



**CITY OF MARSHALL
Charter Commission
A g e n d a**

**Wednesday, December 29, 2021 at 5:30 PM
City Hall, 344 West Main Street/ Zoom**

APPROVAL OF AGENDA

APPROVAL OF MINUTES

1. Consider approval of the minutes from the December 17, 2020 Charter Commission Meeting

INFORMATION

2. Charter Information

ADJOURN

Disclaimer: These agendas have been prepared to provide information regarding an upcoming meeting of the Common Council of the City of Marshall. This document does not claim to be complete and is subject to change.



CITY OF MARSHALL AGENDA ITEM REPORT

Meeting Date:	Wednesday, December 29, 2021
Category:	APPROVAL OF MINUTES
Type:	ACTION
Subject:	Consider approval of the minutes from the December 17, 2020 Charter Commission Meeting
Background Information:	Enclosed are the minutes from the December 17, 2020 Charter Commission meeting.
Fiscal Impact:	None
Alternative/ Variations:	Staff encourages members to provide any suggested corrections to the minutes in writing to City Clerk Kyle Box, prior to the meeting.
Recommendations:	That the minutes from the December 17, 2020 Charter Commission meeting be approved as filed with each member and that the reading of the same be waived.

CITY OF MARSHALL
CHARTER COMMISSION

Minutes of the Meeting of December 17, 2020 - 5:00 P.M.
Southwest Minnesota State University, Social Science Building, Room 235/ Zoom

MEMBERS PRESENT: Stacy Frost, Nathan Doose, Jill Vroman, Don Edblom

MEMBERS ABSENT: Larry Doom, Mike Boedigheimer, Richard Herder, Stephen Davis

STAFF PRESENT: Sharon Hanson, City Administrator; Dennis Simpson, City Attorney and City Clerk Kyle Box

Meeting called to order at 5:00 p.m. by Chairperson Stacy Frost. Introductions were made.

Chairperson Frost called for election of officers for 2021. The role of the Chairperson has been to work on setting meeting times and agendas as well as to run the meetings. The role of the Secretary has been primarily to review the draft meeting minutes prior to distribution.

JILL VROMAN NOMINATED STACY FROST FOR CHAIRMAN, SECONDED BY DON EDBLOM. ALL VOTED IN FAVOR OF THE MOTION.

JILL VROMAN NOMINATED NATE DOOSE, FOR SECRETARY, SECONDED BY DON EDBLOM. ALL VOTED IN FAVOR OF THE MOTION.

MOTION BY NATHAN DOOSE TO APPROVE THE DECEMBER 12, 2019 CHARTER COMMISSION MINUTES, SECONDED BY JILL VROMAN. ALL VOTED IN FAVOR OF THE MOTION.

Chairperson Frost called for discussion on the 2019 Annual Report. In accordance with State Statute 410.05 Subdivision 2 the commission shall submit to the chief judge of the district court, on or before December 31 of each year, an annual report outlining its activities and accomplishments for the proceeding calendar year. The annual report must be completed by December 31, 2020.

City Administrator Sharon Hanson Commented that there were no requests for the Charter Commission to take any additional action.

STACY FROST MOVED TO APPROVE THE 2019 ANNUAL REPORT AND NATE DOOSE SECONDED THE MOTION. ALL VOTED IN FAVOR OF THE MOTION.

Chairperson Frost asked for discussion on additional Charter Commission member recommendations.

City Clerk Kyle Box commented that a majority of the Charter Commission members have expiring terms in 2021 and that appointments need to be made to the commission need to be made by the District Court Judge.

City Administrator Sharon Hanson provide two names; Jeremey Williams and Tom Bolin to be considered for the Charter Commission.

Frost asked for members to contribute any names to staff and the commission keeping in mind areas where the commission might be absent; age, ethnicity, private and nonprofit businesses.

JILL VROMAN MOVED TO ADJOURN THE MEETING; DON EDBLOM SECONDED THE MOTION. MEETING ADJOURNED AT 5:14 P.M. ALL VOTED IN FAVOR OF THE MOTION.

Respectfully Submitted,
Nathan Doose, Charter Commission Secretary

CITY OF MARSHALL AGENDA ITEM REPORT

Meeting Date:	Wednesday, December 29, 2021
Category:	INFORMATION ONLY
Type:	INFO
Subject:	Charter Information
Background Information:	Enclosed in your packet is the City of Marshall Charter as well as a copy of the Minnesota statute governing Home Rule Charters and a Charter overview from the League of Minnesota Cities.
Fiscal Impact:	NA
Alternative/ Variations:	NA
Recommendations:	NA

PART I CHARTER¹

CHARTER OF THE CITY OF MARSHALL
LYON COUNTY, MINNESOTA

CHAPTER 1. NAME, BOUNDARIES, POWERS, AND GENERAL PROVISIONS

Section 1.01. Name and boundaries.

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

(Ord. No. 356 2nd series, § 1, 3-16-1996)

Section 1.02. Powers of the City.

The City shall possess all the powers possible for a municipal corporation in this State to exercise in harmony with the constitutions of this State and of the United States. It is the intent of this Charter that every power which the people of the City of Marshall might lawfully confer upon themselves as a municipal corporation shall be understood to have been so conferred by specific enumeration in this Charter under the provisions of this Section. This Charter shall be interpreted liberally in favor of the City, and the specific mention of the particular powers in the Charter shall not be interpreted as limiting in any way the generality of the powers possibly conferred.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

Section 1.03. Charter a public act.

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

(Ord. No. 356 2nd series, § 1, 3-16-1996)

¹Editor's note(s)—Printed herein is the Charter of the City of Marshall, Minnesota as approved at referendum on July 22, 1969. Amendments to the Charter are indicated by parenthetical history notes following amended provisions. Amendments through Ord. No. 356 were present in the copy of the Charter furnished to Municipal Code Corporation for publication. The absence of a history note indicates that the provision remains unchanged from the original Charter. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and citations to state statutes have been used. Additions made for clarity are indicated by brackets.

State law reference(s)—Home rule charters, Minn. Stat. § 410.04 et seq.

CHAPTER 2. FORM OF GOVERNMENT

Section 2.01. Form of government.

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

(Ord. No. 356 2nd series, § 1, 3-16-1996)

State law reference(s)—Permissible charter provisions, Minn. Stat. § 410.16.

Section 2.02. Boards and commissions.

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

(Ord. No. 356 2nd series, § 1, 3-16-1996)

Section 2.03. Elective offices.

Subd. 1. Mayor.

- A. *Qualification.* Mayor must be, at the date of filing for office and during his/her term, a qualified elector of the City of Marshall and shall be elected at large.
- B. *Mayor's Term.* The Mayor shall serve for a period of four years and until their successor is elected and qualified. The term shall begin on the first regular meeting in January after the municipal election.

Subd. 2. Councilmembers.

- A. *Qualifications.* Councilmembers must, at date of filing for office and during their term, be a qualified elector of the ward of the City of Marshall for which they seek office or hold office.
- B. *Number.* Two councilmembers shall be elected from each ward.
- C. *Councilmembers Term.* All councilmembers elected shall serve for a period of four years and until their successor is elected and qualified. The term shall begin on the first regular meeting in January after the municipal election.

(Ord. No. 185 2nd series, § 1, 6-2-1986; Ord. No. 352 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 664 2nd series, § 1, 12-4-2012)

Section 2.04. Incompatible offices.

No member of the Council shall be appointed City Administrator, nor shall any member of the Council hold any paid municipal office or employment under the City other than as a member of the Council.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

Section 2.05. Vacancies in the council.

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

(Ord. No. 356 2nd series, § 1, 3-16-1996)

Section 2.06. The mayor.

The Mayor shall be the presiding officer of the Council, except that the Council shall choose from its members a president pro tem who shall hold office at the pleasure of the Council and shall serve as president in the Mayor's absence and as a mayor in case of the Mayor's disability or absence from the City. The Mayor shall have a vote as a member of the Council. He/She shall exercise all powers and perform all duties conferred and imposed upon him/her by this Charter, the ordinances of the City and the laws of the State. He/She 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 marital law. He/She shall study the operations of the City government and shall report to the Council any neglect, dereliction of duty, or waste on the part of any officer or department of the City. In time of public danger or emergency, he/she may, with the consent of the Council, take command of the police, maintain order and enforce the law.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

State law reference(s)—Permissible Charter provisions, Minn. Stat. § 410.19.

Section 2.07. Salaries.

Salaries of the Councilmembers and Mayor shall be discussed as an agenda item at the first council meeting in July of each year. After said discussions, the council shall set and determine said salaries in accordance with the applicable state law.

(Ord. No. 353 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16-1996)

Section 2.08. Investigation of city affairs.

The Council shall have power to investigate the City's affairs, to subpoena witnesses, to administer oaths, and to compel the inspection of books and papers. The Council shall provide for an audit of the City's accounts at least once a year by the State Department in charge of such work or by a public accountant selected by the Council. The Council may at any time provide for an examination or audit of the accounts of any office or department of the City government and it may cause to be made any survey or research study of any subject of municipal concern.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

Section 2.09. City employees, their wages, salaries, benefits and regulation.

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

(Ord. No. 356 2nd series, § 1, 3-16-1996)

Section 2.10. Wards.

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

(Ord. No. 356 2nd series, § 1, 3-16-1996)

CHAPTER 3. PROCEDURE OF THE COUNCIL

Section 3.01. Council meetings.

Newly elected members of the council shall assume their duties on the first meeting in January following a regular municipal election. The Council shall meet at such time each month as may be prescribed by ordinance or resolution. The Mayor or any three members of the council may call a special meeting of the council upon at least twelve (12) hours written notice to each member of the council. Such notice shall be delivered personally to each member or shall be left at their usual place of residence with some responsible person. The business to be taken up at any special meeting shall be specifically stated in the notice, and no other business shall be transacted unless all members are present and consent thereto.

All meetings of the Council shall be public, and any citizen shall have access to the minutes and records thereof at all reasonable times.

(Ord. No. 86 2nd series, § 1, 11-3-1980; Ord. No. 356 2nd series, § 1, 3-16-1996)

Editor's note(s)—At the direction of the city, as part of Supp. No. 30, § 3.01, was amended to read as set out herein.

