power to make investigation into the city's affairs, to subpoena witnesses, administer oaths, and compel the production of books and papers. The council may at any time provide for an examination or audit of the accounts of any officer or department of the city government.

CHAPTER 3

PROCEDURE OF COUNCIL.

Section 15.--COUNCIL MEETINGS-- On the first Monday after the first Tuesday in ~~July~~ ^{the month} 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 times as may be prescribed by ordinance or resolution, except that they shall meet not less than once each month. The mayor, the president of the council, or any three members of the council, may call special meetings of the council upon at least twelve (12) hours notice to each member of the council. Such notice shall be delivered personally to each member or shall be left with some responsible person at the member's usual place of residence. All meetings of the council shall be public and any citizen shall have access to the minutes and records thereof at all reasonable times. The council shall elect one of their members president of the council. He shall preside at all meetings of the council, and act as mayor during the mayor's disability or absence from the city.

Section 16.--SECRETARY OF THE COUNCIL-- The city clerk shall act as secretary of the council at all its meetings, and he shall keep such records and perform such other duties as may be required by this charter or by a vote of the council.

Section 17.--RULES OF PROCEDURE AND QUORUM-- The council shall determine its own rules and order of business, and shall keep a journal of its proceedings. A majority of all members elected shall constitute a quorum to do business, but a less number may adjourn from time to time. The council shall provide by ordinance means by which a minority may compel the attendance of absent members.

Section 18. --ORDINANCES--RESOLUTIONS AND MOTIONS-- Except as in this charter otherwise provided, all legislation and all appropriations of money shall be by ordinance, save that where an obligation has been incurred by ordinance, payment thereof may be ordered by resolution if the amount exceeds Five Hundred Dollars or by ordinary motion if the amount involved is less than that sum, and save also that licenses may be granted, property acquired for public uses, and local improvements ordered, by resolution. Every final vote upon all ordinances, resolutions, and motions, and upon all amendments thereto, shall be by ayes and noes, and the vote of each member shall be recorded in the minutes. The votes of at least four members shall be required for the passage of all ordinances, resolutions and motions, except as otherwise provided in this charter.

Section 19.--PROCEDURE ON ORDINANCES-- The enacting clause of all ordinances passed by the council shall be in the words: - "The City of Madison does ordain". Every ordinance shall be presented in writing. Every ordinance, other than emergency ordinance, shall have two public readings in full, and at least three days shall elapse between the first and the second readings thereof. Every ordinance appropriating money in excess of five hundred dollars, and every ordinance and resolution authorizing the making of any contract involving a liability on the part of the city in excess of five hundred dollars, shall remain on file in the office of the secretary of the council at least one week, and shall be published at least once in the official newspaper of the city or posted on the official bulletin boards in the manner provided by this charter, before its final passage, except in the case of emergency ordinances or resolutions.

Section 20.--EMERGENCY ORDINANCE AND RESOLUTION-- An emergency ordinance or resolution is an ordinance or resolution for the immediate preservation of the public peace, health, or safety, in which the emergency is defined or declared in a preamble thereto,

separately voted upon, and agreed to by at least five members of the council, as recorded by yeas and nays. An emergency ordinance or resolution must be in writing but may be enacted without previous filing or publication. No grant of any franchise shall be construed to be an emergency ordinance or resolution.

Section 21.--PROCEDURE ON RESOLUTION-- Every resolution shall be presented in writing and read in full before a vote is taken thereon, unless the reading of a resolution is dispensed with by a unanimous consent.

Section 22.--SIGNING AND PUBLICATION OF ORDINANCES AND RESOLUTIONS-- Every ordinance or resolution passed by the council shall be signed by the president of the council and the mayor, or by the president of the council and another member of the council, and shall be filed with the secretary of the council within two days after passage, and by him recorded and preserved. Every ordinance and resolution shall be published at least once in the official paper of the city within fifteen days after its passage by the council, or in lieu thereof may be posted on the bulletin boards as in this charter provided, and shall be recorded in a book kept for that purpose, which record shall be attested by the secretary of the council; provided that the publication of resolutions not involving the expenditure of money may be dispensed with if so ordered by the council.

Section 23 --WHEN ORDINANCES AND RESOLUTIONS TAKE EFFECT. Emergency ordinances and resolutions, and ordinances and resolutions making the annual tax levy, determining the annual budget, and providing for local improvements, shall take effect immediately upon their passage. All other ordinances and resolutions enacted by the council shall take effect thirty days after date of their passage, unless a later date is fixed therein in which event they shall take effect at such later date. Ordinances and resolutions

The First municipal election under this charter shall be held on the second Tuesday in September 1923 at such place or places as the city council may designate to elect a set of officers as herein provided. The regular municipal election thereafter shall be held on the second Tuesday in June in every odd numbered year at such place or places as the city council may determine.

adopted by the electors of the city shall take effect at the time fixed therein, or, if no such time is designated therein, then immediately upon the adoption thereof.

Section 24.--AMENDMENT AND REPEAL OF ORDINANCES AND RESOLUTIONS-- No ordinance or resolution or section thereof shall be repealed or amended by reference to its title alone, but such amending or repealing ordinance or resolution shall contain verbatim the ordinance or resolution or section thereof to be amended or repealed, together with the amended form thereof in case of amendment.

CHAPTER 4.

NOMINATIONS AND ELECTIONS.

Section 25.--THE REGULAR MUNICIPAL ELECTION-- (~~A regular municipal election shall be held on the second Tuesday in June in the year 1923 and biennially thereafter at such place or places as the city council may designate.~~) At least fifteen days previous notice shall be given by the city clerk of the time and place of holding such election, and of the officers to be elected, by posting a notice thereof in at least five of the most public places in the city, or by publishing a notice thereof at least once in the official newspaper, or both, as the council may ordain, but failure to give such notice shall not invalidate such election. At the regular election there shall be elected in addition to the municipal officers, such justices of the peace or municipal judges as may be provided by law.

Section 26. --SPECIAL ELECTION-- The council may by resolution order a special election, fix the time of holding the same, and provide all means for holding such special election. The procedure at such election shall conform as nearly as possible to that herein provided for other municipal elections.

Section 27 -- JUDGES AND CLERKS OF ELECTION-- The council shall at least ten days before each municipal election appoint three qualified voters of each election district to be judges of election therein. The judges of each election district shall appoint two qualified electors of the same district, or as many more as may be authorized by the council, to serve as clerks of election.

Section 28.--NOMINATIONS BY PETITION-- The mode of nomination of all elective officers provided for by this charter shall be by petition. The name of any elector of the city shall be printed upon the ballot whenever a petition as hereinafter prescribed shall have been filed in his behalf with the city clerk. Such petition shall be signed by a number of electors equivalent to at least five per cent of the total number of votes cast at the last regular municipal election. No elector shall sign petitions for more candidates than the number of places to be filled at the election, and should he do so his signature shall be void as to the petition or petitions last filed. All nomination petitions shall be in the hands of the city clerk at least ten days before the election. The clerk shall prepare the ballots in a manner to be provided by ordinance.

