

# CITY OF EXCELSIOR

339 THIRD STREET  
EXCELSIOR, MINNESOTA 55331  
TELE: 612-474-5233

MAYOR  
Richard J. Knapp

COUNCIL  
Lucille Crow  
James Grathwol  
Charles S. Thomson  
Carl H. Weisser

CITY MANAGER  
Timothy G. Madigan

December 9, 1982

Joan Growe  
Secretary of State  
180 State Office Building  
St. Paul, Minnesota 55155

STATE OF MINNESOTA  
DEPARTMENT OF STATE  
FILED  
DEC 10 1982

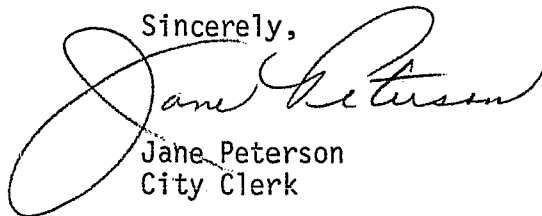
Secretary of State

Madam Secretary:

Enclosed is a copy of the newly adopted  
Home Rule Charter for the City of Excelsior.

The Charter was adopted by the voters of  
Excelsior November 2, 1982.

Sincerely,

  
Jane Peterson  
City Clerk

/p  
Encl.

34273  
O.D.

STATE OF MINNESOTA )  
COUNTY OF HENNEPIN ) SS  
CITY OF EXCELSIOR )

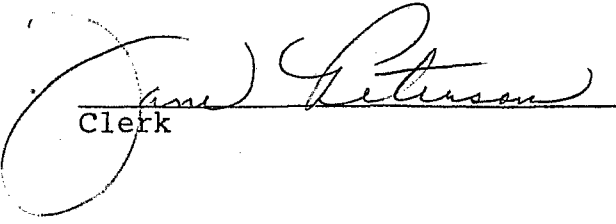
STATE OF MINNESOTA  
DEPARTMENT OF STATE  
FILED  
DEC 10 1982

Secretary of State

I, Jane Peterson, being the duly appointed, qualified and acting Clerk of the City of Excelsior, Hennepin County, Minnesota, do hereby certify that I have carefully compared the attached copy of the Home Rule Charter of the City of Excelsior, Minnesota, with the original thereof, on file in the office of the Clerk of said City, and that said copy constitutes a full, true and correct copy thereof.

I further certify that said Charter was duly adopted at a general election occurring in said City on the 2nd day of November, 1982, at which 600 votes were cast in favor thereof and 524 votes were cast in opposition thereto.

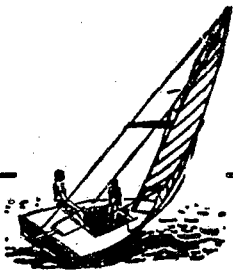
WITNESS my hand and the seal of said City this 9th day of  
December, 19 82

  
Clerk

(S E A L)

STATE OF MINNESOTA  
DEPARTMENT  
FILED  
DEC 10 1982  
Secretary of State

**HOME RULE CHARTER**  
**OF THE**  
**CITY OF EXCELSIOR**  
**MINNESOTA**



CHARTER

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PROPOSED  
HOME RULE CHARTER  
OF THE  
CITY OF EXCELSIOR, MINNESOTA

CHAPTER I

Name, Boundaries, Powers and General Provisions

Section 1.01 Name and Boundaries: The City of Excelsior in Hennepin County, Minnesota shall continue to be a municipal corporation under that name and with the same boundaries as now exist or may hereafter be established.

Section 1.02 Powers of the City: The City shall have all powers which may now or hereafter be possible for a municipal corporation in this state to exercise in harmony with the constitution of this state and the United States. It is the intention of this charter to confer upon the city every right and power, within the law and statutory limits of this state, which it would have if it were specifically mentioned. Unless expressly limited or prohibited by this charter and/or amendments thereof, all powers are vested in the city council. This charter shall be construed liberally in favor of the city.

CHAPTER II

Form of Government

Section 2.01 Form of Government: The form of government established by this charter is the "Council-Manager Plan." Except as provided by law or this charter, all functions and powers of the city shall conform to M.S. 412.601 through M.S. 412.751 optional Plan B, and all rights, duties, obligations, and powers of M.S. 412.601 through M.S. 412.751 are hereby incorporated by reference within this charter.