Section 3.02. City Clerk.

The City Clerk shall be appointed by the City Administrator. The City Clerk, or a person designated by the City Clerk, shall perform the following specific duties:

Subd. 1. Attend all sessions of the City Council.

Subd. 2. Be the official secretary of the City Council.

Subd. 3. Preserve all votes of meetings and proceedings in books kept for that purpose.

Subd. 4. Give or cause to be given notice of all meetings of the City Council.

Subd. 5. Perform also such other duties as may be prescribed by the City Administrator.

Subd. 6. Shall, when authorized by the City Council, give their signature to any instrument requiring it.

Subd. 7. Prepare and maintain in an orderly fashion all ordinances and resolutions passed by the Council.

(Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 379 2nd series, § 1, 11-3-1997; Ord. No. 707 2nd series, § 1, 5-9-2016)

Editor's note(s)—Ord. No. 707 2nd series, § 1, adopted May 9, 2016, amended § 3.02, to read as set out herein.
Previously § 3.02 was titled "City clerk/finance director."

Section 3.03. Finance Director.

The Finance Director shall be appointed by the Council. The Finance Director, or a person designated by the Director, shall perform the following specific duties:

Subd. 1. Attend all sessions of the City Council.

Subd. 2. Perform duties as City Treasurer.

Subd. 3. Perform also such other duties as may be prescribed by the City Administrator.

(Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 665 2nd series, § 1, 12-4-2012; Ord. No. 707 2nd series, § 1, 5-9-2016)

Editor's note(s)—Ord. No. 707 2nd series, § 1, adopted May 9, 2016, amended § 3.03, to read as set out herein.
Previously § 3.03 was titled "City attorney."

Section 3.04. City attorney.

The Mayor shall nominate to the City Council the person to be appointed as City Attorney for the City of Marshall. The City Council and the Mayor shall vote and confirm said appointment by majority vote. The City Attorney shall serve for a term of two (2) years, his/her term of office to begin on the first regular meeting in January after the municipal election and he/she shall continue in office until their successor is appointed. No commission, board, department or officer of the City shall use or employ any other attorney to represent them in their official capacities, provided that in any case of special or unusual circumstances of which the City Attorney does not have the necessary skills to complete the required work or there is a conflict of interest, the Council, at the request of the City Attorney, may by motion appoint special counsel and fix their compensation. The Marshall Municipal Utilities Commission are hereby authorized to employ the City Attorney in official matters and to pay for their services from their respective funds. The City Attorney may employ such staff and assistants as necessary with the approval of the Council.

(Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

Editor's note(s)—Ord. No. 707 2nd series, § 1, adopted May 9, 2016, amended § 3.04, to read as set out herein.
Previously § 3.04 was titled "Rules of procedure and quorum."

Section 3.05. Rules of procedure and quorum.

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

(Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

Editor's note(s)—Ord. No. 707 2nd series, § 1, adopted May 9, 2016, amended § 3.05, to read as set out herein.
Previously § 3.05 was titled "Ordinances, resolutions and motions."

Section 3.06. Ordinances, resolutions and motions.

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

(Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

Editor's note(s)—Ord. No. 707 2nd series, § 1, adopted May 9, 2016, amended § 3.06, to read as set out herein.
Previously § 3.06 was titled "Procedure on ordinances."

Section 3.07. Procedure on ordinances.

The enacting clause of all ordinances shall be in the words, "The Common Council of the City of Marshall do ordain." Every ordinance shall be presented in writing. No ordinance except an emergency ordinance shall be passed at the meeting at which it is introduced and at least three (3) days shall elapse between its introduction and final passage.

(Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

Editor's note(s)—Ord. No. 707 2nd series, § 1, adopted May 9, 2016, amended § 3.07, to read as set out herein.
Previously § 3.07 was titled "Signing and publication of ordinance and resolutions."

Section 3.08. Signing and publication of ordinance and resolutions.

Every ordinance or resolution passed by the Council shall be signed by the Mayor or, in their absence, by the president of the Council, attested by the City Clerk and filed and preserved by said City Clerk. Every ordinance or a summary of said ordinance shall be published in the official newspaper according to State Statute.

(Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

Editor's note(s)—Ord. No. 707 2nd series, § 1, adopted May 9, 2016, amended § 3.08, to read as set out herein.
Previously § 3.08 was titled "Emergency ordinances."

Section 3.09. Emergency ordinances.

An emergency ordinance is an ordinance necessary for the immediate preservation of the public peace, health, morals, safety or welfare and one in which the emergency is defined and declared in a preamble thereto, and shall be adopted by a vote of at least five (5) members of the Council. No prosecution shall be based upon the provisions of any emergency ordinance until twenty-four (24) hours has passed after the ordinance has been filed with the City Clerk and has been published in the official newspaper or a summary publication has been published according to state statute.

(Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

Editor's note(s)—Ord. No. 707 2nd series, § 1, adopted May 9, 2016, amended § 3.09, to read as set out herein.
Previously § 3.09 was titled "Procedure on resolutions."

Section 3.10. Procedure on resolutions.

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

(Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

Editor's note(s)—Ord. No. 707 2nd series, § 1, adopted May 9, 2016, amended § 3.10, to read as set out herein.

Previously § 3.10 was titled "When ordinances and resolutions take effect."

Section 3.11. When ordinances and resolutions take effect.

A resolution and/or emergency ordinance shall take effect immediately upon its passage or at such later date as is fixed in it. Every ordinance shall take effect at the time of publication or when a summary of said ordinance has been published or at a later date as is fixed therein. Every ordinance and resolution adopted by the voters of the City shall take effect immediately upon public notice of adoption, or at such later time as is fixed therein.

(Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

Editor's note(s)—Ord. No. 707 2nd series, § 1, adopted May 9, 2016, amended § 3.11, to read as set out herein.

Previously § 3.11 was titled "Amendment and repeal of ordinances and resolutions."

Section 3.12. Amendment and repeal of ordinances and resolutions.

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

(Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

Editor's note(s)—Ord. No. 707 2nd series, § 1, adopted May 9, 2016, amended § 3.12, to read as set out herein.

Previously § 3.12 was titled "Revision and codification of ordinances."

Section 3.13. Revision and codification of ordinances.

The City may revise, rearrange and codify its ordinances with such additions and deletions as may be deemed necessary by the Council. Such ordinance code shall be published in book, pamphlet or continuously revised loose-leaf form and copies shall be made available by the Council at the office of the City Clerk for general distribution to the public free or at a reasonable charge. Publication in such a code shall be a sufficient publication of any ordinance provision not previously published if a notice that copies of the codification are available at the office of the City Clerk is published in the official newspaper for at least two (2) successive weeks.

(Ord. No. 707 2nd series, § 1, 5-9-2016)

State law reference(s)—Codification of ordinances, Minn. Stat. § 415.021.

CHAPTER 4. NOMINATIONS AND ELECTIONS²

Section 4.01. The regular municipal election.

A regular municipal election shall be held on the first Tuesday after the first Monday of November of every even-numbered year, commencing in 1986, at such place or places as the Common Council may designate. The City Clerk shall have at least two (2) weeks previous notice of the time and place of holding such election and of the members to be elected by publication at least twice in the official newspaper, but failure to give such notice shall not invalidate such election. At said election, there shall be elected members of the Council and Mayor.

(Ord. No. 185 2nd series, § 1, 6-2-1986; Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

Section 4.02. Special elections.

The Council may by resolution order a special election and provide all means necessary for the holding of said election. A notice of a special election shall be given in the official newspaper of the City at least once per week for a two (2) week period prior to the election.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

Section 4.03. Nominations by elections.

In compliance with the Candidate filing period as defined by Minnesota Statute § 205.13, subd. 1a, an individual who is eligible and desires to become a candidate for an office to be voted for at the election shall file an affidavit of candidacy with the City Clerk. The affidavit shall be in substantially the same form as required of candidates for state offices and shall be furnished by the City Clerk upon request and payment of the proper filing fee to the City Clerk. Once the affidavit has been filed with the City Clerk, the name of the candidate shall be placed on the official ballot without partisan designation. Unless a candidate has filed an affidavit of candidacy and paid a filing fee, his/her name may not be placed upon the official ballot for the municipal election.

(Ord. No. 224 2nd series, § 1, 3-23-1988; Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 552 2nd series, § 1, 7-5-2006; Ord. No. 618 2nd series, § 1, 5-25-2010; Ord. No. 707 2nd series, § 1, 5-9-2016)

Editor's note(s)—Ord. No. 618, 2nd series, § 1, adopted May 25, 2010, changed the title of section 4.03 from "Nomination by affidavit" to "Nominations by elections." The historical notation has been preserved for reference purposes.

Section 4.04. Procedure at elections.

The conduct and procedure of all elections shall be governed by applicable statutes, together with supplementary ordinances, if any, passed by the City Council.

²State law reference(s)—Charter provisions to prevail over certain state election laws, Minn. Stat. § 410.21; elections generally, Minn. Stat. chs. 200—211C; municipal elections, Minn. Stat. ch. 205.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

CHAPTER 5. INITIATIVE, REFERENDUM, AND RECALL³

Section 5.01. Powers reserved by the people.

The people of Marshall, Minnesota, reserve to themselves the power, in accordance with the provisions of this Charter, to initiate and adopt any ordinance, except an ordinance appropriating money or authorizing the levy of taxes, to require such an ordinance when passed by the Council to be referred to the electors for approval or disapproval, and to recall elected public officials. Those powers shall be called the initiative, the referendum, and the recall, respectively.

(Ord. No. 354 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16-1996)

Section 5.02. Expenditures by petitioners.

No member of any initiative, referendum, or recall committee, no circulator of a signature paper, and no signer of any such paper, or any other person, shall accept or offer any rewards, pecuniary or otherwise, for service rendered in connection with the circulation thereof, but this shall not prevent the committee from paying for legal services or from incurring an expense not to exceed \$150.00 for stationery, copying, printing, and notaries' fees. Any violation of the provisions of this Section is a misdemeanor.

(Ord. No. 354 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16-1996)

Section 5.03. Further regulations.