Section 29.--NOMINATION PETITIONS-- The signature to the nomination petition need not all be appended to one paper, but to each separate paper there shall be attached an affidavit of the circulator thereof stating the number of signers of such paper and that each signature appended thereto was made in his presence and is the genuine signature of the person whose name it purports to be. With each signature shall be stated the place of residence of the signer, giving the street and number or other description sufficient to identify the same. The form of the nomination petition shall be substantially as follows:

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NOMINATION PETITION.

We, the undersigned electors of the City of Madison, hereby nominate John Doe, whose residence is _____, for the office of councilman, to be voted for at the ~~in~~ election to be held on the ____ day of ____ 19__; and we individually certify that we are qualified electors and that we have not signed more nomination petitions of candidates for this office than there are persons to be elected thereto.

Name

Street and number.

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

Signed _____

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

This petition if found insufficient by the city clerk shall be returned to Richard Roe at No. _____ Street

Section 30.--CANVASS OF ELECTIONS-- The council shall meet and canvass the election returns within five days after any regular or special election, and shall make full declaration of the results as soon as possible and file a statement thereof with the city clerk. This statement shall include: (a) the total number of good ballots cast; (b) the total number of spoiled or defective ballots; (c) the vote for each candidate, with an indication of those who are elected; (d) a true copy of the ballots used; (e) the names of the judges and clerks of election; and (f) such other information as may seem pertinent. The city clerk shall forthwith notify all persons elected of the fact of their election.

Section 31.--PROCEDURE AT ELECTIONS-- The conduct of elections shall be regulated by ordinance, subject to the pro-

visions of this charter and of the general laws of Minnesota.

CHAPTER 5.

INITIATIVE, REFERENDUM AND RECALL.

Section 32.--POWERS RESERVED BY THE PEOPLE-- The people of Madison reserve to themselves the powers, in accordance with the provisions of this charter, to initiate and adopt ordinances and resolutions, to require measures passed by the council to be referred to the electorate for approval or disapproval, and to recall elected public officials. These powers shall be called the initiative, the referendum, and the recall, respectively.

Section 33.--EXPENDITURES BY PETITIONERS-- No member of any initiative, referendum, or recall committee, no circulator of a signature paper, and no signer of any such paper, or any other person, shall accept or offer any reward, pecuniary or otherwise, for service rendered in connection with the circulation thereof, but this shall not prevent the committee from incurring an expense not to exceed twenty dollars for legal advice, stationery, copying, printing, and notaries' fees. Any violation of the provisions of this section shall constitute a misdemeanor.

Section 34 -- FURTHER REGULATIONS-- The council shall as soon as possible after the organization of the city government under this charter provide by ordinance such further regulations for the initiative, referendum, and recall, not inconsistent with this charter, as may be deemed necessary. Such ordinance shall include the relevant provisions of this charter.

INITIATIVE.

Section 35.-- INITIATION OF MEASURES-- Any five electors may form themselves into a committee for the initiation of any

measure of public concern. After formulating their measure they shall file a verified copy thereof with the city clerk together with their names and addresses as members of such committee. They shall also attach a verified copy of the proposed measure to each of the signature ~~xx~~ papers herein described, together with their names and addresses as sponsors therefor.

Section 36. FORM OF PETITION AND SIGNATURE PAPERS-- The petition for the adoption of any measure shall consist of the measure, together with all the signature papers and affidavits thereto attached. Such petition shall not be complete unless signed by a number of voters equal to at least ten per cent of the total number of votes cast at the last preceding general election. All the signatures need not be on one signature paper, but the circulator of every such paper shall make an affidavit that each signature appended to the paper is the genuine signature of the person whose name it purports to be. Each signature paper shall be in substantially the following form:

INITIATIVE PETITION

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

Name

Address

1 _____

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

Name

Address

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

Section 37. ~~REVIEW OF PETITIONS AND OTHER MATTERS.~~

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

Section 38. ACTION OF COUNCIL ON PETITIONS.

Whenever the petition shall be found to be insufficient, the city clerk shall so certify to the council at its next meeting, stating the number of petitioners, and the percentage of the total number of voters which they constitute, and the council shall at once read the measure and refer it to an appropriate committee, which may be a committee of the whole. The committee or council shall thereupon provide for public hearings upon the measure, after the holding of which the measure shall be finally acted upon by the council not later than sixty-five days after the date upon which such measure was submitted to the council.

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by the city clerk. If the council shall fail to pass the proposed measure, or shall pass it in a form different from that set forth in the petition and unsatisfactory to the petitioners, the proposed measure shall be submitted ^{by} the council to the vote of the electors at the next regular municipal election. But in case the number of signers of said petition is equal to at least twenty-five per cent of the total number of voters voting at the last general election, then the council shall call a special election upon the measure to be held not less than thirty ~~day~~ nor more than forty-five days from such date, unless a regular election is to occur within three months in which case it may be submitted at such regular municipal election. In case the council passes the proposed measure with amendments and at least four-fifths of the committee of petitioners do not express their dissatisfaction with such amended form by a certificate filed with the city clerk within ten days from the passage thereof by the council, then the measure need not be submitted to the electors.

Section 39. INITIATIVE BALLOTS-- The ballots used when voting upon any such proposed measure shall state the substance thereof and shall give the voter the opportunity to vote either "For the measure" or "Against the measure". If a majority of the electors voting on any such measure shall vote in favor thereof, it shall thereupon become an ordinance or resolution of the city as the case may be. Any number of proposed measures may be voted upon at the same election, but in case there shall be more than one, the voter shall be allowed to vote for or against each separately.

Section 40. INITIATION OF CHARTER AMENDMENTS-- Nothing in this charter contained shall be construed as in any way affecting the right of the electors under the constitution and

statutes of Minnesota to prevent amendments to this charter.

SECTION 41.

Section 41. ~~THE PETITION~~ If prior to the date when an ordinance or resolution takes effect a petition signed by qualified electors of the city equal in number to twenty-five per cent of the total vote of the last general election be filed with the city clerk requesting that any such measure, or any part thereof, be repealed or be submitted to a vote of the electors, the said measure shall thereby be prevented from going into operation. The council shall thereupon reconsider the said measure at its next regular meeting, and either repass the same, or repeal the section thereof to which objection has been raised by the petitioners, or by aye and no vote reaffirm its adherence to the measure as passed. In the latter case the council shall immediately order an election to be ^{held thereon, pending which} ~~convened~~ ^{the ordinance or resolution shall remain} ~~held~~. If a majority of the voters voting thereon are opposed to the measure, it shall not become effective; but if a majority of the voters voting thereon favor the measure, it shall go into effect immediately or on the date therein specified.