CHAPTER III

Council Procedure

Section 3.01 Rules of Procedure: The council shall determine its own rules and order of business. A majority of all members elected shall constitute a quorum to do business but a smaller number may adjourn from time to time.

Section 3.02 Legislation by Ordinance: Except as herein provided otherwise all legislation shall be by ordinance. Yes and no votes shall be recorded on ordinances and resolutions unless the vote is unanimous. An affirmative vote of a majority of all members of the council shall be required for passage of all ordinances except when a higher percentage is required by state law. Passage of legislative resolutions called for by

state law shall require an affirmative vote of a majority of all members of the council.

Section 3.03 Timing of Ordinance Adoption: No ordinance except an emergency ordinance shall be passed at the meeting at which it is introduced and at least seven days shall elapse between its introduction and passage in final form.

Section 3.04 Emergency Ordinances: An emergency ordinance is an ordinance necessary for the immediate preservation of public peace, health, moral safety or welfare in which the emergency is defined and declared in a preamble.

Section 3.05 Signing, Filing and Publication of Ordinances and Resolutions: Every ordinance shall be signed by the mayor and attested by the city clerk, published as required by state law and filed and preserved in the city clerk's office.

Every resolution shall be given a number, signed by the mayor, attested to by the clerk and filed and preserved in the city clerk's office.

Section 3.06 Effective Dates of Ordinances and Resolutions: A resolution not requiring publication shall take effect immediately upon its passage or at a later date as is fixed therein. Resolutions required by state law to be published and ordinances shall take effect 30 days after publication or at such later date as is fixed therein unless such effective date is otherwise altered by application of the provisions

herein contained relating to initiative and referendum. Emergency ordinances shall, in all cases, take effect upon publication.

#### CHAPTER IV

##### Initiative and Referendum

Section 4.01 Powers Reserved by the People: The people of Excelsior reserve to themselves the powers in accordance with the provisions of this charter to initiate and adopt ordinances and to require measures passed by the council to be referred to the electorate for approval or disapproval. These powers shall be called initiative and referendum. They shall be accomplished by petition as provided for in this chapter.

Section 4.02 General Provisions for Petitions: A petition provided for under this chapter shall be sponsored by a committee of 5 or more registered voters of the city whose names and addresses shall appear on the petition, one of whom shall be designated by the committee to receive service of all notices and communications resulting from the petition. Any petition may consist of one or more pages, but each separately circulated page shall contain at its head, or attached thereto, the information specified in Section 4.05 if the petition pertains to initiative, and in Section 4.06 if the petition pertains to referendum.



Prior to circulating the petition for signatures, a notarized copy shall be filed with the city clerk together with the names and addresses of all members of the sponsoring committee. The petition shall be posted at the city hall and be available for inspection by members of the public. In the event the petition as filed concerns itself with initiative, the subject of the proposed ordinance shall be placed on the agenda of the next scheduled meeting of the city council; the council shall thereupon during the next 30 days provide for public hearings upon the proposed ordinance, after holding of which the ordinance as posted, amended, or changed may or may not be adopted by the council. The council may, with the agreement of the majority of the sponsoring committee, extend the period for public hearings for up to 6 months.

If the city council fails to pass the proposed ordinance within 30 days after conclusion of the public hearings, or passes it in a form different from that set forth in the petition and unsatisfactory to the sponsoring committee, the petition may thereafter be circulated for the purpose of obtaining required signatures sufficient to invoke the procedure set forth in Section 4.05.

Each person signing the petition shall sign his or her name and give his or her street address. Each separate page of the petition shall have appended to it a certificate, containing the notarized signature of the circulator, testifying that each signature is the genuine signature of the person whose name it purports to be.

The person making the certificate must be a resident of the city currently registered to vote. Any person whose name appears on a petition may withdraw his or her name by a statement in writing filed with the city clerk before submission of the clerk's report to the council provided for in Section 4.03.

Section 4.03 Determination of Sufficiency: The committee shall file the completed petition in the office of the city clerk. For a petition to be sufficient to invoke the procedures set forth in Sections 4.05 or 4.06, whichever applies, it must be signed by not less than 15% of the number of persons who were registered to vote in Excelsior in the last regular city election. Within 10 working days after the filing of the petition, the city clerk shall ascertain by examination the number of citizens whose signatures are appended thereto, examine the petition as to its compliance with the requirements of this chapter, and submit a report with the petition to the council at its next scheduled meeting. Upon receiving the report, the council shall determine by resolution the sufficiency of the petition.