The Council may provide by ordinance such further regulations for the initiative, referendum and recall, not inconsistent with this Charter, as it deems necessary.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

Initiative

Section 5.04. Initiation of measures.

Any five (5) electors may form themselves into a committee for initiation of any ordinance except as prohibited in Section 5.01. Before circulating any petition they shall file a verified copy of their proposed ordinance with the City Clerk together with their names and addresses as members of such committee. They shall also attach a certified copy of the proposed ordinance to each of the signature papers herein described, together with their names and addresses as sponsors therefor.

(Ord. No. 354 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

³State law reference(s)—Recall, initiative and referendum authorized, Minn. Stat. § 410.20.

Section 5.05. Form of petition and of signature papers.

The petition for the adoption of any ordinance shall consist of the ordinance, together with all the signature papers and affidavits thereto attached. Such petition shall not be complete unless signed by one hundred (100) voters or ten percent (10%) of the total votes cast at the last municipal election, whichever is greater. All the signatures need not be on one signature paper, but the circulator of every such paper shall make an affidavit that each signature appended to the paper is the genuine signature of the person whose name it purports to be. Initiative petition forms shall be provided upon request at the office of the City Clerk.

(Ord. No. 354 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

Section 5.06. Filing of petitions and action thereon.

All the signature papers shall be filed in the office of the City Clerk as the instrument. Within ten (10) days after the filing of the petition, the City Clerk Director shall ascertain by examination the number of electors whose signatures are appended thereto and whether this number is at least one hundred (100). If he/she finds the petition insufficient or irregular, he/she shall at once notify one or more of the members of the committee of the fact, certifying the reasons for their finding. The committee shall then be given thirty (30) days in which to file additional signature papers and to correct the petition in all other particulars. If at the end of that period the petition is found to still be insufficient or irregular, the City Clerk shall file it in his/her office and shall notify each member of the committee of that fact. The final finding of the insufficiency or irregularity of a petition shall not prejudice the filing of a new petition for the same purpose, nor shall it prevent the Council, at its option, from referring the ordinance to the electors at the next regular or any special election.

(Ord. No. 354 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

Section 5.07. Action of council on petition.

When the petition is found to be sufficient, the City Administrator shall so certify to the Council at its next meeting, stating the number of petitioners, and the Council shall at once read the ordinance and refer it to an appropriate committee of the Council, which may be a committee of the whole. The committee of Council, shall thereupon provide for one or more public hearings upon the ordinance, after the holding of which the ordinance shall be finally acted upon by the Council not later than sixty-five (65) days after the date upon which it was submitted to the Council by the City Administrator. If the Council fails to pass the proposed ordinance, or passes it in a form different from that set forth in the petition and unsatisfactory to the petitioners, the proposed ordinance shall be submitted by the Council to the vote of the electors at the next regular municipal election; but if the number of signers of the petition is equal to at least two hundred (200) voters, the Council shall call a special election upon the measure. Such special election shall be held not less than thirty (30) nor more than forty-five (45) days from date of final action on the ordinance by the Council or after the expiration of sixty-five (65) days from the date of submission to the Council when there has been no final action; but if a regular election is to occur within three (3) months, the Council may submit the ordinance at the election. If the Council passes the proposed ordinance with amendments and at least four-fifths (4/5) of the committee of petitioners do not express their dissatisfaction with such amended form by a statement filed with the City Clerk within ten (10) days of the passage thereof by the Council, the ordinance need not be submitted to the electors.

(Ord. No. 354 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

Section 5.08. Initiative ballots.

The ballots used when voting upon any such proposed ordinance shall state the substance of the ordinance and shall give the voters the opportunity to vote either "yes" or "no" on the question of adoption. If a majority of the electors voting on any such ordinance vote in favor of it, it shall thereupon become an ordinance of the City. Any number of the proposed ordinances may be voted upon at the same election but the voter shall be allowed to vote for or against each separately. In case of inconsistency between two initiated ordinances approved at one election, the one approved by the higher percentage of electors voting on the question shall prevail to the extent of the inconsistency.

(Ord. No. 354 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16-1996)

Section 5.09. Initiation of charter amendments.

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

(Ord. No. 354 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16-1996)

Referendum

Section 5.10. The referendum.

If prior to the date when an ordinance takes effect a petition signed by qualified electors of the City equal in number to one hundred fifty (150) or fifteen percent (15%) of the total votes cast at the last municipal election, whichever is greater, is filed with the City Clerk requesting that any such ordinance be repealed or be submitted to a vote of the electors, the ordinance shall thereby be prevented from going into operation. The Council shall thereupon reconsider the ordinance at its regular meeting, and either repeal it or by "yes" and "no" vote reaffirm its adherence to the ordinance as passed. In the latter case the Council shall immediately order a special election to be held thereon, or submit the ordinance at the next regular municipal election, pending which the ordinance shall remain suspended. If a majority of the electors voting thereon is opposed to the ordinance, it shall not become effective, but if a majority of the electors voting thereon favors the ordinance, it shall go into effect immediately or on the date therein specified.

(Ord. No. 354 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

Section 5.11. Referendum petitions.

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

(Ord. No. 354 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16 1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

Section 5.12. Referendum ballots.

The ballots used in any referendum election shall conform to the rules laid down in Section 5.08 of this Charter for initiative ballots.

(Ord. No. 354 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16-1996)

Recall of Councilmember

Section 5.13. The recall.

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

(Ord. No. 354 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

Section 5.14. Recall petitions.

The petition for the recall of any councilmember shall consist of a certificate identical with that filed with the City Clerk together with all the signature papers and affidavits thereto attached. All the signatures need not be on one signature paper but the circulator of every paper shall make an affidavit that each signature appended to the paper is the genuine signature of the person Whose name it purports to be. Recall petition forms shall be provided by request at the office of the City Clerk.

(Ord. No. 354 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

Section 5.15. Filing of petition.

Within thirty (30) days after the filing of the original certificate, the committee shall file the completed petition in the office of the City Clerk. The City Clerk shall examine the petition within the next ten (10) days, and if he/she finds it irregular in any way or finds that the number of signatures is less than ten (10%) percent of the electors that voted in said ward at the last general election or 250 voters, whichever is greater, he/she shall notify one or more members of the committee. The committee then shall be given ten (10) days in which to file additional signature papers and to correct the petition in all other respects, but they may not change the statement on the grounds upon which the recall is sought. If at the end of that time the City Clerk finds the petition still insufficient or irregular, he/she shall notify all the members of the committee to that effect and shall file the petition in their office. No further action shall be taken thereon.

(Ord. No. 354 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

Section 5.16. Recall election.

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

(Ord. No. 354 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

Section 5.17. Procedure at recall election.

The City Clerk shall include with the published notice of the election the statement of the grounds for the recall and also, in not more than five hundred (500) words, the answer of the member concerned in justification of their conduct in office.

(Ord. No. 354 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

Section 5.18. Form of recall ballot.

Unless the member whose removal is sought resigns within ten (10) days after the receipt by the Council of the completed recall petition, the form of the ballot at such election shall be as near as may be:

"Shall _____ be recalled?" The name of the member whose recall is sought being inserted in the blank, and the electors shall be permitted to vote separately "yes" or "no" upon this question.

(Ord. No. 354 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16-1996)

Section 5.19. Election procedure.

The election shall be held, certified and canvassed according to Minnesota Statutes regulating municipal elections.

(Ord. No. 354 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16-1996)

Section 5.20. Election results.

If a majority of those voting on the question of recall vote in favor of the recall, the member shall immediately cease to be a member of the board. If a majority of those voting on the question of recall vote not to recall the councilmember they [the councilmember] shall have the right to serve out their [the] term to which they were [the councilmember was] elected. If a councilmember is recalled or resigns, the council at its next meeting shall call for a special election to fill the remaining term of the recalled councilmember according to Chapter 4 of the City Charter. The recalled or resigned councilmember shall not be allowed to file for the election to fill the vacancy created by the recall election or the resignation.

(Ord. No. 354 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16-1996)

Recall of Mayor

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Section 5.21. The recall.

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

(Ord. No. 354 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

Section 5.22. Recall petitions.

The petition for the recall of the Mayor of the City shall consist of a certificate identical with that filed with the City Clerk together with all the signature papers and affidavits thereto attached. All the signatures need not be on one signature paper but the circulator of every paper shall make an affidavit that each signature appended to the paper is the genuine signature of the member whose name it purports to be. Recall petition forms shall be provided by request at the office of the City Clerk.

(Ord. No. 354 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

Section 5.23. Filing of petition.

Within thirty (30) days after the filing of the original certificate, the committee shall file the completed petition in the office of the City Clerk. The City Clerk shall examine the petition within the next ten (10) days, and if he/she finds it irregular in any way or finds that the number of signatures is less than the greater of ten (10%) percent of the electors that voted in said last whole city election or 500 voters, he/she shall notify one or more members of the committee. The committee then shall be given ten (10) days in which to file additional signature papers and to correct the petition in all other respects, but they may not change the statement of the grounds upon which the recall is sought. If at the end of that time the City Clerk finds the petition still insufficient or irregular, he/she shall notify all the members of the committee to that effect and shall file the petition in their office. No further action shall be taken thereon.

(Ord. No. 354 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

Section 5.24. Recall election.

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

(Ord. No. 354 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

Section 5.25. Procedure at recall election.

The City Clerk shall include with the published notice of the election the statement of the grounds for the recall and also, in not more than five hundred (500) words, the answer of the mayor concerning justification of their conduct in office.

(Ord. No. 354 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

Section 5.26. Form of recall ballot.

Unless the mayor whose removal is sought resigns within ten (10) days after the receipt by the Council of the completed recall petition, the form of the ballot at such election shall be as near as may be: "Shall _____ be recalled?" The name of the mayor whose recall is sought being inserted in the blank, and the electors shall be permitted to vote separately "yes" or "no" upon this question.

(Ord. No. 354 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16-1996)

Section 5.27. Election procedure.

The election shall be held, certified and canvassed according to Minnesota Statutes regulating municipal elections.

(Ord. No. 354 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16-1996)

Section 5.28. Election results.