Section 42. ~~REFERENDUM PETITION~~ The requirements laid down in section 35 and 36 above as to the formation of committees for the initiation of measures and as to the form of petitions and signature papers shall apply to the referendum as far as possible, but with such verbal changes as may be necessary. A referendum petition shall read as follows:

REFERENDUM PETITION

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

Name

Address

(17)

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

Name

Address

Section 43. REFERENDUM BALLOTS-- The ballots used in *any* referendum election shall conform to the rules laid down in section 39 of this charter for initiative ballots.

RECALL

Section 44. THE RECALL-- Any five electors may form themselves into a committee for the purpose of bringing about the recall of any elected officer of the city. The committee shall certify to the city clerk the name of the officer whose removal is sought, a statement of the grounds for removal in not more than two hundred and fifty words and their intention to bring about his recall. A copy of this certificate shall be attached to each signature paper and no signature paper shall be put into circulation previous to such certification.

Section 45. RECALL PETITIONS. The ~~paper~~ 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 such paper shall make an affidavit that each signature appended to the paper is the genuine signature of the person whose name it purports to be. Each signature paper shall be in substantially the following form:

RECALL PETITION

proposing the recall of _____ from his office as _____, which recall is sought for the reason set forth in the attached cer-

tificate. This movement is sponsored by the following committee of electors:

Name

Address

1

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

Name

Address

1

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

Section 46. FILING OF PETITION. Within thirty days after the filing of the original certificate, the committee shall file the completed petition in the office of the city clerk. The city clerk shall examine the same within the next five days, and if he finds it irregular in any way, or finds that the number of signatures is less than twenty-five per cent of the total number of electors who cast their votes at the last preceding general election he shall so notify one or more members of the committee. The committee shall then be given ten days in which to file additional signature papers and to correct the petition in all other respects, but they may not change the statement of the ground 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 47. RECALL ELECTION-- If the petition or amended petition be found sufficient, the city clerk shall transmit it to the council without delay, and shall also officially notify the person sought to be recalled of the sufficiency of the petition and of the pending action. The council shall at its next meeting, by motion, provide for the holding of a special recall election not

less than thirty nor more than forty-five days thereafter, provided that if any other municipal election is to occur within sixty days after such meeting, the council may in its discretion provide for the holding of the recall election at that time.

Section 48. PROCEDURE AT RECALL ELECTION-- In the published call for the election, whether posted on bulletin boards or printed in the official paper, there shall be given the statement of the grounds for the recall and also, in not more than five hundred words, the answer of the officer concerned in justification of his course in office. 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 49. FORM OF BALLOT -- Unless the officer whose removal is sought shall have resigned within ten days after the receipt by the council of the completed recall petition, the form of the ballot at such election shall be as near as may be: "Shall A be recalled?" The name of the officer whose recall is sought being inserted in place of A, and the electors shall be permitted to vote separately "Yes" or "No" upon this question. 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 A, if recalled." But the officer whose recall is sought shall not himself be a candidate upon such ballot. In case a majority of those voting for and against the recall of any official shall vote in favor of recalling such official, he shall be thereby removed from office, and in that event 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 shall have resigned within ten days after the receipt by the council of the completed recall petition, the form of ballot at the election shall

be the same, as nearly as may be, as the form in use at a regular municipal election.

CHAPTER 6.

ADMINISTRATION OF CITY AFFAIRS.

Section 50. COUNCIL ADMINISTRATION. The entire management and administration of the city affairs, including all executive and administrative powers, authority, and duties, except such executive authority as may be by this charter vested in the mayor as the chief executive of the city, shall be vested in the city council.

Section 51. 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 mayor, 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 52. SUBORDINATE OFFICES.-- The city clerk shall be subject to the direction of the city council, and shall act as its secretary, and have such duties in connection with the keeping of the public records, the custody and disbursement of the public funds, and the general administration of the city's affairs as shall be ordained by the council. 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 53. PURCHASES AND CONTRACTS -- All the purchases on the behalf of the city shall be made, and all contracts let, by the city council. All such contracts, bonds, and instruments of every kind to which the city shall be a party shall be signed

by the mayor and countersigned by the city clerk on behalf of the city, and shall be executed in the name of the city.

Section 54. CONTRACTS - HOW LET. In all cases of work to be done by contract, or of the purchase of property of any kind, when the amount involved is more than five hundred dollars, unless the council, by an emergency resolution, shall provide otherwise, it shall advertise for bids in the official paper of the city. Contracts shall be let to the lowest responsible bidder. The council may, however, reject any and all bids; and nothing contained herein shall prevent the city from contracting for the doing of work with patented processes, or from purchasing patented appliances. The council shall regulate the making of bids and letting of contracts by ordinance.

CHAPTER 7.

TAXATION AND FINANCE.

Section 55. CONTROL OF 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 56. FISCAL YEAR. The fiscal year of the city shall end May 31st of each year.

Section 57. SYSTEM OF TAXATION. Subject to the state constitution, and except as forbidden by it or by the state legislation, the council shall have full power to provide by ordinance for the system of local taxation and to change the same from time to time. Insofar as the city procures a revenue from taxes upon real and personal property as such, it shall conform as fully as possible to the general state law as to the assessment of such property and collection of such taxes.

Section 58. BOARD OF EQUALIZATION. The council shall constitute a board of equalization and shall meet as such in the usual place for holding council meetings on the date ~~set~~ fixed by statute to equalize the assessments according to law.

Section 59. ANNUAL BUDGET-- The city clerk in conjunction with the city treasurer shall prepare the estimates for the annual budget. The estimates of expenditures shall be arranged for each department or division of the city under the following heads: (1) ordinary expenses (for operation, maintenance, and repairs); and (2) capital outlays (for new construction, new equipment, and all improvements of a lasting character). Ordinary expenses shall be subdivided into (a) salaries, with a list of all salaried offices and positions, with the salary allowance and the number of persons holding each; (b) wages; (c) printing, advertising, telephone, telegraph, express charges, and other like items; (d) supplies and repairs, with sufficient detail to be readily understood. All increases and decreases shall be clearly shown. In parallel columns shall be added the amounts granted and the amounts expended under similar heads for the past two completed fiscal years, and as far as possible, for the current year. In addition to the estimates of expenditures, the estimates shall include a statement of the revenues which have accrued for the past two completed fiscal years, with the amounts collected and the uncollected balances, together with the same information, as far as possible, for the current fiscal year, and an estimate of the revenues for the ensuing fiscal year. The statement of revenues for each year shall specify the following items: sums derived from (a) taxation, (b) fees, (c) fines, (d) interest, (e) miscellaneous, not including the foregoing, (f) sales and rentals, (g) operation of

public utilities, (h) special assessments, and (l) sales of bonds and other obligations. Such estimates shall be typewritten, and shall be submitted to the council at its regular monthly meeting in September, and shall be made public.

