

Council Chambers, November 7th, 1941.

Special meeting of the Village Council of the Village of Gilbert, St. Louis County, Minnesota, called to order by President Protem Schweiger, duly elected as such in the absence of President Carlson, in the Council Chambers of said Village on Friday, the 7th day of November, 1941, at 5:45 o'clock P. M., by virtue of the call in writing of two members, filed in the Clerk's office, and due and proper notice having been given in writing to each member of the Council for the purpose of canvassing the results of the Special Village Election held November 6th, 1941, to determine whether the proposed charter of the City of Gilbert was ratified.

Members Present: President Protem Schweiger, Trustees Potocnik and Silda and Clerk Indihar.

Members Absent: President Carlson.

Minutes

Trustee Potocnik moved that the Clerk be instructed to dispense with the reading of the minutes of the meeting of said Council held on November 5th, 1941. Said motion was supported by Trustee Silda and prevailed upon the following vote: Ayes, President Protem Schweiger, Trustees Potocnik and Silda and Clerk Indihar. Nays, None.

New Business

Trustee Silda moved that the Village Council proceed to canvass the results of the Special Village Election of said Village of Gilbert, St. Louis County, Minnesota, held November 6th, 1941, between the hours of 7:00 o'clock A. M. and 8:00 o'clock P. M. Said motion was supported by Trustee Potocnik and prevailed unanimously, whereupon the Village Council carefully canvassed the returns and reports of the Judges and Clerks of the various Election Districts in said municipality, and thereafter, the following Village Resolution was presented by Trustee Potocnik, who moved its adoption:

Village Resolution No. 36-41

WHEREAS, The results of the Special Election held in the three Election Districts or Precincts, as heretofore established, in the Village of Gilbert, St. Louis County, Minnesota, on November 6th, 1941, were canvassed by the Village Council of said Village, and the reports of the Judges and Clerks of the various Election Districts or Precincts in said municipality were adopted without alteration, and

WHEREAS, The vote on the question "Shall the proposed (City) Charter be adopted (pursuant to Article 4, Section 36 of the State Constitution)?", as canvassed by the Council, and as proclaimed to the voters by the Clerks of the various Election Boards and duly signed by the Judges thereof, is as follows:

9004

621244

OFFICE OF REGISTER OF DEEDS  
STATE OF MINNESOTA )  
County of St. Louis ) SS

I hereby certify that the within Instru-  
ment was filed in this office for record  
NOV 15 1941 at 11:30 A.M.  
and was duly recorded in Book 89  
of 7000 Page 675  
CHAS. CALLIGAN  
REGISTER OF DEEDS  
By Ed Palmer  
DEPUTY

Form No. 865.

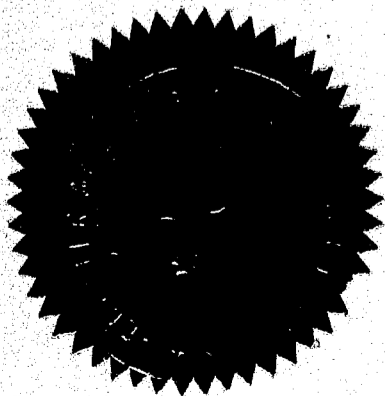
STATE OF MINNESOTA, }  
County of St. Louis. } SS.

I, Charles Calligan, Register of Deeds of said County, do hereby certify that the within is a true and correct copy of the record in my office as found in Book 89 of Misc Records on page 675 et seq. That I have compared such copy with the original record and that it is a correct transcript therefrom.

Dated this 13 day of Nov, A. D. 1911.

CHARLES CALLIGAN,  
Register of Deeds.

By W. Palmer Deputy.



Form No. 865.

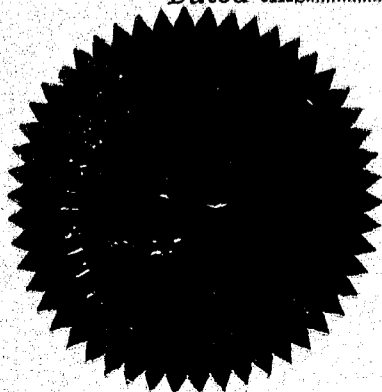
STATE OF MINNESOTA, }  
County of St. Louis. } ss.

I, Charles Calligan, Register of Deeds of said County, do hereby certify that the within is a true and correct copy of the record in my office as found in Book 89 of Misc Records on page 675. That I have compared such copy with the original record and that it is a correct transcript therefrom.

Dated this 15 day of Nov, A. D. 1911.

CHARLES CALLIGAN,  
Register of Deeds.

By W. Palmer  
Deputy.



That there were 849 votes cast upon said proposition, as follows:

Election District No. 1	721
Election District No. 2	437
Election District No. 3	91

That 562 votes were cast for ratification of the proposed City Charter, as follows:

Election District No. 1	201
Election District No. 2	306
Election District No. 3	55

That 284 votes were cast against ratification of the proposed City Charter, as follows:

Election District No. 1	118
Election District No. 2	131
Election District No. 3	35

That there were three (3) spoiled ballots, as follows:

Election District No. 1	2
Election District No. 2	0
Election District No. 3	1

therefore be it

RESOLVED, That since the proposed City Charter was ratified by more than four-sevenths ( $\frac{4}{7}$ ) of those voting on the question, the proposed City Charter was declared adopted, and the Village of Gilbert was declared to be the City of Gilbert on and after the 6th day of December, 1941, pursuant to Article 4, Section 36 of the State Constitution and the statutory provisions applicable thereto.

Said motion was supported by Trustee Silda and said Resolution No. 36-41 was passed and declared adopted this 7th day of November, 1941, upon the following vote: Ayes, President Protem Schweiger, Trustees Potocnik and Silda and Clerk Indihar. Nays, None.

Adjournment

Upon motion of Trustee Silda, supported by Trustee Potocnik, the meeting was then adjourned this 7th day of November, 1941, at 7:00 o'clock P. M. upon the following vote: Ayes, President Protem Schweiger, Trustees Potocnik and Silda and Clerk Indihar. Nays, None.

  
President of the Village of Gilbert

Attest:   
Clerk of the Village of Gilbert

State of Minnesota )  
County of St. Louis) SS  
Village of Gilbert )

I, Frank J. Indihar, Clerk of the Village of Gilbert, St. Louis County, Minnesota, certify that I have compared the foregoing copy of the minutes of the proceedings of the Special Council Meeting of the Village of Gilbert, St. Louis County, Minnesota, held on November 7th, 1941, with the original minutes of said meeting in my office, and that it is a true and correct copy of the same and the whole thereof.

Dated at Gilbert, St. Louis County, Minnesota, this  
12th day of November, 1941.

  
Village Clerk

CERTIFICATE OF ADOPTION

STATE OF MINNESOTA  
COUNTY OF ST. LOUIS SS  
VILLAGE OF GILBERT

I, Arlin B. Carlson, president of the village council of the village of Gilbert, St. Louis County, Minnesota, and as such the Chief Magistrate of said village, do hereby certify that the Charter hereto attached, and hereby expressly made a part of this certificate, is the Charter returned and filed with the Chief Magistrate of said village of Gilbert by the Board of Freeholders duly appointed, qualified and acting as a commission to frame the said Charter, and is the Charter submitted to the voters of the said village of Gilbert for ratification and adoption at the special election held in said village on the 6th day of November, 1941, and that said Charter was duly ratified and adopted by the voters of said village of Gilbert on said 6th day of November, 1941, at said special election by the following vote, to-wit:

In favor of the adoption of said Charter 562 votes.  
Against the adoption of said Charter 284 votes.  
Number of spoiled ballots 3.

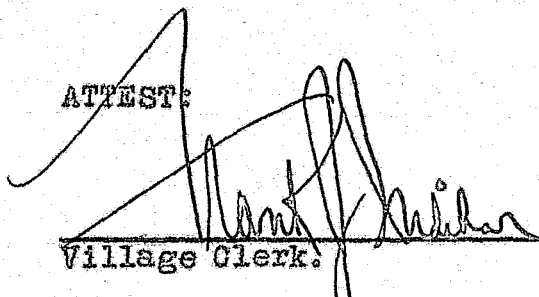
That the votes cast at said special election were duly canvassed on November 7th, 1941, by the village council of the village of Gilbert, acting and sitting as the canvassing board, and said Charter was thereupon by said board declared duly ratified and adopted by said vote, and the undersigned makes this certificate setting forth the said Charter, and the ratification and adoption thereof, pursuant to and in conformity with the provisions of Section 36, Article 4, of the Constitution of the State of Minnesota, and of Section 1285 of Mason's Minnesota Statutes for 1927 and acts amendatory thereof.