If a majority of those voting on the question of recall vote in favor of the recall, the mayor shall immediately cease to be mayor of the City. If a majority of those voting on the question of recall vote not to recall the mayor, he/she shall have the right to serve out his/her term to which he/she was elected. If a mayor is recalled or resigns, the council at its next meeting shall call for a special election to fill the remaining term of the recalled mayor according to Chapter 4 of the City Charter. The recalled or resigned mayor shall not be allowed to file for the election to fill the vacancy created by the recall election or the resignation.

(Ord. No. 354 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16-1996)

CHAPTER 6. ADMINISTRATION OF CITY AFFAIRS

Section 6.01. Departments of administration.

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

(Ord. No. 356 2nd series, § 1, 3-16-1996)

Section 6.02. The city administrator.

The Council shall appoint a City Administrator and delegate to him/her whatever powers, ministerial or administrative, they deem necessary for the proper administration of City affairs, in addition to the specific duties set out in Section 6.03. He/she shall be the chief administrative officer of the City. He/she shall be so chosen by the Council solely on the basis of his/her training, experience and administrative qualifications and need not be a resident of the City at the time of his/her appointment. He/She shall be appointed for an indefinite period of time and may be removed by the Council at any time. The Council may designate some properly qualified person to perform the duties of the City Administrator during his/her absence or disability or while the office of the City Administrator is vacant.

(Ord. No. 564, § 1, 4-21-1975; Ord. No. 356 2nd series, § 1, 3-16-1996)

Section 6.03. Duties of city administrator.

The City Administrator shall be directly responsible to the City Council for the proper administration of all affairs of the City, and to that they shall perform the following specific duties:

Subd. 1. See that this Charter and the laws, ordinances and resolutions of the City are enforced;

Subd. 2. Under direction of the Council, exercise control over the departments and divisions of the City administration as provided by this Charter;

Subd. 3. Attend all meetings of the Council, unless excused, with the right to take part in discussion but not to vote. They shall, however, be excluded from any meeting of the Council at which their removal is considered, unless their presence is requested by a majority vote of the Council;

Subd. 4. Keep the Council advised of the financial condition and needs of the City and submit annually to the Council an administrative budget which shall be compiled from the various department budget requests;

Subd. 5. Prepare an administrative code incorporating details of administrative policies and procedures. They shall from time to time recommend amendments to the administrative policies of such code for approval by the City Council. The City Administrator may establish and amend as deemed appropriate administrative procedures in the administrative code without Council approval;

Subd. 6. Perform such other duties as may be prescribed by this Charter or by the law or required by the City Administrator by ordinances and resolutions adopted by the Council.

(Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 675 2nd series, 7-9-2013; Ord. No. 707 2nd series, § 1, 5-9-2016)

Section 6.04. Departments of administration.

There shall be such other offices subordinate to the City Administrator as the Council may create by ordinance. The Council may by ordinance establish, modify or abolish offices and may combine the duties of various offices as it deems fit.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

Section 6.05. Purchases and contracts.

The City Administrator shall be the chief purchasing agent of the City. All policies and procedures for City purchases and related contracts for supplies, materials, equipment, services or the like shall be prescribed by a formal policy approved by the City Council by majority vote and be in strict compliance with the laws of the State

of Minnesota then in effect. All contracts, bonds and instruments of any kind to which the City is a party, except checks drawn on the City, shall be signed by the Mayor or President Pro Tem in his/her absence and attest by the City Clerk or City Administrator in his/her absence on behalf of the City and shall be executed in the name of the City.

(Ord. No. 564, § 1, 4-21-1975; Ord. No. 86 2nd series, § 1, 11-3-1980; Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 653 2nd series, § 1, 4-10-2012; Ord. No. 707 2nd series, § 1, 5-9-2016)

Section 6.06. Contracts how let.

All contracts for the sale or purchase of supplies, materials, equipment or the rental thereof, or the construction, alteration, repair or maintenance of real or personal property, shall be let by the council, upon the recommendation of the City Administrator, in strict compliance with the laws of the State of Minnesota then in effect.

(Ord. No. 564, § 1, 4-21-1975; Ord. No. 356 2nd series, § 1, 3-16-1996)

CHAPTER 7. TAXES AND FINANCE⁴

Section 7.01. Council to control finances.

The Council shall have full authority over the financial affairs of the City, and shall provide for the collection of all revenues and other assets, the auditing and settlement of accounts, and the safekeeping and disbursement of public monies, and on the exercise of keeping and disbursement of public monies, and in the exercise of a sound discretion shall make appropriations for the payment of all liabilities and expenses.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

Section 7.02. Fiscal year.

The fiscal year of the City shall be as determined by State Statutes then in effect.

(Ord. No. 86 2nd series, § 1, 11-3-1980; Ord. No. 356 2nd series, § 1, 3-16-1996)

State law reference(s)—Fiscal year, Minn. Stat. § 494.696.

Section 7.03. System of taxation.

Subject to the State constitution, and except as forbidden by it or by State legislation, the Council shall have full power to provide by ordinance for a system of local taxation. In the taxation of real and personal property as such, the City shall conform as fully as possible to the general State law as to the assessment of such property and the collection of such taxes.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

⁴State law reference(s)—Municipal finance, Minn. Stat. chs. 426—435; taxation, Minn. Stat. chs. 270—298.

Section 7.04. Board of equalization.

The Council shall constitute a Board of Equalization to equalize assessments of property for taxation purposes according to law.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

State law reference(s)—Equalization of assessments, Minn. Stat. ch. 274.

Section 7.05. Preparation of the annual budget.

The classification of accounts used in the budget must conform to the classification of accounts used in reporting the actual results. The budget, together with any other related supporting documents, shall be provided in a reproducible format and there shall be sufficient copies for each member of the Council, for the Finance Director, and copies be available for inspection by the public, at the City Hall and the Public Library.

(Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 653 2nd series, § 1, 4-10-2012; Ord. No. 707 2nd series, § 1, 5-9-2016)

Section 7.06. Passage of the budget.

The annual budget shall be approved and adopted by a majority of the Council and shall set forth in detail, the complete financial plan of the City for the ensuing fiscal year. It shall indicate the sums to be raised and from what sources, and the sums to be spent and for what purposes. The total sum appropriated shall be less than the total estimated revenue by a safe margin. The Council shall, by resolution, adopt a budget within the statutory limits. The Council shall follow the procedures as established by the State Legislature for the adoption of municipal budgets. At the beginning of the fiscal year, the sums fixed in the budget resolution shall be and become appropriated for the several purposes named in the budget resolution and no other.

(Ord. No. 86 2nd series, § 1, 11-3-1980; Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

State law reference(s)—Publication of summary budget statement, Minn. Stat. § 471.6965.

Section 7.07. Enforcement of the budget.

It shall be the duty of the City Council to enforce strictly the provisions of the budget. The City Administrator shall not approve any order upon the City for any expenditure unless an appropriation has been made therefor in the budget resolution, nor for any expenditure covered by the budget resolution unless there is sufficient unexpended balance left after deducting the total encumbrances. No officer or employee of the City shall place any order or make any purchase except for a purpose and to the amount authorized in the budget resolution. Any obligation incurred by any person in the employ of the City for any purpose not authorized in the budget resolution or for any amount in excess of the amount therein authorized shall be the personal obligation upon the person incurring the expenditure.

(Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

Section 7.08. Alterations in the budget.

After the budget resolution has been adopted, the Council shall have no power to increase the amounts fixed in the budget resolution, by the insertion of new items or otherwise, beyond the estimated revenues, unless the

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actual receipts exceed the estimates and when not beyond the actual receipts. The Council may, at any time, by resolution approved by a majority of its members, reduce the sums appropriated for any purpose by the budget resolution, or by a vote of five (5) members authorize the transfer of sums from unencumbered balances of appropriations in the budget resolution to other purposes.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

Section 7.09. Emergency appropriation in budget.

The Council may include an emergency appropriation to any other appropriation, [which] shall be made only by a vote of at least five (5) members of the Council, and shall be used only for the purpose designated by the Council.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

Section 7.10. Disbursements - how made.

Disbursement of City funds shall be made by the City Administrator and/or the Finance Director specifying the purpose for which the disbursement is made and the fund from which it is drawn. No such disbursements shall be issued until there is money to the credit of the fund from which it is to be paid, sufficient to pay it, together with all outstanding encumbrances upon the fund. No disbursement shall be issued until the claim to which it relates has been supported by an itemized bill, payroll, or time sheet approved and signed by the responsible City officer who vouches for its correctness and reasonableness. The Council may by ordinance, make further regulations for the safekeeping and disbursement of the funds of the City.

(Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 653 2nd series, § 1, 4-10-2012; Ord. No. 707 2nd series, § 1, 5-9-2016)

Section 7.11. Funds to be kept.

Subd. 1. There shall be maintained in the office of the Finance Director a general fund for the payment of such expenses as the Council may deem proper. Into this fund shall be paid all monies levied for this fund and all monies not required to be placed in some other fund.

Subd. 2. There shall be maintained in the office of the Finance Director a special revenue fund established in the City of Marshall to permanently dedicate the \$2,000,000 unrestricted funds from the 2009 sale of the hospital. The purpose of the fund shall be to support special programs or capital projects for the betterment of the City of Marshall. The initial principal \$2,000,000, as well as future private or public contributions to the fund, may not be withdrawn. The Mayor and City Council shall be responsible for all investments, withdrawals, and spending of the unrestricted funds. The Mayor and Council may create policies and procedures related to the appropriate oversight and management of such fund.

Subd. 3. There shall also be maintained in the office of the Finance Director such other funds, or division of funds, as the budget shall require or the City Administrator and Council shall direct. There shall also be maintained in the office of the Finance Director such other funds or division of funds as are required by law, ordinance or resolution.

(Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 653 2nd series, § 1, 4-10-2012; Ord. No. 707 2nd series, § 1, 5-9-2016)

Section 7.12. Accounting procedure.

The Council may prescribe and enforce proper accounting methods, forms, blanks, and other devices consistent with the law, the Charter, and the ordinances adopted in accord therewith.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

Section 7.13. City indebtedness.