Section 60. PASSAGE OF BUDGET-- The budget shall be the principal item of business at the regular monthly meeting of the council in September, and the council shall hold adjourned meetings from time to time until all the estimates have been considered. The meetings shall be so conducted as to give interested citizens a reasonable 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 clerk 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 fiscal year. It shall indicate the sums to be raised and from what sources, and the sums to be spent and for what purposes, according to the plan indicated. The total sum appropriated shall be less than the total estimated revenue by a safe margin. The council shall adopt the budget resolution at their regular meeting in October and levy taxes accordingly.

Section 61. ENFORCEMENT OF BUDGET . It shall be the duty of the city clerk to enforce strictly the provisions of the budget. He shall not approve any order upon the city treasurer for any expenditure unless an appropriation has been made in the budget. No officer or employee of the city shall place any orders or make any purchases except for the purposes and to the amounts authorized in the budget. Any obligations incurred by any person in the employ of the city for any purpose not authorized in the budget or for any amount in excess of the amount therein authorized shall be a personal obligation

upon the person incurring the expenditures.

Section 62. ALTERATION OF BUDGET. After the budget shall have been duly adopted, the council shall not have power to increase the amounts therein fixed, whether by the insertion of new items or otherwise, beyond the estimated revenues, unless the actual receipts shall exceed such estimates, and in that event not beyond such actual receipts. The sums fixed in the budget shall be and become appropriated at the beginning of the fiscal year for the several purposes named therein and no other. The council may at any time by a resolution passed by a two-thirds vote, reduce salaries or the sums appropriated for any other purposes, or authorize the transfer of sums from unexpended balances to other purposes.

Section 63. TAX LEVY AND COLLECTION. On their regular meeting in October each year the council shall levy by resolution the taxes necessary to meet the requirements of the budget for the ensuing year. The city clerk shall transmit to the county auditor annually not later than the tenth of October, a statement of all taxes levied, and such taxes shall be collected and the payment thereof be enforced with and in like manner as state and county taxes. No tax shall be invalid by reason of any informality in the manner of levying the same, nor because the amount levied shall exceed the amount required to be raised for the special purposes for which the same is levied, but in that case the surplus shall go into the fund to which the tax belongs.

Section 64. TAX SETTLEMENT. The city treasurer shall see to it that all moneys in the county treasury belonging to the city are promptly turned over to the city according to law.

Section 65. DISBURSEMENTS-- All disbursements shall be made only upon the order of the mayor and city clerk duly authorized by a motion of the council and every such order shall specify the purpose for which the disbursement is made, and indicate that it is to be paid out of the proper fund. Each such order shall be directed to the city treasurer, and the latter shall pay same if there is sufficient money in that particular fund with which to pay it. If no money in such fund, the city treasurer shall endorse same "Not paid for want of funds" with date of such endorsement and such warrant shall draw legal rate of interest from date of such endorsement. The city treasurer shall keep records of such endorsements and pay such warrants as soon as there is money in that particular fund, accordingly as they are filed. The city treasurer shall make no payment out of any fund except upon orders issued by the city council and signed by the city mayor and city clerk. Any order or resolution for the payment of money violating any provisions of this section shall be void, and any officer of the city violating any provision of this section shall be personally responsible for the amount of such payment, if any such payment is made contrary to the provisions hereof. No contract requiring the payment of money by the city shall be valid unless the particular fund out of which the same is to be paid is specified in such contract. No claim against the city shall be allowed unless accompanied by an itemized bill and voucher sworn to, payroll or time sheet signed by the responsible officer who has personal knowledge of the facts in the case and vouches for the correctness and reasonableness of the claim. The council may by ordinance make further ~~regulations~~ regulations for the safe-keeping and disbursement of the city's fund.

Section 66. FUNDS. There shall be maintained in the city treasury the following funds for the support of which the council may levy taxes:

(a) A sinking fund for the purchase, or payment when due, of any bond or other obligations of the city. The council shall levy an annual tax sufficient to meet all obligations against this fund when due, unless otherwise provided for.

(b) A public utility fund or funds for the acquisition, construction, extension, maintenance, and operation of any public utility owned or operated by the city, including the payment of the interest on any bonds or other indebtedness which may be a lien upon such utility. There shall be paid into this ~~and~~ fund all moneys derived from the sale of bonds issued on account of any utility, and from the operation of such utility, and from the sale of any property acquired for or used in connection with any such utility. There shall be paid out of this fund the cost of the purchase, construction, extension, operation, maintenance and repair of such utility, including the interest upon all bonds or other indebtedness which may be a lien upon such utility. Any surplus in said fund may be used for the purchase of any bonds or certificates of indebtedness issued against said utility, and for the payment of such bonds or other indebtedness upon their maturity. Separate funds and accounts shall be kept for each such utility operated separately, and in case two or more utilities are operated together ~~the~~ funds and accounts shall be kept separate as far as practicable.

(c) A general fund for the support of such other funds ~~and~~ and for the payment of such expenses of the city as the council may deem proper. Into this fund shall be paid all moneys not herein provided to be paid into any other fund.

(d) A permanent improvement revolving fund, which shall not be supported by general taxation. There shall be paid into this fund moneys received from special assessments levied for local improvements. The council may by resolution determine

the aggregate amount of the assessments for local improvements which in its judgment shall be extended for payment, as is provided in the charter. The council may order the issuance and sale of bonds representing such aggregate sum, which shall entitle the holder thereof to demand and receive from the City of Madison, upon the surrender of such bonds to the treasurer on or after the date of payment thereof, the amount of money named therein to be paid, with the rate of interest stipulated to be paid thereon to the due date thereof and not after such date. Such bonds may be issued in such amounts and become due on such dates as the council may determine, subject to the provisions of this charter. The proceeds of the sale of said bonds shall be paid in to the permanent improvement revolving fund. The council may, in its discretion, either sell said bonds direct to investors, or may contract for the sale of all such bonds that may be issued during any calendar year. No sale of such bonds, by contract, shall be made except after advertising for bids, at least one week prior to sale and such sales shall be made to the highest responsible bidder. Bids may be asked on the basis of a rate of interest specified in the proposals and on the net interest basis on which the bidder will pay par for the year.

Section 67. RECEIPTS TO GO TO THE CITY TREASURER. All receipts of money belonging to the city, or any branch thereof, excepting only those funds collected by the county treasurer, shall be paid in to the city treasurer by the person authorized to receive the same at the close of each business day. All such ~~monies~~ moneys, and also all moneys received upon tax settlements from the county treasurer, shall be deposited as soon as received in a bank or banks approved by the city council, and such depository shall give sufficient bond to be approved by the city council.