Witness my hand and the corporate seal of the said Village of Gilbert this 12th day of November, 1941.



Arlin B. Carlson  
President, Village Council,  
Gilbert, Minnesota

ATTEST:

  
Village Clerk.

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## Chapter 1

### NAME, BOUNDARIES, POWERS AND GENERAL PROVISIONS

Section 1. Name and Boundaries. Upon taking effect of this charter the Village of Gilbert in the County of St. Louis and State of Minnesota shall become a city under the name and style of the City of Gilbert, and shall continue to be a municipal corporation with the same boundaries as now are or hereafter may be established.

Section 2. Powers of the City. The City of Gilbert shall have all powers of local self-government and home rule and all other powers possible for such a city to have under the constitution and laws of the State of Minnesota, and shall have such powers possessed by municipal corporations at common law which are not in conflict herewith or with the constitution and laws of the State of Minnesota, and also shall have all powers granted by the general laws of Minnesota for any city of the fourth class which are not in conflict or inconsistent with, or in derogation of, the powers granted or enumerated in this Charter. The City of Gilbert, by and in its corporate name, shall have perpetual succession; may sue and be sued; may have and may use a seal to be known as "City of Gilbert, Minnesota", and may alter its seal at pleasure; shall be capable of contracting and being contracted with; may take by gift, devise, purchase, or condemnation, or otherwise and hold, lease, sell and convey all such real and personal property as its purposes may require, or the transaction of its business may render convenient, within or without its boundaries, needed for the full discharge of any public function which it is permitted to exercise; may acquire, construct, own, lease, and operate public utilities, and render public services of every kind; may grant franchises or licenses for the construction, operation and maintenance of public utilities in, under, upon, and over the streets and public places in the city, and shall have power to fix and regulate the rates, tolls, or charges which may be collected, order the extensions which shall be needed, and regulate the services which shall be rendered by any owner or operator of a public utility franchise or license; may levy and collect taxes for general and special purposes on all subjects or objects which the city may lawfully tax; may borrow money on the faith and credit of the city or on a public utility or other property owned by the city, by the issuance and sale of bonds or certificates of indebtedness; may appropriate the money of the city for all lawful purposes, including the expenses of its officers, employees, agents and representatives in the furtherance of its business or their municipal education; may provide for, construct, regulate, and maintain public works and local improvements; may levy and collect assessments for local improvements; may license and regulate persons, corporations and associations engaged in any business occupation, trade or profession; may prohibit, abate, suppress all things detrimental to the health, morals, comfort, safety, convenience and welfare of the inhabitants of the city, and all nuisances

and causes thereof; may regulate and construct height and materials used in all buildings, and the maintenance and occupancy thereof; may regulate and control the use for whatever purposes of the streets and other public places; may make and enforce local police, sanitary and other regulations; may pass ordinances for maintaining and promoting the peace, good government, and welfare of the city, and for the performance of all the functions thereof; shall have, retain and may exercise all powers, functions, rights, and privileges, heretofore possessed by it as a municipal corporation; may exercise such powers beyond its corporate limits as may be necessary for the effective exercise of any powers granted herein as now authorized by law; and in addition thereto, the City of Gilbert shall have and exercise all powers, functions, rights, and privileges exercised by, or which are incidental to or inherent in, municipal corporations and are not denied to it by the constitution and general laws of the State of Minnesota. The enumeration of powers herein shall not be construed to limit or restrict the powers granted in general terms, nor shall any specific power granted in this charter be construed to limit or restrict the powers granted in this section. In addition to the powers herein and hereafter granted, the City of Gilbert shall have full power to deal with all matters of municipal concern and for complete self-government in harmony with and subject to the constitution and laws of the State of Minnesota.

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 conductance 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 3

### FORM OF GOVERNMENT

Section 5. Form of Government. The form of government established by this charter shall be known as the "Mayor-Council Plan." All discretionary powers of the city, both legislative and executive, shall vest in and be exercised by the city council. It shall have complete control of the city administration.



Section 6 Boards and Commissions.

(a) The council shall itself be, and shall perform the duties and exercise the powers of, all local boards and commissions except as herein otherwise provided. It may, however, by ordinance, resolution or motion create commissions with advisory powers to investigate any subject of interest to the municipality, and also a commission to prepare a city plan subject to the approval of the council. Such commissions may be given the power to administer oaths and to compel the attendance of witnesses and the production of books, papers, and other documentary evidence.

(b) The council, together with the health officer if any, shall be, and shall perform the duties and exercise the powers of, the local board of health. Such health officer shall be appointed by the council. He shall be a physician who has been duly licensed to practice medicine in Minnesota and who is of good standing in his profession.

(c) There shall be a Water, Light, Power and Building Commission which shall have the same commissioners and officers, until their successors are appointed and qualified, as the Village of Gilbert Water, Light, Power and Building Commission had when this charter became effective, and the Water, Light, Power and Building Commission of the City of Gilbert shall function under and be governed by Mason's Minnesota Statutes of 1927, Sections 1852 to 1858, both inclusive, and all laws amendatory thereof and supplementary thereto now or hereafter existing.

(d) There shall be a Library Board which shall have the same directors and officers, until their successors are appointed and qualified, as the Village of Gilbert Library Board had when this charter became effective, and the City Library Board shall function under and be governed by the law or laws, after this charter takes effect, that the Village Library Board was governed by before this charter took effect and all laws amendatory thereof and supplementary thereto now or hereafter existing.

(e) There may be a Gilbert Volunteer Fire Department and a Gilbert Firemen's Relief Association, both of which shall have the same officers, until their successors are elected or appointed and qualified, as the Village of Gilbert Volunteer Fire Department and the Village of Gilbert Firemen's Relief Association had when this charter became effective. The Gilbert Volunteer Fire Department of the City of Gilbert and the Gilbert Firemen's Relief Association of the City of Gilbert shall function under and be governed by such village ordinance or ordinances, constitutions, by-laws and statutes and laws as may be in force relating to them at the time of the taking effect of this charter and all amendments thereof and supplementary thereto now or hereafter existing.

(f) There shall be a Police Civil Service Commission with powers and duties as prescribed by 1940 Supplement to Mason's Minnesota Statutes for 1927, Sections 1933-48 to 1933-63(d), both

inclusive, and all laws amendatory thereof and supplementary thereto now or hereafter existing. The city Police Civil Service Commission shall have the same commissioners and officers and chief of police and policemen, with the same classifications, until their successors are appointed and qualified, as the village Police Civil Service Commission had when this charter became effective, and all commissioners, officers, chief of police and policemen appointed or elected prior to the time this charter becomes effective shall continue to hold their offices and appointments until the expiration of their respective village terms.

(g) There shall be a Municipal Court of the City of Gilbert and it shall function under and be governed by the law or laws, after this charter takes effect, that the Village Municipal Court functioned under and was governed by before this charter took effect and all laws amendatory thereof and supplementary thereto now or hereafter existing. Any person who is the elected or appointed judge of the Municipal Court of the Village of Gilbert immediately prior to the taking effect of the city charter of the City of Gilbert shall be the judge of the Municipal Court of the City of Gilbert until his term would have expired as judge of the Municipal Court under the Village of Gilbert.

In all prosecutions and proceedings of every kind before the Municipal Court of this city, such Court shall take judicial notice of all ordinances of the city, and it shall not be necessary to plead or prove such ordinances in such Court.

With the advice, consent and confirmation of the city council, the municipal judge may appoint a clerk of Municipal Court, to be paid such salary as may be set by the council, who shall be the court reporter, and whom he may remove at pleasure. Such clerk's compensation shall not be diminished during the term for which such clerk is appointed.