Except as provided in Section 7.14 and 7.15, no obligations shall be issued to pay current expenses, but the Council may issue and sell obligations for any other municipal purpose in accordance with law and within the limitations prescribed by law. Except in the case of obligations for which an election is not required by this Charter or by State law, no such obligations shall be issued and sold without the approval of the majority of the electors of the City voting on the question at a general or special election.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

Section 7.14. Tax anticipation certificates.

The Council may issue certificates of indebtedness in anticipation of the collection of taxes levied for any fund and not yet collected if it follows the procedures established by state statutes. The total amount of certificates issued against any fund for any year with interest thereon until maturity shall not exceed seventy percent (70%) of the total current taxes for the fund uncollected at the time of issuance. Such certificates shall be issued on such terms and conditions as the Council may determine, but they shall become due and payable not later than one (1) year following the date of their issuance. The proceeds of the tax levied for the fund against which tax anticipation certificates are issued, and the full faith and credit of the City, shall be irrevocably pledged for the redemption of the certificates in the order of their issuance against the fund.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

State law reference(s)—Tax anticipation certificates authorized, Minn. Stat. § 410.325.

Section 7.15. Emergency debt certificates.

If in any year the receipts from taxes or other sources should for some unforeseen cause become insufficient for the ordinary expenses of the City, or if any calamity or other public emergency should subject the City to the necessity of making extraordinary expenditures, the Council may by ordinance issue and sell on such terms and in such manner as the Council determines, emergency debt certificates to run not to exceed two (2) years. A tax sufficient to pay principal and interest on such certificates with the margin required by law shall be levied as required by law. The ordinance authorizing an issue of such emergency debt certificates shall state the nature of the emergency and be approved by at least five (5) members of the Council. It may be passed as an emergency ordinance.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

Section 7.16. Fees shall be paid to the city government.

All fees received by any officer or employee shall belong to the city.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

Section 7.17. Utility commissions.

The Marshall Municipal Utilities Commission shall be governed by Minn. Stat. ch. 453.
(Ord. No. 356 2nd series, § 1, 3-16-1996)

CHAPTER 8. PUBLIC IMPROVEMENTS AND SPECIAL ASSESSMENTS⁵

Section 8.01. Power to make improvements and levy assessments.

The City shall have the power to make any and every type of public improvement not forbidden by the laws of this State and to levy special assessments for all or any part of the cost of such improvements as are of a local character, pursuant to the laws of the State of Minnesota.
(Ord. No. 356 2nd series, § 1, 3-16-1996)

Section 8.02. Local improvements, regulations.

All proceedings for construction and improvements to be paid for by special assessment against benefited property may be instituted by the procedures according to the statutes of the State of Minnesota.
(Ord. No. 356 2nd series, § 1, 3-16-1996)

CHAPTER 9. EMINENT DOMAIN⁶

Section 9.01. Power to acquire property.

The City may acquire by purchase, gift, devise or condemnation any property, corporeal or incorporeal, either within or without its corporate boundaries which may be needed by the City for any public use or purpose or as may be useful or beneficial to its inhabitants. Easements for slopes, fills, sewers, building lines, poles, wires, pipes and conduits for water, gas, heat and power may also be acquired by gift, devise, purchase or condemnation, in the manner provided by law.
(Ord. No. 356 2nd series, § 1, 3-16-1996)

Section 9.02. Proceedings in acquiring property.

The necessity for the taking of any property by the City shall be determined by the Council and shall be declared by a resolution which shall describe such property as nearly as may be and state the use to which it is to be devoted. In acquiring property by exercising the power of eminent domain, the City shall proceed according to the laws of this State, except as otherwise provided in this Chapter.

⁵State law reference(s)—Special assessments, Minn. Stat. ch. 429.

⁶State law reference(s)—Right of eminent domain, Minn. Stat. § 465.01.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

Section 9.03. City may abandon proceedings.

The City may, by resolution of the Council at any stage of the condemnation proceeding or at any time within thirty (30) days after final determination thereof, abandon such proceedings as to all or any part of the property sought to be acquired and shall pay all reasonable costs and expenses thereof, including fees of counsel.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

Section 9.04. City may take entire plant.

If the City condemns a public utility which is operated at the time of the commencement of the condemnation proceedings as one property or one system, it shall not be necessary in the condemnation proceedings or any of the proceedings of the Council, to describe or treat separately the different kinds of property composing such system; but all of the property, lands, articles, franchises and rights which comprise such system may, unless otherwise ordered by the Court, be treated together as one property and an award for the whole property in one lump sum may be made by the commissioners or other body assessing the damages on condemnation. This does not prevent the City, when the plant and property are separable into distinct parts, from acquiring only such part or parts thereof as may be necessary in the public interest.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

CHAPTER 10. FRANCHISES⁷

Section 10.01. Franchises required.

Except as otherwise provided by law, no person, firm or corporation shall place or maintain any permanent or semi-permanent fixtures in, over, or under any street or public place for the purpose of operating a public utility or for any other purposes, without a franchise therefor from the City. A franchise shall be granted only by ordinance, which shall not be an emergency ordinance. Every ordinance granting a franchise shall contain all the terms and conditions of the franchise. The grantee shall bear the costs of publication of the franchise ordinance and shall make a sufficient deposit with the City Clerk/Finance Director to guarantee publication before the ordinance is passed.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

Section 10.02. Term.

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

(Ord. No. 356 2nd series, § 1, 3-16-1996)

⁷State law reference(s)—Charter may provide for regulation of franchises, Minn. Stat. § 410.09.

Section 10.03. Public hearing.

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

(Ord. No. 356 2nd series, § 1, 3-16-1996)

Section 10.04. Power of regulation reserved.

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

(Ord. No. 356 2nd series, § 1, 3-16-1996)

Section 10.05. Renewals or extensions.

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

(Ord. No. 356 2nd series, § 1, 3-16-1996)

CHAPTER 11. PUBLIC OWNERSHIP AND OPERATION OF UTILITIES

Section 11.01. Acquisition and operation of utilities.

The City may own and operate any gas, water, electric, telephone, television transmission service, digital communications or other public utility for supplying its own needs for utility services or for supplying utility service to private consumers or both. The Marshall Municipal Utilities shall have the exclusive jurisdiction, control and management of all of the City's municipal water, light, power and electric operations, but not other public utilities pursuant to action of the Marshall Municipal Utilities Commission and the City Council pursuant to City Charter Section 13.01, Subd. 1. The City and the Marshall Municipal Utilities may construct all facilities reasonably necessary for those purposes and may acquire any existing utility property for those purposes.

(Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 380 2nd series, § 1, 11-3-1997)

Section 11.02. Rates and finances.

In regards to the utility services provided by the City of Marshall, the City of Marshall's rates and finances shall be made upon recommendations of the City Administrator to the City Council and the City Council shall set any rates and provide for any finances based upon resolution of the City Council. The City Council may fix rates, fares and prices for municipal utilities but such rates, fares and prices shall be just and reasonable. The City Council may also prescribe the time and manner in which payments for such services shall be made and may make such other regulations as may be necessary and prescribe penalties for violating such regulations. The Marshall Municipal Utilities shall fix its rates for the utility services that it provides pursuant to City Charter Section 13.04,

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Subd. 6. In like manner, the Marshall Municipal Utilities may prescribe the time and manner in which payments for such services shall be made and may make such other regulations as may be necessary and prescribe penalties for violation of such regulations.

(Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 380 2nd series, § 1, 11-3-1997)

Section 11.03. Purchase in bulk.

The City or the Marshall Municipal Utilities may, in lieu of providing for the local production of said utility, purchase the same in bulk and resell them to local consumers at such rates as they may fix.

(Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 380 2nd series, § 1, 11-3-1997)

Section 11.04. Lease of plant.

The City may, if the public interests will be served thereby, contract with any responsible person, partnership, corporation or other entity for the operation of any utility plant owned by the City, upon such rentals and conditions as it may deem necessary but such contract shall be embodied in and let only by an ordinance approved by at least five (5) members of the City Council and subject to popular referendum. Such ordinance shall not be an emergency ordinance. In no case shall such contract be for a longer term than ten (10) years. Any leasing of a plant which generates a public utility regulated by the Marshall Municipal Utilities shall only be leased pursuant to Chapter 13 of the City Charter.

(Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 380 2nd series, § 1, 11-3-1997)

Section 11.05. Public utility: discontinuance.

No public utility owned by the City shall be sold or otherwise disposed of by the City unless the full terms of the proposition of sale or other dispositions are embodied in an ordinance approved by sixty percent (60%) of the electors voting thereon at a general or special election. Marshall Municipal Utilities authority to cease to operate or sell, lease or abandon any of their utilities shall be regulated by Chapter [section] 13.05 of the City Charter.

(Ord. No. 574, § 1, 9-15-1975; Ord. No. 355 2nd series, § 1, 3-16-1996; Ord. No. 380 2nd series, § 1, 11-3-1997)

CHAPTER 12. MISCELLANEOUS AND TRANSITORY PROVISIONS

Section 12.01. Official publications.

The Council shall annually designate a local newspaper as provided by the laws of Minnesota, as its official newspaper.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

Section 12.02. Oath of office.

Every officer of the City shall before entering upon the duties of his/her office, take and subscribe an oath of office in substantially the following form: "I do solemnly swear (or affirm) to support the Constitution of the United States and of this state and to discharge faithfully the duties devolving upon me as (Mayor, Councilmember, City Administrator, etc.) of the City of Marshall to the best of my judgment and ability."

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(Ord. No. 356 2nd series, § 1, 3-16-1996)

Section 12.03. City officers not to be interested in contracts.

Except as otherwise permitted by law, no officer of the City who is authorized to take part in any manner in any contract with the City shall voluntarily have a personal financial interest in such contract or personally benefit financially therefrom.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

Section 12.04. Official bonds.

The City Administrator, Finance Director and such officers or employees of the City as may be provided for by ordinance shall each before entering upon the duties of their respective office or employment, give a corporate surety bond to the City in such form and in such amount as may be fixed by the Council as security for the faithful performance of their official duties and the safekeeping of the public funds. Such bonds may be either individual or blanket bonds in the discretion of the Council. They shall be approved by the City Council, and approved as to form by the City Attorney, and filed with the City Clerk. The provisions of the laws of the State relating to official bonds not inconsistent with this Charter shall be complied with and the premiums on such bonds shall be paid by the City.

(Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

Section 12.05. Sales of real property.

No real property of the City shall be disposed of except by ordinance. The proceeds of any sale of such property shall be used as far as possible to retire any outstanding indebtedness incurred by the City in the purchase, construction, or improvement of this or other property used for the same public purpose. If there is no such outstanding indebtedness, the Council may by resolution designate some other public use for the proceeds.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

Section 12.06. Power to vacate.

The Council may by ordinance, approved by at least five (5) members of the Council, vacate any street, alley, thoroughfare, public grounds, easement or any other interest in real estate, or any part thereof, dedicated to the public use and located within the City. Such vacating may be made only after published notice and an opportunity for affected property owners and the public to be heard, and upon such further terms and by such procedure as the Council by ordinance may prescribe. A notice of completion of such proceedings shall be filed with the proper county officers in accordance with law.

(Ord. No. 564, § 1, 4-21-1975; Ord. No. 356 2nd series, § 1, 3-16-1996)

Section 12.07. City to succeed to rights and obligations of former city.

The City shall succeed to all the property, rights, and privileges, and shall be subject to all the legal obligations of the City under any former charter or statute.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

Section 12.08. Statutes not affected by Charter.

All general laws and statutes of the State applicable to all cities operating under home rule charters, or applicable to cities of the same class as the City of Marshall, whether operating under home rule charters of otherwise and not inconsistent with the provisions of this Charter, shall apply to the City of Marshall, and shall be construed as supplementary to the provisions of this Charter.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

Section 12.09. Existing ordinances continued.

All ordinances and regulations of the City in force when this Charter takes effect, and not inconsistent with the provisions thereof, are hereby continued in full force and effect until amended or repealed.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

Section 12.10. Pending condemnations and assessments.

Any condemnation or assessment proceeding in progress when this Charter takes effect shall be continued and completed under the laws under which such proceedings were begun. All assessments made by the City prior to the time when this Charter takes effect shall be collected and the lien thereof enforced in the same manner as if this Charter had not been adopted.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

Section 12.11. Ordinance to make Charter effective.

The Council shall by ordinance make such regulations as may be necessary to carry out and make effective the provisions of this Charter.

(Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

Section 12.12. Forms prepared by City Clerk.

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

(Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

Editor's note(s)—Ord. No. 707 2nd series, § 1, adopted May 9, 2016, amended § 12.12, to read as set out herein.

Previously § 12.12 was titled "Forms prepared by city clerk/finance director."

CHAPTER 13. MARSHALL MUNICIPAL UTILITIES

Section 13.01. Marshall Municipal Utilities Commission.

Subd. 1. Commission Generally. There is hereby created the Marshall Municipal Utilities Commission which shall have exclusive jurisdiction, control and management of all of the City's municipal water and electric operations. The City Council may also, upon the request of the Marshall Municipal Utilities Commission, grant to

them the nonexclusive right to operate any gas, telephone, television transmission service, digital communications or other public utility for supplying its own needs for utility service or for supplying utility service to private consumers or both. The Marshall Municipal Utilities Commission may construct all facilities reasonably needed for those purposes.

Subd. 2. Specific Circumstances. Marshall Municipal Utilities shall have the authority to determine when it requires the need to purchase wholesale water or electricity. If Marshall Municipal Utilities determines they cannot serve water or electricity at retail and wishes to allow another entity to supply a portion of the utility customer base Marshall Municipal Utilities shall request and recommend the City Council grant a limited franchise to the alternate retail utility supplier.

(Ref. of 11-5-1980; Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 380 2nd series, § 1, 11-3-1997; Ord. No. 691, 10-14-2014)

Section 13.02. Organization of commission.

Subd. 1. Number of Commissioners. The Commission shall consist of five commissioners, to whom may be added, at the discretion of the Mayor, either the Mayor, or the City Administrator, or a representative of the Council, as an ex officio member without vote.

Subd. 2. Commission Generally. The commission members shall be appointed pursuant to a resolution made by the mayor, and such appointment confirmed by the council on or about the second regular meeting in May of each year. The term of each appointee shall be for a period of five years, which term shall be stated at the time of the person's appointment. Any person appointed to fill an unexpired term shall be deemed to be serving a complete term within the meaning of this section if the unexpired term thereof is 915 days or more on the effective date of his or her appointment. New appointees shall assume office on June 1, May 31 being the date of expiration of the term, provided, however, that all appointees to the commission shall hold office until their successor is appointed and qualified. All vacancies shall be filled in the same manner as for the expired term, but the appointment shall be only for the unexpired term. No person who holds any other compensated City office or who is an employee of the City government shall be a commissioner. No one employed by Marshall Municipal Utilities can be considered for a Commission seat. The Chair member and Vice Chair member shall be chosen from and by the commission members normally at its first regular meeting in June of each year to serve for the next year until the new Chair member and Vice Chair member are appointed. If a commission member misses three meetings a year without being excused prior to the meeting, such member shall be removed therefrom at the end of the appointment year. Any commission member may be removed by the City Council for misfeasance, malfeasance or nonfeasance in office and their position filled as any other vacancy. All commission members shall profess a belief in the desirability of municipal utility ownership and operation and all commission members shall be resident electors of the City. No commissioner shall serve for more than two consecutive terms.

Subd. 3. Compensation of Commissioners. Any changes to the compensation paid to commission members shall be approved by a majority vote of the City Council. All compensation paid to the commission members shall be paid exclusively from the revenues of Marshall Municipal Utilities. In addition to compensation established by the City Council, Marshall Municipal Utilities has the right to reimburse commission members for actual expenses incurred in carrying out their duties as commissioners including, but not limited to, meals and travel expenses.

Subd. 4. Commission Meetings. The commission shall establish a regular monthly schedule of meetings. Special meetings may be held as required following appropriate notice. The commission shall adopt rules for the conduct of its meetings. No action shall be taken by the commission except by the affirmative vote of at least three commissioners, who shall constitute a quorum.

Subd. 5. Errors and Omissions. The commission shall hold harmless and indemnify its commissioners, general manager, agents and employees to the full extent permitted by law, including, but not limited to, all liabilities, expenses and losses incurred by its commissioners, general manager, agents and employees in connection with

acts of error or omissions, other than willful violations of laws, committed within the scope of their duties, and shall defend, at the commission's expense, all claims and suits in connection therewith.

(Ref. of 11-5-1980; Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 380 2nd series, § 1, 11-3-1997; Ord. No. 691, 10-14-2014)

Section 13.03. Organization of departments.

Subd. 1. Division of Commission. Within Marshall Municipal Utilities there shall be separate divisions for the electric and water operations, as well as any other service or public utility for which it provides services to consumers. Separate funds and accounts shall be kept for each division as required by the uniform systems of accounts for electricity and water as promulgated by the State of Minnesota, the Federal Energy Regulatory Commission, or as suggested by the American Water Works Association (AWWA), or other governmental regulatory authority. Each division shall be operated independently of the others, except insofar as the commission determines joint operations to be advisable and economical. Expenses incurred in joint operations shall be equitably prorated among the divisions by the commission.

Subd. 2. Policy. The commission shall establish written policies to govern its operations to include such areas as employee duties, customer rates, services, rules and termination procedures, expenditures of funds and other appropriate policies.

Subd. 3. General Manager. The General Manager shall be qualified by training and experience for the overall management of Marshall Municipal Utilities. The salary of the General Manager shall be fixed by the commission and the General Manager shall have such authority as delegated to him or her by the commission. The General Manager shall determine the number of employees necessary for the operation of Marshall Municipal Utilities and shall fix their duties and compensations subject to the approval of the commission. The General Manager shall have control of all actual construction and repairs, the immediate management and operation of the water and electric systems, as well as any other system or service operated by the utilities, and shall have responsibility for the enforcement and execution of all rules and regulations, programs, plans and decisions made or adopted by the commission. The General Manager shall maintain suitable, permanent records regarding actions taken through his or her office. The General Manager shall prepare plans and specifications, take bids and let contracts, subject to the approval of the commission.

Subd. 4. Other Employees. There shall be such other employees of the commission as may be provided by the commission. The employees shall be appointed and removed by the General Manager subject to the approval of the commission.

Subd. 5. Surety Bonds. The commission may require surety bonds for any of the officers and employees of the commission in such amounts as the commission deems necessary. The premiums for said bonds shall be paid by the commission in the same manner as any other operating expense.

Subd. 6. Employee Benefits. The commission may contribute to the cost of pension, retirement, life and accident and health insurance programs for the employees of the commission.

(Ref. of 11-5-1980; Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 380 2nd series, § 1, 11-3-1997; Ord. No. 691, 10-14-2014)

Section 13.04. Powers and duties of the commission.

Subd. 1. Real Estate and Contracts. The commission in the efficient and economical operation of Marshall Municipal Utilities both inside and outside the City limits, may a) sell its products and services to public and private corporations and to other consumers; b) construct plants, transmission lines, and other facilities; c) purchase real

estate and franchises; and d) enter into all easements, contracts, leases and agreements in furtherance thereof. The City Council shall approve contracts for periods exceeding ten (10) years.

Subd. 2. Extensions of Services. The commission may adopt regulations governing extensions of services of Marshall Municipal Utilities both inside and outside the City limits. The regulations shall provide the conditions under which the extensions shall be made to render them compensatory and shall provide that each extension project shall, when completed, become the property of Marshall Municipal Utilities whether on public or private property.

Subd. 3. Joint Operations with Others. The commission may enter into contracts and agreements with any public or private corporation or any individual, both inside and outside the boundaries of the City and state, a) for the joint use of property belonging to Marshall Municipal Utilities or to the other contracting parties or jointly to both parties; and b) for the joint acquisition of real and personal property, rights and franchises and the joint financing, construction and operation of plants, buildings, transmission lines and other facilities.

Subd. 4. Eminent Domain. Chapter 9 of the City Charter shall control all matters of eminent domain. Marshall Municipal Utilities is authorized to use eminent domain when they determine it is necessary.