Section 68. ACCOUNTS AND REPORTS -- The city clerk shall be

the chief accounting officer of the city and of every branch thereof, and the council may prescribe and enforce proper accounting methods, forms, blanks and other devices consistent with the law, this charter, and the ordinances in accord with it. He shall submit to the council each month a statement showing the amount of money in the custody of the city treasurer, the status of all funds, the amount spent or chargeable against each of the annual budget allowances and the balances left in each, and such other information relative to the finances of the city as the council may require. Once each year on or before the first day of June, the city clerk shall submit a report to the council covering the entire financial operation of the city for the past year. This report shall show the actual total receipts and the actual total expenditures, emitting duplications, and stating the cash balances at the beginning of the fiscal year and at the close; the total outlays for operation and maintenance, and the total capital outlays; the condition of each of the funds; the total receipts by sources and the total expenditures by general purposes; the total outstanding bonds and debts of the city, when due, the amount of new bonds issued and the amount redeemed, the interest rate of each; the condition of all the annual budget allowances; and an inventory of all the property owned by the city; and such further information as the council and other city officials and the taxpayers should have.

Section 69. BONDS. No bonds shall ever be issued to pay current expenses or to refund certificates of indebtedness issued to provide for temporary deficiencies in the revenues to cover current expenses; but bonds may be issued by a two-thirds vote of the council, subject to the referendum powers of the people, for the purchase of real estate, for new construction, for new equipment, and for all improvements of a lasting character, including public utilities. The total bonded debt of the city shall

never exceed ten per cent of the last assessed valuation of the taxable property therein, including moneys and credits; but in computing the total bonded debt, certificates of indebtedness or bonds issued before or after the adoption of this charter shall not be included or counted if (1) held in a sinking fund maintained by the city; or (2) issued for the acquisition, equipment, purchase, construction, maintenance, extension, enlargement, or improvement of street railways, telegraph or telephone lines, water, lighting, heat and power plants, or either, or any other public convenience from which a revenue is or may be derived, owned, and operated by the city, or the acquisition of property needed in connection therewith, or for the construction of public drainage ditches or the acquisition of land for, or for the improvement of streets, parks, or other public improvements, to the extent that they are payable from the proceeds of assessments levied upon property especially benefited by such improvements; or (3) issued for the creation or maintenance of a permanent revolving fund; or (4) for the purpose of anticipating the collection of general taxes for the year in which issued.

Section 70. FORM AND REPAYMENT OF BOND. All bonds issued by the city shall be regular numbered series. As nearly as practicable, an equal amount of each series shall fall due each year. No bonds shall be issued to run for a longer term than the reasonable life expectancy of the property or improvement for which the bonds are authorized, as ascertained and set forth in the ordinance authorizing such bonds, and in no case shall bonds be issued to run for more than thirty ~~xxx~~ years. The purposes for which bonds are authorized shall be set forth in the ordinance authorizing them, and the ^{proceeds} ~~reserves~~ from such bonds shall not be diverted to any other purpose. It shall be the duty of the city clerk to include in his estimates for each year a sum or sums amply sufficient to pay the principal of, and the interest on, any

bonds which are to fall due in the coming fiscal year, and another sum sufficient to pay the interest for the same year on the bonds which will be still outstanding. It shall be the duty of the council, enforceable by mandamus upon the suit of any bond holder or taxpayer, to include such sum or sums as may be necessary for this purpose in the annual budget which it passes.

Section 71. EMERGENCY CERTIFICATES. If in any year the receipts from taxes or other sources from some unforeseen cause become insufficient for the ordinary expenses of the city, or if any calamity or other public emergency should subject the city to the necessity of making extraordinary expenditures, then the council may authorize the sale by the city treasurer of emergency debt certificates to run not to exceed one year and to bear interest not to exceed six per cent per annum. A tax sufficient to redeem all such certificates at maturity shall be levied as part of the budget of the following year. The authorization of an issue of such emergency debt certificates shall take the form of an ordinance approved by two-thirds of the members of the council; the ordinance may, if deemed necessary be passed as an emergency ordinance.

CHAPTER 8

PUBLIC IMPROVEMENTS AND SPECIAL ASSESSMENTS.

Section 72. POWER TO MAKE IMPROVEMENTS AND LEVY ASSESSMENTS. The City of Madison shall have the power to make any and every type of public improvement not forbidden by the laws of the state, and to levy special assessments for all such as are of a local character. The amounts assessed to benefitted property to pay for local improvements may equal the cost of the improvement with interest until paid, but shall in no case exceed the value of the benefits received by such property.

Section 73. LOCAL IMPROVEMENTS REGULATIONS. After this charter takes effect local improvements shall continue for the

time being to be made as far as possible according to the provisions and laws previously applicable thereto. As soon as possible, however, the council shall prepare and adopt a complete ordinance covering every type of public improvement, and when this ordinance takes effect it shall supplant other provisions of law upon the same subject. It may be amended from time to time as other ordinances. It shall classify public improvements into three groups, as follows:- First, those which shall be constructed or provided entirely from the general revenues of the city; Second, those which shall be constructed or provided partly from general revenues and partly from special assessments; Third, those which shall be constructed or provided entirely by special assessments. The second class may be further subdivided. The ordinance shall provide a complete working code, covering petitions of resident property owners, the determination of assessments and assessment districts, public hearings, appeals from assessments and trial thereof, reassessments, the spreading of the assessments over a period of not to exceed ten years, the collection of assessments along with other taxes or otherwise, penalties for delinquency in making payments, and all other matters appropriate to the subject of local improvements and assessments. After the passage of such ordinance, all resolutions providing for public improvements shall conform to the regulations laid down in such ordinance.

Section 74. PUBLIC WORKS-- HOW PERFORMED. Public works, including all local improvements, may be constructed, extended, repaired, and maintained either directly by day labor or by contract. The city shall require contractors to give bonds for the protection of the city, the employees, and material men.

Section 75. THE CITY PLAN. The city council may either by itself or with the assistance of an advisory city planning commission, 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 zoning, for the platting and development of new areas, for the planning and location of public works of art, public buildings, parks, playgrounds, transportation lines, and other public facilities, and for laying out, grading and improving of streets and public places, as well as for all other matters which may seem essential to such a plan. The council shall have all necessary power to enforce complete adherence by all persons to the plan adopted as provided above.

CHAPTER 9.

EMINENT DOMAIN.