#### Section 7 Elective Officers and Date of Election.

(a) The council shall be composed of a mayor, three councilmen and a clerk, who shall be qualified electors and all of whom shall have the right to vote at council meetings, and who shall be elected at large in the manner hereinafter provided. The mayor shall preside at all council meetings at which he is present and shall have an equal vote with other members of the council on any matter coming before that body, and he shall have no veto power. The resident electors shall choose the following named officers, namely; a treasurer, a judge of the Municipal Court, an assessor, and a council composed of a mayor, a clerk and three councilmen. All officers upon their qualification as such shall hold office until their successors qualify. Within thirty days after a vacancy in office, it may be filled, for the remainder of the calendar year, by the council, but if the vacancy occurs between the annual city election and the end of the calendar year, it may be filled until the end of the succeeding calendar year. If the council because of equal division of votes is unable to fill the vacancy, then the mayor shall fill the vacancy by appointment for the time specified above, but if the vacancy is that of mayor and the council members fail for thirty days after the vacancy to appoint a mayor for the time specified above, a special election to elect a mayor for the time specified above shall be held immediately. All city elections for the terms and in the manner herein provided shall be held annually on the first Tuesday after the first Monday in December in each year at which the above named officers shall be elected for the terms following, to-wit: Mayor, for a term of two years; one councilman, for a term of three years; one clerk for the term of two years; and all other such officers, each having a -----

term of two years, except the judge of the Municipal Court whose term shall be four years. All terms, except as herein otherwise provided, shall commence on the first secular day of January following the election.

(b) Special city elections may be ordered by the city council, upon its own motion or upon the petition of fifty resident voters, of which at least ten days' posted and one week's published notice in one or more legal newspapers published in said city, if there be one, shall be given, clearly setting forth the question submitted. Judges and clerks shall be appointed, the vote taken, and the results ascertained, declared and certified as in the case of annual city elections; provided, however, that no proposal so submitted shall be deemed carried, without such a majority in its favor as may be required by law in the particular instance; provided, further, that in the case of a tie, the proposal shall be deemed lost.

(c) The conduct of city elections, the affidavit of candidacy, the preparation of ballots by the city clerk, the selection of polling places, the Australian ballot system, and the application of the general election laws as stated in Sections 15 to 20, both inclusive, of Chapter 4 of Part 11 of Laws of Minnesota for 1939, Chapter 345, shall apply to the City of Gilbert except that affidavits of candidacy shall be filed not less than fourteen days preceding the city election.

Section 8 Incompatible Offices. No member of the council shall hold any other paid municipal office or employment under the city except the city clerk.

Section 9 Vacancies in the Council. A vacancy in mayor, council, clerk and other elective and appointive offices shall be deemed to exist in case of the failure of any person elected thereto to qualify within ten days after the written notification of his election by the city clerk, or by reason of the death, resignation, removal from office, removal from the city, continuous absence from the city for more than three months, or for conviction of the felony of any such person whether before or after his qualification; or by reason of the failure of any such person 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 as in this charter provided. No vacancy shall exist if the continuous absence from the city for more than three months is explained satisfactorily to the council because of sickness or other disability of the absentee or if such absentee is excused before or after such absence by motion spread upon the minutes of a council meeting.

Section 10 The Mayor. The mayor shall be the presiding



officer of the council, except that a president pro tempore shall

be elected the chief clerk or president in the mayor's absence, and as acting mayor in case of the mayor's disability or absence from the city. The mayor shall be the chief executive officer of the city, and shall exercise all powers and perform all duties conferred upon him by this charter, the ordinances, resolutions and motions of the council of the city, and the laws of the state. He shall be recognized as the official head of the city for all ceremonial purposes, by the courts for the purpose of serving civil process and by the governor for the purposes of martial law. In time of public danger or emergency he may, with the consent of the council, take command of the police, maintain order and enforce the law.

Section 11 Salaries. The mayor and councilmen shall receive such salaries as a president and the trustee of a village of similar population and assessable valuation would receive under laws of Minnesota for 1941, Chapters 321 and 343 and all laws amendatory thereof and supplementary thereto now or hereafter existing.

Section 12 Investigation of city affairs. The council and any officer or officers authorized by it shall have power to make investigations into the city's affairs, to subpoena witnesses, administer oaths, and compel the production of books and papers. The council may at any time provide for an examination or audit of the accounts of any officer or department or board or commission of city government.

### Chapter 3

#### ORGANIZATION OF COUNCIL

Section 13 Council meetings. The council shall meet at such times as may be prescribed by ordinance, resolution or motion, except that they shall meet not less than once each month. The mayor, or any two members of the council, may call special meetings of the council upon at least twelve hours' written 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 or mailed to each member, but the notice and the amount of notice may be waived by any member and the special meeting shall be properly called and held if all members are present without the usual notice given them. All meetings of the council shall be public, and any person shall have access to the minutes and records thereof at all reasonable times.

Section 14 Rules of procedure and quorum. The council shall determine its own rules and order of business, and shall keep a journal or minute book 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. No ordinance, resolu-

tion, motion or other procedure shall be adopted unless there are at least three votes in favor of it. The council may provide by ordinance, resolution or motion or rule a means by which a minority may compel the attendance of absent members.

Section 15 Ordinances, Resolutions and Motions. Except as in this charter otherwise provided, all legislation and all appropriations of money shall be by ordinance, resolution or motion. 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. A majority vote of all the members of the council shall be required for the passage of all ordinances, resolutions and motions. Any administrative rule or regulations of any department of the state of Minnesota affecting the city, or any statute of the state of Minnesota, or any published code, specifications or regulations prepared by an official or unofficial organization for general circulation and use, may be adopted and incorporated by reference thereto in an ordinance and filing it for reference and inspection in the office of the city clerk, and the publication requirements of this charter shall be as fully satisfied in such cases by this method as if the said material had been set forth in the ordinance in full.

Section 16 Procedure on Ordinances. All ordinances, resolutions and motions shall be enacted by majority vote of all the members of the council. All ordinances shall be signed by the mayor and attested by the clerk, and published once in a local newspaper or in some other newspaper published in the county if there is no local newspaper. Proof of such publication, by affidavit of the printer or foreman in office of said newspaper, shall be attached to and filed with such ordinance, and the same shall be prima facie evidence of the facts therein stated. All ordinances shall be suitably entitled, and in this style; "The council of the City of Gilbert do ordain as follows:"

Every ordinance shall have two public readings in full. The second reading shall be not less than ten days after the first reading. Emergency ordinances may be adopted after only one reading in full if adopted by unanimous vote of those present.

All ordinances shall take effect and be in force from and after their passage and publication, shall be recorded in a book kept for that purpose, and shall have the force of law, and remain in force until repealed.

Resolutions shall be read in full, if in writing, before a vote is taken thereon, unless the reading of a resolution is dispensed with by unanimous consent, and the resolution may be spread upon the minutes or filed with and preserved by the city clerk.

Section 17 Publication of Minutes. The minutes of each meeting of the council shall be published in the official newspaper of the city, but the salary and labor pay rolls may be omitted from the publication of the minutes.

Section 18 Amendment and Repeal of Ordinances. No ordinance or section thereof shall be amended or repealed except by ordinance, and every such amendment or repeal shall refer to the ordinance so amended or so repealed by title and section number or numbers.

Section 19 Revision and Codification of Ordinances. The ordinances of the city may from time to time by a single ordinance be revised, re-arranged and codified with such additions and deletions as may be deemed necessary by the council. Such codification may be published in book form and made available by the council in the office of the city clerk for general distribution to the people. Such publication shall be a sufficient publication of all the ordinances therein contained. Every book shall contain a printed certificate of the mayor, attested to by the city clerk, that the publication is correct; and such book so published shall be received in evidence in all courts for the purpose of proving the ordinances therein contained, the same as though the original ordinances were produced in court.

The second reading of the ordinances and all rules of procedure of the council, except the first reading of a proposed ordinance, may be temporarily suspended by the unanimous vote of the council.

#### Chapter 4

#### ADMINISTRATION OF CITY AFFAIRS

Section 20 Departments of Administration. The council may create such departments, commissions, 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.

Section 21 (a) Other Officers and Employees and Their Duties and Terms. The council may appoint a city attorney, city engineer, chief of the Volunteer Fire Department, <sup>one or more employment officers</sup> one or more street commissioners, one or more accountants or finance officers, <sup>one or more</sup> more stenographers, one or more cowherders and such other officers and employees as the council may create or appoint by ordinance, resolution or motion. It may provide for a chief of police and one or more policemen. It may hire common and skilled laborers and delegate the hiring thereof to its agents, servants and employees.

All appointive officers and employees, except those entitled to veterans' preference under the laws of this state, those appointed by a civil service commission, those employed by the Water, Light, Power and Building Commission and the Library Board, may be discharged by the council at its pleasure without notice and without cause.