Subd. 5. Use of Thoroughfares for Utility Installations. The Commission may use the ground over, under or along any road, railroad, highway, street, sidewalk, thoroughfare, alley or waterway in the operation of Marshall Municipal Utilities, but shall in all cases be subject to the applicable general regulations of the City, and shall cause the surface of the public right-of-way to be restored to its usual conditions after any construction.

Subd. 6. Rates. The commission shall fix rates to be charged for water, electricity and other services sold and services rendered by the commission. Rates shall be fair, reasonable and compensatory and shall be uniform for all consumers within the same class; but different rate schedules may be applied to different classes of consumers as determined by the commission. Rates within the City limits may be less but shall be no greater than for the same class of consumers outside the City limits. Rates shall be sufficient to pay all operating and maintenance expenses of each respective utility operation and all bond interest and redemption costs of the respective utility operations. The commission may require reasonable deposits as security for the payment of charges for utility services and may provide for the return of the deposit when satisfactory consumer credit has been established. Public notification and a hearing shall be held by the commission thirty (30) days prior to implementing any new rate, or modifying an existing rate.

Subd. 7. Authority for Expenditures. No money shall be drawn from the funds of Marshall Municipal Utilities nor shall any obligation for the expenditure of money be incurred except in conformity with authorization by the commission. No claim against the commission shall be paid unless evidenced by proper documentation approved by the general manager or by some other employee to be designated by him or her.

Subd. 8. Bond Issues. Subject to applicable state laws, the commission may authorize the issuance and sale of bonds necessary to finance the acquisition, construction, improvement and extension of the Marshall Municipal Utilities, including facilities owned or operated jointly with others. Subject to applicable state laws and City Council approval, the commission may authorize the issuance and sale of bonds.

Subd. 9. Short Term Indebtedness. The commission may borrow money and may issue negotiable notes that are due and payable within one year from the revenues of the commission or a division thereof as evidence of the indebtedness. The action of the commission may be made by resolution which may be adopted at the same meetings at which introduced and shall take effect immediately upon adoption.

Subd. 10. Public Information Expenditures. The commission may authorize reasonable expenditures to acquaint the public with the operations, programs and plans of the commission, and to encourage conservation.

Subd. 11. Investment of Surplus Funds. The commission may invest surplus funds of the commission in securities which are legal and in accordance with State Statute.

Subd. 12. Accounting Reports. The commission, in addition to the reports and accounting it may otherwise be required by law to make, shall furnish the City Council with its annual financial report which shall include a balance sheet and statement of operations, showing the financial condition of the commission and each separate division, prepared according to generally accepted public utility accounting principles. The funds and accounts of the commission shall be audited annually by a certified public accountant, and the audit shall be open to public inspection.

Subd. 13. Payment to General Fund in Lieu of Taxes. Any changes to the annual payment made to the City general fund by Marshall Municipal Utilities in lieu of taxes shall be approved by majority vote of the commission and the City Council.

Subd. 14. Rates the City pays Marshall Municipal Utilities for water and electric services shall be the same as any other consumer within the same customer class for the facility receiving utility service.

(Ref. of 11-5-1980; Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 380 2nd series, § 1, 11-3-1997; Ord. No. 691, 10-14-2014)

Section 13.05. General provisions.

Subd. 1. Disposition of Marshall Municipal Utilities. The City shall have no authority to cease to operate or to sell, lease, abandon or otherwise dispose of the Marshall Municipal electric and water facilities that are owned and under the control of the commission without the approval of sixty percent (60%) of the votes cast by participating voters of the City of Marshall as determined by general election or a special election held for that purpose. If the Marshall Municipal Utilities desires to cease to operate any other public utility service other than the water and electric utility that it is providing to the public, it must request the City Council of the City of Marshall for permission to cease to operate said public utility. Upon a majority vote of the City Council in favor of such a resolution, Marshall Municipal Utilities may cease to operate any other public utility that it operates.

Subd. 2. Existing Obligations. Contracts and obligations relating to Marshall Municipal Utilities of the City incurred prior to the taking effect of this Charter shall not be impaired and shall be binding upon Marshall Municipal Utilities.

Subd. 3. Repeal of Prior Charters and Ordinances. All ordinances and parts of ordinances, including prior charters inconsistent with any provisions of this Charter are hereby repealed.

Subd. 4. Separability of Provisions. The sections and subdivisions of this Charter are declared to be separable, and in the event any one or more sections, subsections, or parts thereof be declared unconstitutional, it shall not affect the validity of other provisions of this Charter.

Subd. 5. This chapter of the City Charter shall control all matters relating to the Marshall Municipal Utilities Commission.

(Ref. of 11-5-1980; Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 380 2nd series, § 1, 11-3-1997; Ord. No. 691, 10-14-2014)

CHARTER COMPARATIVE TABLE ORDINANCES

This table shows the location of the sections of the basic Charter and any amendments thereto. Unless followed by an asterik (*) or otherwise indicated, all ordinances are second series.

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			7.02
			7.06
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CHAPTER 410

CLASSIFICATION; CHARTERS

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410.015	DEFINITIONS RELATING TO CITIES.	410.16	FORMS OF GOVERNMENT INCORPORATED IN CHARTER.
410.03	EXISTING CHARTERS PRESERVED.	410.18	DISTRIBUTION OF ADMINISTRATIVE POWERS.
410.04	HOME RULE CHARTERS; PATROL LIMITS.	410.19	POWERS OF MAYOR AND COUNCIL.
410.05	CHARTER COMMISSION.	410.191	CITY COUNCIL MEMBERS; CITY EMPLOYMENT.
410.06	COMPENSATION; EXPENSES.	410.20	RECALL AND REMOVAL OF OFFICERS; ORDINANCES.
410.07	DETERMINATION OF DESIRABILITY; FRAMING CHARTER.	410.21	APPLICATION OF GENERAL ELECTION LAWS.
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410.10	CHARTER ELECTION.	410.30	CITY MAY REVERT TO STATUTORY CITY; PROCESS; TRANSITION.
410.11	ADOPTION; NOTICE, EFFECTIVE DATE.	410.32	CITIES MAY ISSUE CAPITAL NOTES FOR CAPITAL EQUIPMENT.
410.12	AMENDMENTS.	410.325	TAX ANTICIPATION CERTIFICATES.
410.121	SALE OF INTOXICATING LIQUOR OR WINE; FAVORABLE VOTE.	410.33	SAVINGS CLAUSE.
410.14	ALTERNATIVE PROPOSALS.		

410.01 CITIES, CLASSES.

Cities are hereby divided, for legislative purposes, into classes as follows:

First class -- Those having more than 100,000 inhabitants provided that once a city is defined to be of the first class, it shall not be reclassified unless its population decreases by 25 percent from the census figures which last qualified the city for inclusion in the class;

Second class -- Those having more than 20,000 and not more than 100,000 inhabitants;

Third class -- Those having more than 10,000 and not more than 20,000 inhabitants, and

Fourth class -- Those having not more than 10,000 inhabitants.

Changes in classification resulting from any future national census shall take effect upon the filing of certified copies of the census in the office of the secretary of state as provided in section 600.18. Meanwhile the council or other governing body shall take measures for the election of proper officials and for dividing the city into wards, if necessary, and otherwise prepare for the coming change.

History: (1265) *RL s 746; 1951 c 348 s 1; 1959 c 510 s 1; 1978 c 489 s 1*

410.015 DEFINITIONS RELATING TO CITIES.

The term "statutory city" means any city which has not adopted a home rule charter pursuant to the constitution and laws; the words "home rule charter city" mean any city which has adopted such a charter. In any law adopted after July 1, 1976, the word "city" when used without further description extending the application of the term to home rule charter cities means statutory cities only.

History: 1976 c 44 s 19; 1976 c 155 s 3

410.02 [Repealed, 1949 c 114 s 1]

410.03 EXISTING CHARTERS PRESERVED.

Until otherwise provided in accordance with this chapter, all cities existing at the time of the taking effect of the Revised Laws 1905 shall continue to be governed by the laws then applicable thereto.

History: (1267) *RL s 747*

410.04 HOME RULE CHARTERS; PATROL LIMITS.

Any city in the state may frame a city charter for its own government in the manner hereinafter prescribed; provided, that in such cities having patrol limits established by charter, such limits shall not be altered unless the charter proposing such alteration be adopted by a three-fourths majority.

History: (1268) *RL s 748; 1907 c 375 s 1; 1973 c 123 art 5 s 7*

410.05 CHARTER COMMISSION.

Subdivision 1. **Appointment.** When the district court of the judicial district in which a city is situated, deems it for the best interest of the city so to do, the court, acting through its chief judge, may appoint a charter commission to frame and amend a charter. Upon presentation of a petition requesting such action, signed by at least ten percent of the number of voters of the city, as shown by the returns of the last regular city election, or upon resolution of the governing body of the city requesting such action, the court shall appoint a charter commission. The commission shall be composed of not less than seven nor more than 15 members, each of whom shall be a qualified voter of the city. The size of the commission shall be determined within the above limits by the court, except that where the commission is appointed pursuant to a petition of the voters or resolution of the governing body of the city, the size of the commission shall be as specified in such petition or resolution. Any city may by charter provision fix the size of the charter commission at a figure which shall not be less than seven nor more than 15 members, and such charter provision shall prevail over any inconsistent provisions of this subdivision. Except as otherwise provided in the charter, no person shall be disqualified from serving on a charter commission by reason of holding any other elective or appointive office other than judicial. The charter may provide that members of the governing body of the city cannot serve on the charter commission.

Subd. 2. **Commission members; terms, vacancies.** Charter commission members shall hold office for the term of four years, and until their successors are appointed and qualify, except that of members initially appointed after July 1, 1967, eight shall be appointed for two-year terms and seven for four-year terms. Vacancies in the commission shall be filled by appointment of the chief judge for the unexpired terms. Upon the expiration of each term, the chief judge shall appoint new or reappoint existing commission members within 60 days. Appointments shall be made by order filed with the court administrator of the district court. An appointee who neglects to file with the court administrator within 30 days a written acceptance and oath of office shall be deemed to have declined the appointment and the place shall be filled as though the appointee had resigned. The charter commission, within 30 days after the initial appointment of the commission, shall make rules, including quorum requirements, with reference to its operations and procedures. The commission shall submit to the chief judge of the district court, on or before December 31 of each year, an annual report outlining its activities and accomplishments for the preceding calendar year. The commission shall forward a copy of the report to the clerk of the city. Any member may be removed at any time from office, by written order of the district court, the reason for such removal being stated in the order. When any member has failed to perform the duties of office and has failed to attend four consecutive meetings without being excused by the commission, the secretary of the charter commission shall file a certificate with the court setting forth those facts and the district court shall thereupon make its order of removal and the chief judge shall fill the vacancy created thereby.