Section 4.04 Disposition of Insufficient or Irregular Petition: If the council determines that the petition is insufficient or irregular, the city clerk shall within 5 working days deliver a copy of the petition, together with a written statement of its defects, to the person the sponsoring committee has designated to receive notices. The committee shall have 30 days from receipt of the statement of defects in which to file additional signature papers and, if necessary, to

correct the petition in all other particulars. Within 10 working days of such filing, the city clerk shall re-examine the corrected petition as to its compliance with the requirements of this chapter and submit a report with the petition to the council at its next scheduled meeting. If the council finds that the petition is still insufficient or irregular, the city clerk shall file the petition in his or her office and notify the person the sponsoring committee has designated to receive notices. The final finding that the petition is insufficient or irregular shall not prejudice the filing of a new petition for the same purpose, nor shall it prevent the council from referring the subject matter to the voters at the next regular or special election.

Section 4.05 Initiative: Any ordinance may be proposed to the city council by petition which shall state at the head of each page or attached to it the exact text of the proposed ordinance. If the council enacts the proposed ordinance within 45 days after the final determination of sufficiency of the petition, it need not be submitted to the voters. If the council has not enacted the proposed ordinance as provided in Section 4.02, the question of whether the ordinance should be adopted shall be placed on the ballot at the next city election; provided, however, that if no regular city election is to occur within 90 days following the expiration of the 45 day period, the council shall call a special city election on the ordinance which shall be

held within such 90 day period. In voting on the ordinance a ballot stating the substance of the ordinance shall be used and shall give the voters the opportunity of voting yes or no on the question of its adoption. If a majority of those voting on the ordinance vote in favor of its adoption, the ordinance shall become effective 30 days after certification of the election results, unless the ordinance specifies a later effective date. The clerk shall arrange for publication of the ordinance in the same manner as any other ordinance.

Section 4.06 Referendum: Any newly adopted ordinance may be subjected to referendum by a petition. Such petition shall state at the head of each page, or attached thereto, the exact text of the ordinance. If a sufficient petition is filed within 30 days after an ordinance is newly adopted by the council, the effective date of the ordinance shall be held in abeyance pending final disposition of the matter in the manner hereinafter provided. If the council repeals the ordinance within 45 days after the final determination of sufficiency of the petition, it need not be submitted to the voters. The question of whether the ordinance shall be repealed shall be placed on the ballot at the next city election; provided, however, that if no regular city election is to occur within 90 days following the expiration of the 45 day period, the council shall call a special city election on the ordinance which shall be held within such 90 day period.

In voting on the ordinance a ballot stating the substance of the ordinance shall be used and shall give the voters the opportunity of voting yes or no on the question of repeal of the ordinance. If a majority of those voting on the repeal vote in favor of it, the ordinance shall be repealed effective immediately upon certification of the election results. If, however, an ordinance held in abeyance is not repealed by said vote, the ordinance shall become effective 30 days after certification of the election results, unless the ordinance specifies a later effective date. The clerk shall arrange for publication of the ordinance in the same manner as any other ordinance.

#### CHAPTER V

##### Eminent Domain

Section 5.01 Power to Acquire Property: The city may acquire, by purchase, gifts, devise, or condemnation, any property, real, personal, corporeal or incorporeal, either within or without its corporate boundaries, which may be needed by the city for any public use or purpose. Easements for slopes, fills, drainages, 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 5.02 Proceedings in Acquiring Property: The taking of any property by the city by condemnation shall be instituted by the council adopting a resolution which shall describe such property as nearly as may be and state the use to which it is proposed to be devoted; the resolution shall be passed by at least a majority of the members of the council.

Section 5.03 Public Hearing: The resolution as passed shall call for a public hearing on the question of whether it is in the public interest to acquire the property through the exercise of the power of eminent domain and whether there is a public necessity for such acquisition by the city.

Section 5.04 Notice: A public hearing set by the council shall be preceded by two weeks published notice, the last publication to occur not less than 7 days before the date of the public hearing. Notice of the hearing, and the date, time, and place shall be mailed to the owner of each property subject to acquisition at least 7 days prior to the date of the hearing. Failure to give mailed notice or any defect in the notice itself shall not invalidate the proceedings.

Section 5.05 Hearing: All persons shall have an opportunity to be heard at such public hearing.