Section 76. POWER TO ACQUIRE PROPERTY. The City of Madison is hereby empowered to acquire, by purchase, gift, devise, or condemnation, any property, corporeal or incorporeal, either within or without its corporate boundaries, which may be needed by said city for any public use or purpose. In addition to the power to acquire property for other public purposes, the city may also acquire, as herein provided, any gas, water, heat, power, light, telephone, or other plant, or other public utility; but no proceedings to acquire any such public utility shall be consummated unless the city has the money in its treasury to pay for the same or has by vote of the people made provision for paying for the property proposed to be acquired. Easements for slopes, fills, sewers, building lines, poles, wires, pipes, and conduits for water, gas, heat, and power may be acquired by gift, devise, purchase or condemnation in the manner provided by law.

Section 77. PROCEEDINGS IN TAKING PROPERTY. The necessity for the taking of any property of the city shall be determined by the council and shall be declared by a resolution which shall describe such property as nearly as may be and state the use to which it is to be devoted. The acquisition of such property may

be accomplished by proceedings at law, as in taking land for public use by right of eminent domain according to the laws of this state, except as otherwise provided in this chapter.

Section 78. PAYMENT OF AWARD. Whenever an award of damages shall be confirmed in any proceeding for the taking of property under this chapter, or whenever the court shall render final judgment in any appeal from any such award, and the time for abandoning such proceedings by the city shall have expired, the city shall be bound to, and shall, within sixty days of such final determination, pay the amount of the award with interest thereon at the rate of six per cent per annum from the date of the confirmation of the award or judgment of the court, as the case may be; and if not so paid, judgment therefor may be had against the city.

Section 79. CITY MAY ABANDON PROCEEDINGS. The city may, by resolution of the council at any stage of the condemnation proceedings, or at any time within thirty days after any commissioners appointment by the court hereunder shall have filed their report with the clerk of court, or in case of an appeal to the district or supreme court at any time within thirty days after final determination thereof, abandon such proceedings as to all or any parcel of the property sought to be acquired and shall pay all costs thereof.

Section 80. CITY MAY TAKE ENTIRE PLANT. In case the city shall condemn a public utility which is operated at the time of the commencement of condemnation proceedings as one property or one system, it shall not be necessary in such condemnation proceedings or any of the proceedings of the council, to describe or treat separately the different kinds of property composing such system, but all of the property, lands, articles, franchises, and rights which enter into and go to make up such system may, unless otherwise ordered by the court, be treated together as constituting

one property and as award for the whole property in one lump sum may be made by the commissioners on condemnation or other body assessing the damages. But this shall not prevent the city, in cases where the plant property is separable into distinct parts, from taking only such part or parts thereof as may be necessary in the public interests.

CHAPTER 10

FRANCHISES.

Section 81.--FRANCHISE DEFINED.-- The word "franchise" as used in this chapter shall be construed to mean any special privilege granted to any person, co-partnership, or corporation, in, over, upon, or under any of the highways or public places of the city, whether such privilege has heretofore been granted by it or by the State of Minnesota, or shall be granted by the city or by the State of Minnesota.

such places, or desiring the privilege of placing in, over, upon, or under any street or public place any permanent or semi-permanent fixture for the purpose of constructing or operating street or other railways, or for telephoning, or telegraphing, or transmitting electricity, or transporting by pneumatic tubes, or for furnishing to the city or its inhabitants or any portion thereof transportation facilities, water, light, heat, power, or any other public utility, or for any other purpose 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 83. PUBLICATION OF FRANCHISES. Every ordinance granting or extending any franchise shall contain all the terms and conditions of the franchise. A franchise shall be without any validity whatever until it has been accepted by the grantee, and until it has been given adequate publicity, by the publication of the franchise verbatim in the official paper of the city at

least once a week for three successive weeks after its passage, and by the posting of authentic copies of the franchise upon bulletin boards in at least three of the most public places in the city for a period of thirty days after its passage. Nothing herein contained shall be construed as in any way preventing the electors from exercising their powers under the referendum to reject such franchise.

Section 84. POWER OF REGULATION RESERVED. The city shall have the right and power to regulate and control the exercise by any corporation, co-partnership, or person, of any franchise however acquired, and whether such franchise has been heretofore granted by it or by the state of Minnesota, or shall hereafter be granted by the city or by the state of Minnesota.

Section 85. REGULATION OF RATES AND CHARGES. All corporations, co-partnerships, and persons exercising franchises in the city shall give courteous, efficient, and adequate service at reasonable rates. A reasonable rate shall be construed to be one which will, with efficient management, normally yield, above all operating expenses and depreciation, a fair return upon all money honestly and efficiently invested in the plant and equipment used by the company in the public service within the city. This shall not be construed as a guarantee of a return and in no case shall there be any return upon franchise value. Within these limits, the determination of the maximum price or rate to be charged by any company for the service rendered to the city or to any person or persons within the city shall be made, if possible, by direct negotiations between the company and the council at public hearings. In case of failure to reach an agreement by this method, the council shall, not less than thirty days before the expiration of any existing rate schedule or agreement appoint one representative and the company shall appoint one representative; and these two shall by mutual agreement select a third person,

preferably an expert in valuation and ratemaking, who shall together constitute a board of arbitration. This board shall report its findings as soon as possible and the rate which it shall agree upon by a majority vote shall be the legal rate, subject to revision by any court of competent jurisdiction. Schedules of rates thus fixed shall be as flexible as may be, and shall in no case fix a definite rate for a period of more than five years. The city and the company may, by mutual agreement, revise existing schedules of rates at any time, proceeding in each case as provided for the original fixing of the rates.

Section 86. CONDITIONS IN EVERY 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} ~~the~~ will perform on its part all the terms in this chapter contained, as well as all other pertinent provisions of this chapter.

(b) That the grantee shall in no case claim or pretend to exercise any power to fix fares, rates, and charges; but that such fares, rates, and charges shall at all times be just, fair, and reasonable for the services rendered, and shall in all cases be fixed and from time to time changed in the manner provided in section 85 of this chapter.

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

(d) That the grantee shall not issue any capital stock on account of the franchise or the value thereof, and that the grantee shall have no right to receive, upon condemnation pro-

ceedings brought by the city to acquire the public utility exercising such franchise, and return on account of the franchise or its value.

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

(f) That every grant in said franchise contained of permission for the erection of poles, masts, or other fixtures in the streets and for the attachment of wires thereto, or for the laying of tracks in, or of pipes or conduits under the streets or public places, or for the placing in the streets or other public places of any permanent or semi-permanent fixtures whatsoever, shall be subject to the conditions that the council shall have the power to require such alterations therein, or relocation or rerouting thereof, as the council may at any time deem necessary for the safety, health, or convenience of the public, and particularly that it shall have the power to require the removal of poles, masts, and other fixtures bearing wires and the placing underground of all wires for whatsoever purpose used.