(b) City Clerk--Powers and Duties. The powers and duties of the city clerk, which may be changed or increased at the pleasure of the council, shall be as follows, and he shall receive such compensation as may be fixed at the beginning of his term by the resolution of the council:

1. He shall be the chief accounting officer of the city. He shall keep a complete set of books, showing in detail the business

and financial affairs and the accounts of the city. The city council shall have authority to prescribe the form of such books or accounts and also to prescribe and enforce such methods of accounting as it may deem best for the interests of the city.

2. He shall keep the corporate seal of the city and all papers and records of the city except as otherwise provided in this charter.

3. He shall be the clerk of the council and shall attend all its meetings and keep a record of all its proceedings in books to be provided therefore.

4. He shall sign all orders and bank checks on the city treasurer or treasury, but only when authorized so to do as provided in this charter. He shall also sign all bonds, certificates of indebtedness, warrants and all other evidences of indebtedness at any time issued by the city. He shall also sign in behalf of the city any and all contracts authorized by the city council, pursuant to the provisions of this charter, and shall affix the corporate seal thereto.

5. He shall, on request, prepare and certify under the corporate seal of the city copies of all papers and records in his office, and he shall be entitled to make a reasonable charge therefor.

6. He shall have power to administer oaths and affirmations and to take acknowledgments.

7. He shall promptly notify all officers of their election or appointment and of the amount of their official bond.

8. He shall present to the city council each month at one regular meeting thereof a report, setting forth in detail and classified as to funds, all moneys received and paid out in behalf of the city since his last monthly report, the balance to the credit of each fund, and the balance on deposit in each city depository. At the end of each fiscal year he shall present a similar report to the city council showing in detail all receipts and disbursements of the city for the fiscal year then ending. All of said reports shall be in such form as may be prescribed by the city council. He shall also make such other and further reports as may from time to time be required of him by the city council.

9. He shall have other powers and duties as may be prescribed elsewhere in this charter or as may hereafter be prescribed by the city council by ordinance, resolution or motion.

10. With the advice, consent and confirmation of the city council, he may appoint one or more deputy clerks, to be paid such salaries as may be set by the city council, for whose acts he shall be responsible, and whom he may remove at pleasure.

11. With the advice, consent and confirmation of the city council, he may appoint one or more stenographers, to be paid such salaries as may be set by the city council, for whose acts he shall be responsible, and whom he may remove at pleasure.

(c) City Treasurer--Powers and Duties. The powers and duties of the city treasurer, which may be changed or increased at the pleasure of the council, shall be as follows:

1. He shall receive and safely keep all moneys and funds belonging to or under control of the city or any commission or department thereof and any other commission or department or bureau hereafter at any time established.

2. He shall be the custodian of and shall safely keep all bonds, certificates of indebtedness, warrants and other securities owned or held by the city or any of its departments.

3. He shall keep an accurate and detailed record of all moneys and property received by him belonging to the city or any department or commission or board thereof. He shall keep a separate account for each fund and pay no money out of the treasury except upon a check or order signed by the mayor and city clerk. He shall pay all orders or checks out of the particular fund on which they are drawn and no other, and shall refuse to pay any check when there is insufficient money in the fund on which it is drawn to pay the same.

4. If required by ordinance, resolution or motion of the council, he shall sign all orders and checks on the city treasurer, bonds, certificates of indebtedness, warrants, and all other evidences of indebtedness at any time issued by the city which have been signed by the mayor and clerk, except as otherwise provided in this charter.

5. He shall deposit all moneys received by him, belonging to the city or any department or commission thereof, in some bank or banks designated by the city council as a depository or depositories. All moneys shall be deposited in the name of the City of Gilbert.

6. He shall report in detail to the city clerk, at the city clerk's pleasure, the receipts and disbursements of all city funds.

7. At the end of each fiscal year he shall present a report to the city council and the city clerk, showing the receipts and disbursements as such city treasurer for the fiscal year then ending. All said reports shall be in such form as may be prescribed by the city council. He shall also make such other and further reports as may be required from time to time by the council.

8. He shall have such other duties as may be elsewhere provided in this charter, or as may hereafter be prescribed for by the city council.

9. For his services, the city treasurer shall be paid such salary as may be prescribed by ordinance, resolution or motion.

10. With the advice, consent and confirmation of the city council, he may appoint one or more deputy treasurers, to be paid such salaries as may be set by the city council, whom he may remove at pleasure and for whose acts he shall be responsible.



(d) City Attorney. The city attorney shall be a person who has been admitted to practice in all the courts of this state. He shall be the legal advisor or the attorney for the city and all departments, commissions, boards and officers thereof in relation to their official powers and duties. It shall be his duty to attend all meetings of the city council; to give advice in writing, when so requested, to the council or any of the authorized boards or commissions; to prosecute or defend, as the case may be, all suits or cases to which the city may be a party, to prosecute for all offenses against the ordinances or regulations of the city; to draw all contracts, bonds, and other instruments in writing in which the city is concerned, to draw all ordinances and resolutions, and to perform such other duties of a legal nature as the city council may from time to time require. In case of sickness or inability of the city attorney to act, he may, at his own expense, appoint, by and with the consent of the council, another attorney to act in his stead for the time being. The city council shall have the power to contract with, employ or retain, legal counsel to take charge of and conduct any litigation in which the city is interested directly or indirectly or to which it may be a party or in which its welfare may be concerned or may appoint such counsel to assist the city attorney in the prosecution or maintenance of defense of any litigation in which the city is interested.

(e) Chief of Police. The chief of police shall be in immediate control and supervision of all of the other police officers and shall be responsible for the faithful performance of their duties as well as his own.

(f) City Assessor. The city assessor shall possess all the powers of those elected by villages which are reorganized under the Revised Laws of 1905 and all laws amendatory thereof and supplementary thereto now or hereafter existing and be governed in the exercise thereof by the same laws as assessors for villages reorganized under the Revised Laws of 1905 and all laws amendatory thereof and supplementary thereto now or hereafter existing.

Any person holding the office of assessor of the Village of Gilbert immediately prior to the taking effect of this charter shall be the assessor for the City of Gilbert until such time as his term of office would have expired under the Village of Gilbert.

(g) Peace Officers. All members of the council shall be peace officers, and may suppress in a summary manner any riotous or disorderly conduct in the city or any public place of the city, and may command the assistance of persons, under such penalties as may be prescribed by law and the ordinances.

Section 22 Purchases and Contracts. All purchases on behalf of the city, except those permitted to be made by the Library Board and the Water, Light, Power and Building Commission, shall be made, and all contracts let, by the city council. All contracts, bonds and instruments of every kind to which the city shall be a party shall be signed by the mayor and clerk on behalf of the city, and shall be executed in the name of the city. A purchasing agent or agents, with duties and powers limited and enumerated, may be appointed by resolution of the council. For municipal purposes only, automobiles, trucks, tractors, snow-plows, other mechanical equipment and teams may be purchased and hired.

Section 23 Contracts. How Let. In all cases of work to be done by contract, and all of the purchase of personal property of any kind, where the amount involved is more than \$300.00, the city council shall advertise for bids by two week's published notice in the official newspaper or in a newspaper published in the county, except that one week's published notice may be given if unanimously agreed to by the council. Contracts of this magnitude shall be let by the council to the lowest responsible bidder. The council may, however, reject any and all bids. Nothing contained in this section shall prevent the council from contracting by a vote of four members of the council for the doing of work with patented processes, or from the purchasing of patented appliances by the same majority. Further regulations for the making of bids and the letting of contracts may be made by ordinance, resolution or motion, subject to the provisions of this charter.

## Chapter 5

### TAXATION AND FINANCE

Section 24 Council to Control Finances. Except for such financial control as the Water, Light, Power and Building Commission or any board may have under this charter or by law, the council shall have full authority over the financial affairs of the city, and shall provide for the collection of all revenue and other assets, for auditing and settling all accounts, and the safe keeping and disbursement of public moneys, and in the exercise of a sound discretion shall make provisions for the payment of all liabilities and expenses.

Section 25 Fiscal Year. The fiscal year of the city shall end each year on the 31st day of December.

Section 26 Power of Taxation. The city shall have, in addition to the powers by this charter expressly or impliedly granted, all the powers to raise money by taxation, pursuant to

the laws of the state which are applicable to cities of the class of which it may be a member from time to time, providing, however, there shall be no limitation on its power to tax or on the amount it can levy, except the limitations provided in Laws of Minnesota for 1941, Chapter 543 and the limitations contained in this charter. All powers by this section conferred shall be exercised conformably to this charter so far as may be possible, and such authority and power shall not authorize the city to incur any debt beyond the limitations or in any other manner than authorized in this charter.