Section 5.06 Ordinance Determining Necessity for Taking: Upon completion of the hearing, the city council, in the event it determines to proceed with acquisition of the property, shall adopt an ordinance

which shall:

- 1) Describe the property to be taken.
- 2) Set forth the necessity for the taking of the property.
- 3) Use to which the property is to be put.
- 4) A finding that it is in the public interest for the city to acquire the property.

Such ordinance shall be adopted by a majority of the members of the council, and published in accordance with the provisions of this charter.

Section 5.07 Commencement of Action to Acquire Property: Following the effective date of such an ordinance, the city may thereupon file and initiate with the proper court a petition for the taking of said property for public use by eminent domain.

Section 5.08 Payment of Award: Whenever an award of damages is confirmed in any proceeding of taking of property for public use by right of eminent domain or a court renders judgment in any appeal from such award, and the time for abandoning such proceedings by the city has expired, the city shall pay the amount of the award or judgment, and if not paid, judgment therefore shall be had against the city.

CHAPTER VI

Municipal Redevelopment Areas

Section 6.01 Conformity with Comprehensive Plan: In the event the city council shall authorize, in the manner provided by statute, a Municipal Housing and Redevelopment Authority to transact business and exercise powers in the city, it shall also, within 180 days after such authorization becomes finally effective, review, find and determine, and specifically designate in an ordinance, those geographic areas of the city wherein proposals by the housing and redevelopment authority for the establishment of a development district, or districts, would be in conformity with the objectives, goals and policies expressed in the city's approved Comprehensive Plan.

Section 6.02 Procedure: Such ordinance shall be adopted after a public hearing thereon, preceded by ten days published and posted notice.

Section 6.03 Amendment: Such ordinance may be amended from time to time by the council first following the public hearing and notice procedures of Section 6.02.

CHAPTER VII

Miscellaneous and Transitory Matters

Section 7.01 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 30 days from and after its adoption by the voters, as provided for in M.S. 410.11.

Section 7.02 Effect of State Statutes: All general laws and statutes of the state applicable to all cities operating under home rule charters and not inconsistent with the provisions of this charter shall apply to the City of Excelsior and shall be constituted supplementary to the provisions of this charter.

Section 7.03 Existing Ordinances Continued: All ordinances and regulations of the city in force when this charter takes effect and not inconsistent with its provisions are hereby continued in full force and effect until amended or repealed.

Section 7.04 Amendment of Charter: Nothing herein shall be construed as in any way affecting the right of the electors to propose amendments to this charter as provided in Minnesota Statutes 410.12.

Section 7.05 City Obligation: All pending actions by the city in process when this charter takes effect may be continued and completed within the laws under which such proceedings were begun. The city shall succeed to all rights, property and privileges and shall be subject to all legal obligations of the city in effect prior to the effective date of this charter.

CERTIFICATE

The within draft of the proposed charter for the City of Excelsior is hereby approved by the undersigned, a majority of the duly appointed and qualified members of the City of Excelsior Charter Commission. By executing this document the undersigned do herewith instruct the chairman of the Charter Commission to forthwith deliver to the City Clerk of the City of Excelsior three fully executed copies of this proposed charter in order that the City Council of the City of Excelsior can take that action as required by statute.

<u>Name</u>	<u>Address</u>	<u>Term of Office</u>
Patricia B. Thul	44 First St.	4-14-86
LaVonne M. Jacobsen	777 Exc. Blvd.	4-27-86
Walter R. Roeske	640 3rd Av.	10-15-82
Carl O. [unclear]	130 Lake St.	10-15-82
June M. Drebing	322 Lake St.	10-15-82
Paul J. [unclear]	112 3rd St	4-14-86
Maryanne Johnson	510 Whelan Dr.	10-15-82
Carl H. Weisly	248 Lake St.	10-15-84
John J. Raymond	450 W <sup>th</sup> St.	10-15-84
Robert M. Muehl	176 Maple	1-1-85
Romona Brown	135 1st St.	10-15-84
Kenneth J. Wiley	2 Mac Lynn Rd	1-1-85

The above certificate executed on the 24<sup>th</sup> day of August, 1982.

Members of the Excelsior Charter Commission

Ralph Bolt  
Mona Brand  
Chase Cornelius  
June Drebing  
Paul Heck  
Lavonne Jacobsen  
Maryanne Johnson

Robert Murphy  
John Raymond  
Wallace Roepke  
Nick Ruehl  
Joel Thomson  
Patricia Thul  
Carl Weisser

Chairman

Ken Wiley