(g) Every franchise and every extension or renewal of such franchise shall contain a provision for its acceptance in writing by the grantee within thirty days after its passage by the council and before its submission to a vote of the people in case of a referendum. No such franchise shall be binding

upon the city until its acceptance by the grantee. Such acceptance shall be construed to be an acceptance of, and consent to, all the terms, conditions, and limitations contained in the ordinance granting the franchise as well as of the provisions of this ^Nchapter.

The violation by the holder of any franchise of any of the express provisions prescribed by this section shall be sufficient cause for the forfeiture of the franchise by a resolution of the council.

Section 87. FURTHER PROVISIONS OF FRANCHISES. The enumeration and specification of particular matters which must be included in every franchise or renewal or extension thereof, shall not be construed as impairing the right of the city to insert in any such franchise or renewal or extension thereof such other and further conditions and restrictions as the council may deem proper to protect the city's interests, nor shall anything contained in this charter limit any right or power possessed by the city over existing franchises.

CHAPTER 11.

PUBLIC OWNERSHIP AND OPERATION OF UTILITIES.

Section 88. ACQUISITION AND OPERATION OF UTILITIES. The city shall have power to acquire public utilities as provided in chapter 9 of this charter. The operation of all public utilities owned by the city shall be under the supervision of the city council.

Section 89. RATES AND FINANCES. The council shall have the power to fix all rates and charges for water, light, heat, and all other utilities provided by plants owned by the city, but such rates and charges shall be just and reasonable. In like manner the council may prescribe the time and manner in which payments for all such services shall be made, and the manner in which water and electric current shall be computed or measured, whether by meter or flat rate, and make such other regulations as may be necessary, and

may prescribe penalties for violations of such regulations.

Section 90. PURCHASE IN BULK. The council may, in lieu of providing for the local production of gas, electricity, water, and other utilities, purchase the same in bulk and resell them to local consumers at such rates as it may fix.

Section 91. CITY TO PAY FOR SERVICES. The council shall make a reasonable charge, based on the cost of service, for lighting the streets and public buildings, or for supplying heat, power, or any other utility, and a reasonable hydrant rental and other charges for supplying the city with water, and shall credit the same to the publicly owned utility supplying the service. Such rentals and other charges for light, heat, power, water, and other services, shall be collected in the same manner as from other consumers, unless the council provides some other plan.

Section 92. LEASE OF PLANT. The council may, if the public interests will be served thereby, contract with any responsible person, co-partnership, or corporation, for the operation of any utility owned by the city, upon such rentals and conditions as it may deem necessary, but such contract shall be embodied in and let only by an ordinance approved by two-thirds of the council and subject to popular referendum. In no case shall such contract be for a longer term than ten years. The contractor shall be subject as far as possible to the rules as to rates and service, and as to council control laid down for the holders of franchises in ~~any~~ chapter 10 of this charter.

Section 93. Public UTILITY -- NOW SOLD. No public utility owned by the city, whether acquired prior to the adoption of this charter or thereafter, shall be sold or otherwise disposed of by the

city, unless the full terms of the proposition of said sale or other disposition thereof, together with the price to be paid therefor, shall have been embodied in an ordinance passed by a two-thirds vote of the council in the usual way, and submitted to the electors at a general ^{or special election and approved by a majority vote of the} voting thereon. _{electors}

CHAPTER 12.

MISCELLANEOUS AND TRANSITORY PROVISIONS.

Section 94. OFFICIAL PUBLICATIONS. The council shall regulate by ordinance the manner in which official publicity shall be given to the holding of elections, to ordinances, resolutions, initiative, referendum, and recall petitions, to requests for bids upon contemplated purchases and contracts, and to all other matters whatsoever which require publication either by the terms of this charter or by the laws of Minnesota. It shall annually designate a newspaper of general circulation in the city as the official paper in which shall be published such measures and matters as are by the laws of this state required to be so published, and such other matters as the council may deem it wise to have published, in this manner. The council may in its discretion provide for the publication of the annual budget, ordinances, resolutions, initiative, referendum, and recall petitions, election notices, and such other measures and matters as it may deem wise by the posting of typewritten mimeographed, or printed copies thereof upon at least three bulletin boards located in the most public places of the city, at important street intersections, at the city hall, and so on, and for such period of time as the council may direct in each case. If the latter method of publication is adopted, the council may provide that it shall be in lieu of other methods of publication or in addition thereto at its option. Wherever in this charter there is a requirement of the publication of any measure or matter where the manner of publication is not otherwise provided for, it shall be understood that the city council may designate the manner of such publication, subject to the option permitted by this section.

Section 95. OATH OF OFFICE. Every officer of the city shall, before entering upon the duties of his office, take and subscribe an oath of office in substantially the following form: "I do solemnly swear (or affirm) to support the constitution of the United States and of the state, and to discharge faithfully the duties devolving upon me as (mayor or councilman) of this city to the best of my judgment and ability".

Section 96. CITY OFFICERS NOT TO ACCEPT FAVORS OR CONTRACTS. No officer or employee of the city shall solicit or receive any pay, commission, money or thing of value, or derive any benefit, profit, or advantage, directly or indirectly, from or by reason of, any improvement, alteration, or repair required by authority of the city, or any contract to which the city shall be a party, except his lawful compensation or salary as such officer or employee. No officer or employee of the city, except as otherwise provided in this charter, or by law, shall solicit, accept, or receive, directly or indirectly from any public utility corporation or the owner of any public utility or franchise, any pass, frank, free ticket, free service, or any other favor, upon terms more favorable than those granted the public generally. A violation of any of the provisions of this section shall disqualify the offender from continuing in office or in the employment of the city, and he shall be removed therefrom. Any contract with the city in which any officer or employee of the city is, or becomes, directly or indirectly interested, personally, or as a member of a firm, or as an officer or director of a corporation, shall be void; and any money which shall have been paid on such contract by the city may be recovered from any or all the persons interested therein by joint or several action.

Section 97. OFFICIAL BONDS. The city treasurer, clerk, and such officers of the city as may be provided for by ordinance, shall each before entering upon the duties of their respective offices, give bond to the city in such sum as may be fixed by the council as an additional security for the faithful performance of

their respective official duties and the safekeeping of the public funds. Such bonds shall be approved by the city council and shall be endorsed by at least three members of the council as having been so approved. They shall be filed with the city clerk except the bond of the city clerk which shall be filed with the city treasurer. The provisions of the laws of the state relating to official bonds, not inconsistent with this charter, shall be complied with.

Section 98. CITY PROPERTY NOT LOST BY ADVERSE POSSESSION. No right, title, estate, or easement of the city in any property shall be lost by adverse possession or occupancy, and no statute of limitations shall operate against the city in favor of any person occupying any public property or highway, whether such highway shall have been improved or not.

Section 99. SALES OF REAL PROPERTY. No real property of the city shall be disposed of except by ordinance or resolution. The proceeds of any such sale shall be used as far as possible to retire any outstanding indebtedness incurred by the city in the purchase, construction, or improvement of this or other property used for the same public purpose; but if there be no such outstanding indebtedness, then the council may by a resolution adopt^{ed} by a two-third vote designate some other public use for such proceeds.