The total tax levy of the city for all purposes, general and specific, except for the payment of bonds and interest thereon, shall not exceed thirty-six and a half mills upon the assessed valuation of real and personal property against which such levy is spread. In addition thereto, the city may levy without any mill limitation or other limitations, except the provisions of Laws of Minnesota for 1941, Chapter 543, and acts amendatory thereof, such sums as may be necessary for the payment of bonds and interest thereon, whether such bonds were issued before or after the adoption of this charter, provided, certificates of indebtedness issued in anticipation of taxes shall not be considered bonds within the meaning of this section.

In any year, if a levy of thirty-six and a half mills as above provided will not yield as much as \$115,000 for purposes other than bonds and interest thereon, the city may levy in excess of thirty-six and a half mills, but not exceeding \$115,000, for purposes other than bonds and interest thereon. The total levy shall not exceed the limitations of Laws of Minnesota for 1941, Chapter 543, and acts amendatory thereof. The purpose of this paragraph is to remove any mill limitation upon the levy of the city if the effect of such mill limitation would be to reduce the levy for purposes other than bonds and interest thereon to less than \$115,000 in any year.

Section 27 Levy and Collection of Taxes. On or before the tenth of October of the year 1942 and each year thereafter the council shall levy by resolution the taxes it deems necessary for the ensuing fiscal year, and the council and the city shall not be limited in the amount of any levy for general city and municipal purposes or for any other purposes or for any other funds to the limitations provided for in Mason's Minnesota Statutes for 1927, Section 1727, and laws amendatory thereof or supplementary thereto, but shall be limited only by the per capita provisions of Laws of Minnesota for 1941, Chapter 543, and laws amendatory thereof and supplementary thereto now or hereafter existing, and the limitations contained in this charter.

The city clerk shall transmit to the county auditor annually, not later than the tenth of October, a statement of all the 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 taxes shall be invalid by reason of any informality in the manner of levying the same, nor in case 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 in which such taxes belong.



The tax levy made in the year 1941 for the calendar year 1942 by the Village of Gilbert, in accordance with the laws governing that village, shall be the tax levy for the operation of the City of Gilbert in the year 1942 within the meaning of this chapter. The officers of the city may issue certificates of indebtedness in anticipation of the collection of such taxes and shall have all powers with respect to the collection and distribution and expenditure thereof to the same extent as if such levy had been made by the City of Gilbert.

In the event the total levy made by the city and certified to the county auditor shall exceed the limitations provided by Laws of Minnesota for 1941, Chapter 543, or by this charter, the county auditor shall reduce such levy to bring it within such limitations. In making such reduction, levies required by law or by this charter for the payment of bonds and interest thereon shall be spread in full, and the remainder of the levy, as certified to the county auditor, shall be reduced so that the whole thereof will not exceed the limitations above set forth.

Section 28 Tax Settlement with County Treasurer. 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 29 Disbursements. How Made. No money demand against the city shall be paid until audited and allowed by the council, nor otherwise than by an order drawn upon the treasurer thereof or by check drawn upon the city depository bank. Such demand, except for the payment of the salaries of the members of the council and the regular monthly employees, shall be made out in items, and be verified by an attached affidavit that the claim is true and correct, and that no part of it has been paid. The clerk shall endorse thereon the word "Disallowed," if such be the fact, or "Allowed in the sum of \$ \_\_\_\_\_," if approved in whole or in part; specifying in the latter case the items rejected. Such accounts and affidavits shall be filed by the clerk, and consecutively numbered throughout the year. Each claim allowed shall also bear the number of the order or check drawn for its payment, and the clerk shall take and preserve a receipt for each order or check issued. Every order drawn for the payment of money shall be signed by the mayor and clerk and countersigned by the treasurer if required by the council. No check shall be drawn or issued on any fund until there is sufficient money in such fund to pay the same, together with all checks previously issued against such fund. In anticipation of the collection of taxes levied for the purpose of raising money for the various funds, the council may either borrow money on certificates of indebtedness as provided hereinafter and issue checks on the depository bank or banks in payment of the city's financial obligations or if the council refrains from borrowing on certificates of indebtedness, it may issue orders on the treasurer of the city which shall bear due dates and interest not to exceed six per cent per annum until called for payment by the treasurer, or both methods may be used by the council. Such orders must be paid on or before their due dates by receipts and tax money received in the year in which the orders are issued or from certificates of indebtedness payable

in the year in which the orders are issued. The council may permit by resolution the same procedure by any boards or commissions. No order shall be made payable later than December 31 of the year in which it is written. No order shall be issued if the levy as spread by the county auditor for the fund on which it is drawn has been spent by the council.

Whenever the expenses and obligations incurred chargeable to any particular fund of the city in any calendar year are sufficient to absorb 95 per cent of the entire amount of the tax levy for such fund payable in that year, including such amount as may remain in the fund from the levy or otherwise of the prior year or years, neither the city council nor any officer, commission, board or employee shall have power and no power shall exist to create any additional indebtedness (save as the remaining five per cent of such tax levy is collected) which shall be a charge against that particular fund or shall be in any manner a valid claim against the city; but such additional indebtedness, if attempted to be created, shall be a personal claim against the officer or member of the council, commission, or board voting for or attempting to create the same; and in no event shall the city council or any officer, commission, board or employee have the power and no power shall exist to create any indebtedness which shall be a charge against the city in excess of cash on hand at the beginning of the year, and the local income and the tax levy payable in that year for the use of any particular department, commission, board or official body, less the amount required to be paid each year therefrom on bonds authorized and interest accruing thereon. At any time after the annual tax levy has been certified to the county auditor and not earlier than October 10 in each year, the city council may, for the purpose of meeting the obligations of the ensuing year, by resolution or motion issue and sell, with or without advertisement, as many certificates of indebtedness as may be needed in anticipation of the collection of the taxes so levied for the purpose of raising money for such fund. No certificates shall be issued and outstanding for any separate fund exceeding fifty per cent of the amount allocated to that fund by the city council. No certificates shall be issued or become due and payable later than December 31 of the year succeeding that year in which such tax levy, certified to the county auditor as aforesaid, was made. Such certificates shall not be sold for less than par and accrued interest and shall not bear a greater rate of interest than six per cent per annum. Each certificate shall state upon its face for which fund proceeds of the certificate shall be used, the total amount of certificates issued and outstanding against such fund, and the whole amount allocated by the city council for that fund. They shall be numbered consecutively and be in denominations of \$25.00 or multiples thereof and they may have interest coupons attached, and shall be otherwise of such terms and form and made payable at such place as will best aid in their negotiation. The certificates of indebtedness issued hereunder shall be negotiable instruments. The proceeds of the tax assessed and collected as aforesaid on account of such fund, and the full faith and credit of such city shall be irrevocably pledged for the redemption of the certificates so issued. Such certificate shall be paid from the money derived from the levy against which

such certificates were issued, or if they be insufficient for that purpose, from other funds of the city. The money derived from the sale of such certificates shall be credited to such fund or funds for the calendar year immediately succeeding the making of such levy and shall not be used or spent except during such succeeding year. No certificates for any year shall be issued until all certificates for prior years have been paid, nor shall any certificate be extended unless the non-payment of taxes on iron ore financially embarrasses the city; provided that money derived from the sale of certificates of any one year may, if necessary, be issued to redeem unpaid certificates issued in a prior year. In the event the city is unable to sell such certificates of indebtedness in the manner prescribed, Laws of Minnesota for 1933, Chapter 275, Section 4, and all amendments thereof, now or hereafter existing, shall apply to the City of Gilbert. In the event that, by reason of delinquency in the collection of taxes against which such certificates of indebtedness were issued, there shall not be collected sufficient money to pay and retire the same, the council may extend the time for payment of so much thereof as remains unpaid from that cause for not to exceed one year. If the certificates so remaining unpaid because of such tax delinquency shall exceed ten per cent of the permissible tax levy for city purposes, other than bonds and interest thereon, during the succeeding year, the council may issue bonds for the retirement of such certificates. In that event, any moneys collected upon such delinquent taxes against which such certificates were originally issued shall be paid into the bond sinking fund and used solely for the retirement of such bonds.