Section 100. VACATION OF STREETS. No street or alley within the city shall be discontinued except by ordinance approved by a two-thirds vote of the council and subject to popular referendum. A record of such vacation shall be made in the office of the Register of Deeds of the county.

Section 101. DAMAGE SUITS. No action shall be maintained against the city on account of any injuries or damages to persons or property, unless such action shall be commenced within one year from the occurrence of such injury or damage, nor unless notice shall have been given in writing to the city clerk within

thirty days of the occurrence of such injury or damage, stating the time when and the specific place where, and the circumstances under which, the same occurred, and that the person injured or damaged will claim damages of the city therefor. And said city shall be absolutely exempt from liability to any person for damages for injuries suffered or sustained by reason of defective streets or sidewalks within said city unless actual notice in writing of such defects in said streets or sidewalks shall have been filed with the city clerk within at least ten days before the occurrence of such injury or damage. In the absence of such notice the city shall not be liable for any injury or damage on account of such defects, and in all cases such notice shall describe with particularity the place and nature of the defects of which complaint is made.

Section 102. RECOVERY OF JUDGMENT FOR DAMAGES. If any judgment shall be recovered in any action against the city for any injury or damage caused by any obstruction, excavation, opening, or defect in any street or alley or public ground caused or occasioned by the act or omission of any person or corporation, the city shall have the right to recover the amount of any such judgment from the person or corporation so responsible for such obstruction, excavation, opening, or defect; and such person or corporation is hereby declared to be liable to the city in the amount of such damages.

Section 103. 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 the legal obligations, of the city under the former corporation.

Section 104. PRESENT OFFICERS TO HOLD OFFICE TILL WHEN. The present officers of the city shall continue in their respective offices and functions, and shall continue to govern the city

in the usual manner until the first Monday after the first Tuesday
in October 1923.

They shall make such financial and other provisions for the
 fiscal year 1923 ^{as will serve to carry on the government until a government}
 set up under this charter, and they ^{has been}

shall make provisionx for the election of the first city council
 as provided for in chapter 4 of this charter.

Section 105. STATUTES NOT AFFECTED BY THE CHARTER. All
 general laws and statutes of the state applicable to all cities
 operating under home rule charters or applicable to cities of ~~x~~
 the same class as the city of Madison operating under home rule
 charters, and not inconsistent with the provisions of this
 charter, shall apply to the City of Madison and shall be construed
 as supplementary to the provisions of the charter, provided that
 by a two-thirds vote ~~of~~ the city council may exempt the city from
 the operation of any of the said general laws and statutes by
 ordinance. But nothing in this charter shall be construed as
 authorizing or as attempting to authorize any violation of the
 constitution or the statutes of the state in any matter which is
 of state concern or which is exclusively under state control.

Section 106. EXISTING ORDINANCE 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 re-
 pealed.

Section 107. PENDING CONDEMNATIONS AND ASSESSMENTS. Any
 condemnation or assessment proceeding in progress when this
 charter takes effect shall be continued and ~~completed~~ 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.

(45)

Section 108. ORDINANCES TO MAKE CHARTER EFFECTIVE. The council is hereby empowered to, and it shall by ordinance, make such regulations as may be necessary to carry out and make effective the provisions of this charter.

CERTIFICATE OF ADOPTION

State of Minnesota }
County of Lac qui Parle } 23
City of Madison }

WHEREAS, the Honorable C. E. Gyle and Richard T. Daly, Judges of the District Court in and for the Twelfth Judicial District of Minnesota, did on the 28th day of December 1922 duly make and file their order under and pursuant to Section 33 of Article IV of the Constitution of the State of Minnesota and laws enacted pursuant thereto, appointing a board of freeholders to frame and submit a Charter for the City of Madison, Lac qui Parle County, Minnesota, for its own government;

AND WHEREAS, all the members of said board of freeholders appointed by said order thereafter duly qualified as such, and did on the 30th day of January 1923 effect a permanent organization of the said board;

AND WHEREAS, said board of freeholders in obedience to said order, did, thereafter duly prepare, adopt and frame a proposed charter for the said City of Madison of which the attached document composed of 108 sections numbered from 1 to 108, both inclusive, is a draft;

NOW, THEREFORE, We, the undersigned, members of the said board of freeholders, under and pursuant to the power conferred upon us as aforesaid, do hereby sign the said draft of a proposed charter for the City of Madison and do hereby deliver the same to the Honorable Nels Westby, Mayor of said City, to be submitted to the voters of the City of Madison in the manner prescribed by law.

Dated at Madison, Minnesota, June 7th 1923.

M. F. Soderberg
Chairman.

Theodor S. Sten
Secretary

J. R. Swann

H. L. Sorensen

Olaf Haugen

J. L. Johnson

A. C. Galle

Chas. F. Thiel

Wm. J. Sorensen

Wm. Sorensen

Z. R. Hayden

Leo A. Nikolai

H. J. Hauck

Therese Bjornlie

E. H. Peterson

STATE OF MINNESOTA
COUNTY OF LAC QUI PARLE } SS
CITY OF MADISON

I, Nels Westby, who at this time am, and at all times herein mentioned have been, the duly elected, qualified and constituted chief magistrate, to wit, the Mayor of the City of Madison, Lac Qui Parle County, Minnesota, in accordance with the provisions of Section 36 of Article IV of the Constitution of the State of Minnesota, and the Laws of the state enacted pursuant thereto, do hereby certify as follows, to wit:

That attached hereto and made a part hereof is a true and correct copy of the Charter of the City of Madison, which was framed as a proposed charter by a Board of Freeholders thereunto duly appointed by the judges of the District Court of Lac Qui Parle County, Minnesota, and which proposed charter was by them delivered to the Mayor of the City of Madison, who transmitted the same to the Common Council thereof. That said Common Council duly caused said proposed charter to be submitted to a vote of the people of said City of Madison at an election duly called for that purpose and held on August 7th 1923. That the results of said election were duly canvassed and declared by the said council of said city on August ^{13th} ~~2~~ 1923, and that said proposed charter was then ratified and adopted by a vote of more than four-sevenths (4/7) of the electors voting at such election and thereupon became the Charter of the City of Madison, Lac Qui Parle County, Minnesota, to take effect at the time provided by law.

In Testimony whereof, I have hereunto set my hand as Mayor of the said City and have caused the

same to be authenticated by the Corporate Seal of said City
and attested by its City Clerk this 15th day of August 1923.

W. H. Nesbitt
Mayor, City of Madison,
Lea Qui Parle Co., Minn.

Attest:

M. J. Hoff
City Clerk of said City.

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