Section 30 Levies and Bonds Payable Under Laws of Minnesota for 1933, Chapter 415. The amount of the levies for the payment of bonds authorized and issued under Laws of Minnesota for 1933, Chapter 415, may be paid from the levy for the general fund or from such other levy as the council may make therefor. The city may levy in excess of the thirty-six and a half mill limitation provided by Section 26 of this charter, but within the limitations of Laws of Minnesota for 1941, Chapter 543, for the total amount of principal and interest upon said bonds, notwithstanding any provisions of Laws of Minnesota for 1933, Chapter 415.

Section 31 Not to Incur Indebtedness. No department, board or commission of the city shall during any year contract any indebtedness or incur any pecuniary liability which shall be in excess of the sum that may be levied and collected for said department, board or commission or allotted to it for said year by the city council, plus local income accruing to such department, board or commission.

Section 32 Contract to be Null and Void in Certain Cases. Every contract attempted to be entered into, or indebtedness or pecuniary liability attempted to be incurred in violation of the provisions of this charter shall be null and void in regard to any obligations to be sought to be imposed upon the city, and no claim therefor shall be allowed by the council of the city nor by any board thereof; nor shall the city clerk or any other officer or employee issue or execute, nor shall the city treasurer pay any check, order, warrant or certificate of indebtedness issued on account thereof. Every member of the city council or any board or commission of the city present at a meeting of the board, commission or council when any action is taken

with reference to paying money or incurring indebtedness or entering into any contract in violation of the provisions of this charter shall be deemed to have participated in and authorized the same unless he shall have caused his dissent therefrom to be entered upon the minutes of the meeting.

Section 33 Levies, Funds, Budgets and Reports. Exclusive of taxes levied for special assessments for local improvements on property specially benefited thereby and exclusive of the levy for bonded indebtedness and interest thereon which shall be separately levied and when collected paid into a separate fund to pay bonded indebtedness and interest thereon, one total sum of money for taxes for any and all general and special purposes whatsoever shall be levied by the city council. This amount of levy and the amount of levy for bonded indebtedness and interest thereon shall have no mill limitation or limitations except as provided in this charter, but shall be limited by the per capita limitation provided for in Laws of Minnesota for 1941, Chapter 543.

There shall be maintained in the city treasury the funds hereinafter named for the support of which the city council may levy taxes annually as previously described in this section, and each department, board or commission, unless otherwise provided in this charter, shall administer the fund which is created for its purpose.

(a) General Fund. A general fund for the payment of such expenses of the city as the council may deem proper. Into this fund shall be paid all money not provided herein or by statute to be paid into any other fund, and from this fund shall be allocated, paid and transferred to the other funds herein mentioned such sums of money as may seem expedient to the city council, except as hereinafter may be provided.

(b) Water and Light Fund. From the receipts of taxes collected annually, there may be allocated, transferred and paid into the water and light fund for the use of the Water, Light, Power and Building Commission a sum that is not greater than five (5) mills on the dollar on the last assessed valuation thereof would produce.

(c) Library Fund. From the receipts of taxes collected annually, there may be allocated, transferred and paid into the library fund for the use of the public library and reading room a sum that is not greater than three (3) mills on the dollar on the last assessed valuation thereof would produce.

(d) Firemen's Relief Association Fund. From the receipts of taxes collected annually, there shall be allocated, transferred and paid to the Gilbert Firemen's Relief Association a sum that would equal one (1) mill on the dollar on the last assessed valuation thereof.

(e) Bond Fund. From the receipts of taxes collected annually for bonded indebtedness and interest thereon, there shall be paid into the bond and interest fund all receipts from such taxes or other sources for the payment of principal and interest of all bonded indebtedness issued or to be issued by the city. Out of this fund shall be paid the principal and interest of bond obligations when due or purchaseable. Money in this fund may be invested under the direction and authorization of the-----



city council in such securities as are authorized by statute for the investment of such funds or for savings banks of this state.

(f) Band Fund. From the receipts of taxes collected annually, there may be allocated, transferred and paid into the Band Fund a sum that is not greater than two (2) mills on the dollar on the last assessed valuation thereof would produce. The money in this fund shall be administered and spent by the council for the maintenance and employment of a band for municipal purposes, and may include the cost of uniforms, musical instruments, and transporting the band to other places.

(g) Other Funds. Such other funds as may be required by statute or ordinance, resolution or motion of the city council.

Money in all funds of the Village of Gilbert shall be transferred by the city treasurer to similar funds or funds described herein upon the taking effect of this charter or as otherwise designated by the city council.

The council may require each public board or commission to submit prior to the middle of January of each year tentative proposed budgets to the council with such data as may be required to enable the council to properly determine the amount of the budget that shall be allowed to any such board or commission.

During the month of January of each year the council shall, on the basis of the tax levy made, with allowances for probable delinquencies, if any, and on the basis of probable receipts from other sources, determine the moneys which will be available for each department, board or commission for the ensuing year, and shall fix by resolution the amount to be allocated, transferred and paid to each department, board or commission for its purposes. No amount so allocated, transferred or paid by the council shall be diminished in amount unless by consent by written resolution of the board or commission interested or unless tax money receipts force a lower allocation, transfer or payment.

The council shall require each board and commission to make monthly reports to the council of its doings, which monthly report shall show the total amount available to be expended during the fiscal year, the amount expended during the expired portion of the fiscal year and during the preceding calendar month, and the amount required to be expended for fixed charges and current expenditures for the remaining portion of the fiscal year.

Any member of any board that exceeds its budget as fixed by the council shall be subject to removal upon notice or as otherwise provided in this charter.

Any claims or obligations attempted to be incurred by any department, board or commission in excess of the money appropriated to it by the council, plus any cash balances and actual receipts and revenues from other sources, shall not constitute valid obligations against the city, but individual members of such departments, boards or commissions authorizing the same shall be personally liable therefor to such claimants.

Section 34. Auditing Accounts. The city council may at any time provide an audit of the city's finances by a qualified accountant or by the department of the state authorized to make examinations of the affairs of municipalities. On or before the thirty-first day of January in each year the city clerk shall prepare and publish in the official newspaper a complete itemized and detailed statement of the city's financial operations for the preceding calendar year.

Section 35 Bonded Debt and Debt Limit. In addition to all the powers in respect to borrowing and the issuance of bonds and certificates of indebtedness specifically or impliedly granted by this charter, and any amendments thereto, the city shall have all the powers in reference to these subject matters authorized for cities of the same class by Chapter 10 of Mason's Minnesota Statutes for 1927, and acts amendatory thereof and supplementary thereto. The city shall also have the power to issue and sell its bonds to the State of Minnesota, and to comply with all provisions of law relative to loans to municipalities from the permanent state funds.

The council may by a majority vote of all of its members submit to the electors propositions for the issuance of bonds for any other public purpose not prohibited by law except ordinary operating purposes. Except for funding or refunding purposes or as otherwise submitted by law or as otherwise provided in this charter, no bonds or other term obligations of the city may be issued except pursuant to a favorable vote of a majority of those voters who vote on the proposition of their issuance. By the proceedings for the issuance of any bonds, by the terms of the bonds and by agreements with the purchasers of bonds, they may be made special in character and limited in their payment to earnings or to part earnings and part tax funds. To the extent that they are thus payable out of earnings or other than tax funds, such bonds shall not be paid out of taxes. 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 except in bonding to the state; 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 lands 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 ditches or improvements; or (3) issued for the creation or maintenance of a permanent improvement revolving fund; or (4) for the purpose of anticipating the collection of general taxes for the year in which issued.

Section 36 Form and Repayment of Bonds. The sum of the maturing installments of principal of any issue of bonds coming due in any one year shall not be more than two and one-half times the sum of the installments of the principal of any such issue coming due in any other year. No bonds shall be issued to run for longer than the reasonable life expectancy of the property or improvement for which the bonds are authorized, as ascertained and set forth in the ordinance or resolution authorizing such bonds, and in no case shall bonds be issued to run for more than thirty years. The purposes for which bonds are authorized shall be set forth in the ordinance or resolution authorizing them, and the proceeds from such bonds shall not be diverted to any other purpose.

Section 37 Debt Certificates. If in any year 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 two years and to bear interest at not more than six per cent per annum. A tax sufficient to redeem all such certificates at maturity shall be levied the following year. The authorization of an issue of such emergency debt certificates shall take the form of an ordinance or resolution approved by five of the members of the council.

Section 38 Bonds Outside the Debt Limit. In addition to the powers of the council to issue bonds and certificates of indebtedness otherwise authorized by this charter, the council may issue bonds for legal purposes outside of the bonded debt limit for constructing, extending, enlarging or improving water and lighting and heat and power plants, or either, or other revenue producing public utilities of whatever nature, owned and operated by the city or of acquiring property needed in connection therewith, the total of which shall never exceed five per cent of the last assessed valuation of the taxable property of the city, including moneys and credits.

## Chapter 6

### PUBLIC IMPROVEMENTS AND SPECIAL ASSESSMENTS

Section 39 The City Plan. The city council may 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, bridges, and other public facilities, and for the 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.

**Section 40 Enforcement of City Plan.** The council shall have all necessary power to enforce complete adherence by all persons to the plan adopted as provided above, and to adopt and enforce a comprehensive zoning ordinance. The council shall have power to pass ordinances to regulate the use of private property, the height of buildings, and the proportion of the area of any lot which may be built upon and to establish building lines. Such power shall be exercised to promote public health, safety, morals, welfare and convenience.

**Section 41 Public Improvements and Special Assessments.** The city shall have the power to make any and every type of public improvement not forbidden by the laws of this state and to initiate and proceed in accordance with all laws pertaining to villages, including Laws of 1901, Chapter 167, relating to sewer and sidewalk construction; Laws of 1903, Chapter 383, relating to street improvement; Laws of 1915, Chapter 35, relating to sewers; Laws of 1921, Chapter 425, relating to water mains; and such other laws as may pertain to public improvements for villages and a city of this class, and all amendments now or hereafter existing to the above cited laws.

**Section 42 Local Improvements.** After this charter takes effect, all local improvements shall continue for the time being to be made under the laws previously applicable thereto as far as possible. The council may prepare and adopt a comprehensive ordinance, prescribing the procedure which shall be followed thereafter in making all local improvements and levying assessments therefor, and such ordinance when adopted shall supersede all other provisions of the law on the same subject and may be amended only by an affirmative vote of five members of the council. Such ordinance shall provide for such notice and hearing in the ordering of improvements and making of assessments therefor as shall be necessary to meet constitutional requirements.

**Section 43 Public Works. Now Performed.** Public works, including all local improvements, may be constructed, extended, repaired and maintained either directly by day labor or by contract. The city shall require contractors to give bonds for the protection of the city and all persons furnishing labor and materials, pursuant to the statutes of the state.

## Chapter 7

### EMINENT DOMAIN

**Section 44 Power to Acquire Property.** The City of Gilbert 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 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 until authorized by vote of the people, and provision for paying for the property proposed to be acquired has been made. 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 45. Proceedings in Acquiring Property. The necessity for the taking of any property by the city shall be determined by the city 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 charter.

Section 46. Payment of Award. Whenever an award of damages shall be confirmed in any proceeding for the taking of property under this charter, 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 47. City May Abandon Proceedings. The city may, by resolution of the council at any state of the condemnation proceedings, or at any time within thirty days after any commissioners appointed 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 48. City May Acquire Entire Plant. In case the city shall condemn a public utility which is operated at the time of the commencement of the condemnation proceedings as one property or one system, it shall not be necessary in 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 an 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 and property are separable into distinct parts, from taking only such part or parts thereof as may be necessary in the public interest.

## Chapter 8

### FRANCHISES

Section 49 Definition of Franchises. The word "franchise" as used in this charter shall be construed to include all privileges granted to any person, firm, association or corporation in, over, upon or under any of the highways or public places of the city, whether such privileges have been or shall hereafter be granted either by the city or by the State of Minnesota.

Section 50 Franchise Ordinances. The council may grant franchises by ordinance adopted by an affirmative vote of five members of the council. Franchise rights shall always be subject to the superior right of the public to the use of streets and public places. All corporations, co-partnerships, persons or other entity desiring to make an especially burdensome use of the streets or public places, inconsistent with the public's right in such places, or desiring the privilege of placing in, over, upon or under any street or public place any permanent or semi-permanent fixtures for the purpose of constructing or operating street or other railways, 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 51 Publication of Franchise. 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 unconditionally accepted in all its terms by the grantee, signed by the proper officers thereof, and such acceptance filed with the city clerk, and until it has been published in the official newspaper of the city at least once a week for two successive weeks after its passage. The grantee shall bear the cost of publication of franchise ordinances and shall deposit sufficient cash to guarantee the publication before the ordinance is passed.

Section 52 Terms Limited. The council in granting any franchise shall fix the term thereof. No franchise shall be granted for a longer term than twenty-five years.

Section 53 Power of Regulation Reserved. The city shall have the right and power to regulate and control the exercise by any corporation, co-partnership, person or other entity of any franchise, however acquired, and whether such franchise has been heretofore granted by the Village of Gilbert or by the State of Minnesota, or shall hereafter be granted by the city or by the State of Minnesota.

Section 54 Rates and Charges. Every grantee of a franchise to operate a public utility 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 on all money honestly and efficiently invested in the plant and equipment of the grantee in the public service within the city. This shall not be construed as a guaranty of a return and in no case shall there be any return upon franchise value. Within these limits the determination of a maximum price to be charged by any franchise holder for service rendered to the city or to any person, persons, firm or corporation within the city shall be made, if possible, by direct negotiations between the franchise holder and the council at public hearings. In case of failure to reach an agreement by this method within a reasonable time, a board of arbitration consisting of three members shall be appointed in the following manner. Either the council or the franchise holder shall appoint some person to represent it on said board of arbitration, and within twenty days after such appointment the council or the franchise holder, as the case may be, shall also appoint some person to represent it on said board of arbitration. Within twenty days after the appointment of representatives by the council and the franchise holder, the said representatives shall by mutual agreement select a third person, preferably an expert in valuation and rate making, to act as umpire, and said two representatives and said umpire shall constitute a board of arbitration. If the representatives of the council and the franchise holder are unable to agree on an umpire, such umpire shall be appointed by the senior judge of the District Court of St. Louis County, Minnesota. The board of arbitration so selected shall as soon as possible make the necessary investigation and agree by a majority vote upon a schedule of rates. The schedule of rates set by the board of arbitration shall be the legal rates, subject to review by a court of competent jurisdiction. Schedule 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. If the franchise holder fails to appoint a representative to the board of arbitration within the time required after notification by the council of the appointment of the council's representative, or if the board of arbitration fails to agree upon a schedule of rates within sixty days after the appointment of an umpire, the council shall have the power to prescribe a schedule of reasonable rates by ordinance, to be effective until a decision has been reached by the board of arbitration. The rate determined

upon by the board of arbitration may be retroactive to the time of the termination of the preceding rate schedule, if any. The city and the franchise holder may by mutual agreement revise existing schedules of rates at any time, proceeding in each case as provided for the original fixing of rates. The city may pay a reasonable amount for the services and expenses of its representative and a reasonable share of the remuneration and expenses of the umpire.

Section 55 Conditions of Franchises. Every franchise shall contain the condition set forth in this section, and every franchise shall be deemed to include these conditions whether actually stated in the franchise or not. Every franchise shall contain the following provisions:

(1) That the grantee shall be subject to and will perform on its part all the terms of Sections 49 to 56, inclusive, as well as all other pertinent provisions of this charter.

(2) That the grantee shall in no case claim or pretend to exercise any power to fix rates, fares and charges; but that such rates, fares 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 54 of this charter. The granting of any franchise shall not be deemed to confer any right to include in the charges for services any return on the value of franchise.

(3) That the council shall have the right to require reasonable extensions of service 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.

(4) That the grantee shall not issue any capital stock on account of the franchise or the value thereof, and that the grantee shall have no right to receive, upon condemnation proceedings brought by the city to acquire the public utility exercising such franchise, any return on account of the franchise or its value.

(5) That no sale, assignment or lease of said franchise shall be effective until approved by an affirmative vote of five members of the council and until the vendee, assignee or lessee shall have filed in the office of the city clerk an instrument duly executed, reciting the fact of such sale, assignment or lease, accepting the terms of the franchise, and agreeing to perform all the conditions thereof.

(6) 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 repairing 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, wires and other fixtures bearing wires and the placing underground of all wires for whatsoever purpose used.

(7) That the grantee, or its assignees, if any, shall post a bond in such amount and such form as may be determined by the city council, conditioned to repair promptly all damages to public streets, alleys and ways and public property occasioned by the acts or omissions of any such grantee or assignees.

(8) That the city shall have free access to all books, records and papers of the grantee which in any way deal with, affect or record its operations within the city.

Section 56 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 9

### PUBLIC OWNERSHIP AND OPERATION OF UTILITIES

Section 57 Construction, Acquisition and Operation of Utilities. The city shall have power to acquire public utilities as provided in Chapter 7 of this charter, and to build and construct such utilities as may be authorized by a vote of the people at a regular or special election, except as is otherwise provided in this charter.

Section 58 Rates and Finances. The Water, Light, Power and Building Commission 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 Water, Light, Power and Building Commission 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 59 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 the Water, Light, Power and

Building Commission may fix.

Section 60 Lease of Plant. The council and the Water, Light, Power and Building Commission 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 an affirmative vote of five members of the council. 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 Chapter 8 of this charter.

Section 61 Public Utility. How 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 therefore, shall have been embodied in an ordinance passed by an affirmative vote of five members of the council, and submitted to the electors at a general or special election and approved by a majority vote of the electors voting thereon.

#### Chapter 10

#### MISCELLANEOUS AND TRANSITORY PROVISIONS

Section 62 Official Publications. The council shall regulate by ordinance, resolution or motion, subject to the requirements of this charter, the manner in which official publicity shall be given to the holding of elections, ordinances, resolutions, requests for bids upon contemplated purchases and contracts, and all other matters whatsoever which require publication either by the provisions of this charter or by the laws of Minnesota. It shall annually designate a legal newspaper published in the City of Gilbert or if one is not published, it may designate one of general circulation in the city as the official newspaper in which shall be published the clerk's annual detailed report not later than January 31 of each year and such measures and matters as are by the laws of this state and this charter required to be so published, and such other matters as the council may deem it advisable and in the public interests to have published in this manner.

Section 63 Official Bonds. The city clerk and city treasurer and such other officers of the city as may be provided for by ordinance, resolution or motion, shall each before entering upon the duties of their respective offices, give a corporate surety bond to the city in such form and amounts as may be fixed by the council as an additional security for the faithful per-

formance of their respective official duties and the safe-keeping of the public funds. Such bonds shall be approved by the city council. They shall be filed with the clerk of the council. The provisions of the laws of the state relating to official bonds, not inconsistent with this charter, shall be complied with.

Section 64 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 statutes 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 65 Sales and Purchase of Real Property. No real property of the city, exceeding \$500 in value, shall be purchased, sold or disposed of except by a majority vote of those voting on the question which must be submitted to the voters at a general or special election. 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 adopted by an affirmative vote of five members of the council designate some other public use for such proceeds.

Section 66 Vacation of Streets. No street or alley within the city shall be discontinued except by ordinance or resolution adopted by the affirmative vote of five members of the council. A record of such vacation shall be made in the office of the Register of Deeds of the county.

Section 67 Notice of Defect in Street or Sidewalk and Recovery of Judgment for Damages. The city shall be absolutely exempt from liability to any person for damages or injuries suffered or sustained by reason of defective streets, alleys, sidewalks and public grounds and buildings within said city unless actual notice in writing of such defects in said streets, alleys 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.

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, alley, sidewalk, public grounds and buildings 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 damages.

Section 68 City to Succeed Rights and Obligations of Former Municipality. The City of Gilbert shall remain vested with and

continue to have, hold and enjoy all property, property rights, rights of action, and rights of every kind, privileges and immunities now belonging to or pertaining to the Village of Gilbert and shall be subject to all liabilities which now exist against said Village.

Section 69 Tenure of Present Officers. All village officers elected at any village election held prior to the time this charter has become effective shall continue to hold their offices until the expiration of their respective terms. The incumbents in office as president, clerk and three trustees of the village council of the Village of Gilbert shall be the mayor, clerk and three councilmen, respectively, of the City of Gilbert under this charter until their terms of president, clerk and trustees of the village council would expire and all other elective and appointive officers of the village shall hold their similar offices under the city until their terms under the village would expire.

Section 70 Application of General Laws. All general laws and statutes of the state applicable to all cities operating under home rule charters and applicable to cities of the same class as the City of Gilbert operating under home rule charters, and not inconsistent with the provisions of this charter, shall apply to the City of Gilbert and shall be construed as supplementary to the provisions of this charter. The city shall have all powers and authority granted by the laws of the state to municipalities to acquire property or exercise authority or powers beyond the corporate limits. All powers by this section conferred shall be exercised conformably to this charter so far as may be possible, and such authority and power shall not authorize the city to incur any bonded debt beyond the limitations, or in any other manner than authorized by this charter.

Section 71 Existing Ordinances, Regulations, Boards and Commissions, Continued. All ordinances, regulations, boards and commissions of the municipality in force and existing when this charter takes effect, and not inconsistent with the provisions hereof, are hereby continued in full force and effect until amended, repealed, vacated or abolished.

Section 72 Ordinances to Make Charter Effective. The council is hereby empowered to, and it shall by ordinance, resolution, or motion, make such regulations as may be necessary to carry out and make effective the provisions of this charter, and to prescribe penalties for the violation of any ordinance or regulation not inconsistent with the laws of the state.

Section 73 Conflicting Provisions. If there is any provision of this charter which conflicts with any other provision of this charter, the city council may follow the provision of its choice by an affirmative vote of four members of the council.

Section 74 Ordinances Need Not Be Pleaded. In all actions, prosecutions, and proceedings of all kinds in the Municipal Court



of the city, the municipal judge shall take judicial notice of all the ordinances of the city and it shall not be necessary to plead or prove such ordinances in said Court.

Section 75 Service of Process. Whenever any suit or action shall be commenced against the city, except garnishment proceedings, all and every process and notice whatsoever affecting the city shall be served upon the mayor, or, in his absence, upon the city clerk and it shall be the duty of the officer so served to forthwith inform the city council and city attorney thereof.

Section 76 Provisions Severable. The various sections and provisions of this charter, and the clauses, phrases and sentences thereof, shall be severable, and if any section, part or provision thereof shall be held to be invalid, it shall not be construed as invalidating any other part or portion thereof.

Section 77 Donations. The city council may donate to and pay dues to the League of Minnesota Municipalities, the Range Municipalities Association, the American Red Cross, local Fourth of July committees, the Arrowhead Association, the Chamber of Commerce, the Boy Scouts, the local American Legion Post and such other organizations of a public or semi-public nature that the municipality may be wholly or partly interested in.

The city council may spend not to exceed \$500 annually for advertising the city, its resources and advantages.

Section 78 Public Recreation. The city council may operate a program of public recreation and play grounds; acquire, equip, and maintain land, buildings, and other recreational facilities; and expend funds for the operation of such program; all to be pursuant to the provisions of Laws of Minnesota for 1937, Chapter 233, Sections 2 to 5, both inclusive, and any and all amendments thereof and supplementary thereto now or hereafter existing.

Section 79 Cemetery. The city council shall have power to acquire, establish, own, operate, control, supervise, manage and maintain a cemetery and cemetery grounds and expend money therefor. It may sell lots therein to purchasers.

CERTIFICATE OF COMMISSION

We, the undersigned, being duly appointed, qualified and acting members of the Board of Freeholders (Charter Commission) in and for the Village of Gilbert, St. Louis County, Minnesota, hereby certify that the foregoing document consisting of 79 sections, numbered 1 to 79, both inclusive, is the draft of a proposed charter prepared and framed by said Board of Freeholders, and hereby affix our signatures to said draft in testimony of our approval thereof, and deliver the same to the Honorable Arlin B. Carlson, President of the Council of said village, as the chief magistrate or executive thereof, for action pursuant to law.

Dated at Gilbert, Minnesota, this 16th day of October, 1941.

<u>Frank Cahill</u>	<u>Walter Linn</u>
<u>John R. Krause</u>	<u>A. K. Kappel</u>
<u>Mike Kohler</u>	<u>M. J. [unclear]</u>
<u>Leo [unclear]</u>	<u>Frank J. Zeller</u>
<u>Joseph Cristiana</u>	<u>John T. Nolan</u>
<u>John Gude</u>	<u>Patrick J. Hogan</u>
<u>Jacob Koopi</u>	<u>Anton J. Lopp</u>
<u>John Osepak</u>	

The foregoing draft of a proposed charter and certificate in connection therewith received this 20th day of October, 1941.

Arlin B. Carlson  
President of Village Council and  
Chief Magistrate or Executive of  
the Village of Gilbert, St. Louis  
County, Minnesota.

STATE OF MINNESOTA  
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STATE OF MINNESOTA  
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*W. H. ...*  
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