Subd. 3. **Commission appointments; nominees.** A city council, a charter commission, or the petitioners requesting the appointment of a charter commission may submit to the court the names of eligible nominees which the district court may consider in making appointments to the charter commission.

Subd. 4. **Commission meetings.** The charter commission shall meet at least once during each calendar year, and upon presentation of a petition signed by at least ten percent of the number of voters of the municipality, as shown by the returns of the last annual municipal election, or upon resolution approved by a majority of the governing body of the city requesting the commission to convene, the commission shall meet to consider the proposals set forth in such petition or resolution.

Subd. 5. **Discharge.** (a) A charter commission in a statutory city may be discharged as follows:

(1) if the charter commission of a statutory city determines that a charter is not necessary or desirable, the commission may be discharged by a vote of three-fourths of its members; or

(2) if a petition signed by registered voters equal in number to at least five percent of the registered voters in the city requesting a referendum to discharge the charter commission is filed with the city clerk, an election must be held on the issue at a general election or a special election pursuant to section 205.10. If a majority of the votes cast support the referendum, the charter commission shall be discharged.

(b) Another commission may not be formed sooner than one year from the date of discharge.

History: (1269) *RL s 749; 1909 c 423; 1913 c 535 s 1; 1949 c 210 s 1; 1959 c 305 s 5; 1961 c 608 s 1; Ex1967 c 33 s 1; 1971 c 208 s 1-3; 1973 c 123 art 5 s 7; 1976 c 44 s 20; 1979 c 330 s 3; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 1987 c 51 s 1; 2004 c 197 s 1,2; 2008 c 331 s 6; 2020 c 87 s 1*

410.06 COMPENSATION; EXPENSES.

The members of the commission shall receive no compensation, but the commission may employ an attorney and other personnel to assist in framing the charter, and any amendment or revision of it. When so directed by the commission, the reasonable compensation of personnel, the cost of printing the charter or any amendment or revision of it, and the cost of informing the citizens of a suggested charter or suggested charter amendments or revisions, shall be paid by the city. The amount of reasonable and necessary charter commission expenses that shall be paid by the city is the greater of .07 percent of the city's current certified general property tax levy or \$1,500, not to exceed \$20,000 in any one year, but the council may authorize such additional charter commission expenses the commission considers necessary. Other statutory and charter provisions requiring budgeting of or limiting expenditures do not apply to charter commission expenses. The council may levy a tax in excess of charter tax limitations to pay the expenses.

History: (1270) *RL s 750; 1907 c 216 s 1; 1947 c 406 s 1; 1959 c 305 s 5; 1961 c 608 s 2; 1973 c 123 art 5 s 7; 1994 c 505 art 3 s 8; 2020 c 87 s 2*

410.07 DETERMINATION OF DESIRABILITY; FRAMING CHARTER.

As soon as practicable after such appointment, the charter commission shall deliver to the clerk of the city either (1) its report determining that a home rule charter for the city is not necessary or desirable, or (2) the draft of a proposed charter, in either case signed by at least a majority of its members. Such draft shall fix the corporate name and the boundaries of the proposed city, and provide for a mayor, and for a council to be elected by the people. Subject to the limitations in this chapter provided, it may provide for any scheme of municipal government not inconsistent with the constitution, and may provide for the establishment and administration of all departments of a city government, and for the regulation of all local municipal functions, as fully as the legislature might have done before home rule charters for cities were authorized by

constitutional amendment in 1896. It may omit provisions in reference to any department contained in special or general laws then operative in the city, and provide that such special or general laws, or such parts thereof as are specified, shall continue and be in force therein, including any such special or general law authorizing the city to incur indebtedness or issue its bonds for municipal purposes. It may prescribe methods of procedure in respect to the operation of the government thereby created, and the duties thereunder of all courts and officers of the district and county in which the city is situated, which duties such courts and officers shall perform. By such charter the city may be authorized to acquire, by gift, devise, purchase, or condemnation, any property, within or without its boundaries, needed for the full discharge of any public function which it is permitted to exercise.

History: (1271) *RL s 751; 1921 c 120; 1921 c 343; 1959 c 305 s 1; 1961 c 608 s 3; 1971 c 71 s 4; 1973 c 123 art 5 s 7*

410.08 [Repealed, 1953 c 278 s 1]

410.09 REGULATION OF FRANCHISES.

Such proposed charter may provide for regulating and controlling the exercise of privileges and franchises in or upon the streets and other public places of the city, whether granted by the city, by the legislature, or by any other authority; but no perpetual franchise or privilege shall ever be created, nor shall any exclusive franchise or privilege be granted, unless the proposed grant be first submitted to the voters of the city, and be approved by a majority of those voting thereon, nor in such case for a period of more than 25 years.

History: (1283) *RL s 753; 1973 c 123 art 5 s 7*

410.10 CHARTER ELECTION.

Subdivision 1. **Timing; procedure; recall.** Upon delivery of such draft, the council or other governing body of the city shall cause the proposed charter to be submitted at the next general election thereafter occurring in the city within six months after the delivery of such draft, and if there is no general city election occurring in the city within six months after the delivery of such draft, then the council or other governing body of the city shall cause the proposed charter to be submitted at a special election to be held on a date authorized by section 205.10, subdivision 3a. The council or other governing body may call a special election for that purpose only at any time. If the election is held at the same time with the general election, the voting places and election officers shall be the same for both elections. At any time before the council has fixed the date of the election upon the proposed charter, the charter commission may recall it for further action; and the council may authorize recall of the charter by the commission at any later date prior to the first publication of the proposed charter.

Subd. 2. **Election notice; publication.** The notice of election shall contain the complete charter and shall be published once a week for two successive weeks in the official newspaper of the city, or if there be none, in a legal newspaper of general circulation in the city. In every city of the first class, the publication shall be made in a newspaper having an aggregate regular paid circulation of at least 25,000 copies. The governing body may in addition thereto publish the notice in any other legal newspaper published in the city.

Subd. 3. **Ballot words, form.** The ballot shall bear the printed words, "Shall the proposed new charter be adopted? Yes.... No....," with a square after each of the last two words, in which the voter may place a cross to express a choice. If any part of such charter be submitted in the alternative, the ballot shall be so printed as to permit the voter to indicate a preference in any instance by inserting a cross in like manner.

Subd. 4. **Rejection; later proposals.** If any charter so submitted be rejected the charter commission may propose others from time to time until one is adopted.

History: (1284) *RL s 754; 1909 c 214 s 1; 1959 c 305 s 5; 1961 c 608 s 4; 1973 c 123 art 5 s 7; 1986 c 444; 2017 c 92 art 2 s 23*

410.11 ADOPTION; NOTICE, EFFECTIVE DATE.

If 51 percent of the votes cast on the proposition are in favor of the proposed charter, it shall be considered adopted; and, if any provisions thereof are submitted in the alternative, those ratified by a majority of the votes cast thereon shall prevail. If the charter is adopted, the city clerk shall file with the secretary of state and in the city clerk's office a copy of the charter accompanied by a certificate attesting to the accuracy of the copy and giving the date of the election and the vote by which the charter was adopted and record a certified copy with the county recorder of the county in which the city lies. The charter shall take effect 30 days after the election, or at such other time as is fixed in the charter, and shall then supersede all other charter provisions relating to such city. Thereupon the courts shall take judicial notice of the new charter and, upon the election of officers thereunder, the officials of the former corporation shall deliver to them the records, money and other public property in their control.

History: (1285) *RL s 755; 1959 c 305 s 2; 1969 c 1027 s 1; 1973 c 123 art 5 s 7; 1976 c 181 s 2; 1986 c 444; 2005 c 4 s 104*

410.12 AMENDMENTS.

Subdivision 1. **Proposals.** The charter commission may propose amendments to such charter and shall do so upon the petition of voters equal in number to five percent of the total votes cast at the last previous state general election in the city. Proposed charter amendments must be submitted at least 17 weeks before the general election. Only registered voters are eligible to sign the petition. All petitions circulated with respect to a charter amendment shall be uniform in character and shall have attached thereto the text of the proposed amendment in full; except that in the case of a proposed amendment containing more than 1,000 words, a true and correct copy of the same may be filed with the city clerk, and the petition shall then contain a summary of not less than 50 nor more than 300 words setting forth in substance the nature of the proposed amendment. Such summary shall contain a statement of the objects and purposes of the amendment proposed and an outline of any proposed new scheme or frame work of government and shall be sufficient to inform the signers of the petition as to what change in government is sought to be accomplished by the amendment. The summary, together with a copy of the proposed amendment, shall first be submitted to the charter commission for its approval as to form and substance. The commission shall within ten days after such submission to it, return the same to the proposers of the amendment with such modifications in statement as it may deem necessary in order that the summary may fairly comply with the requirements above set forth.

Subd. 1a. **Alternative methods of charter amendment.** A home rule charter may be amended only by following one of the alternative methods of amendment provided in subdivisions 1 to 7.

Subd. 2. **Petitions.** The signatures to such petition need not all be appended to one paper, but to each separate petition there shall be attached an affidavit of the circulator thereof as provided by this section. A petition must contain each petitioner's signature in ink or indelible pencil and must indicate after the signature the place of residence by street and number, or other description sufficient to identify the place. There shall appear on each petition the names and addresses of five electors of the city, and on each paper the names and addresses of the same five electors, who, as a committee of the petitioners, shall be regarded as responsible for the circulation and filing of the petition. The affidavit attached to each petition shall be as follows:

State of)

) ss.

County of)

..... being duly sworn, deposes and says that the affiant, and the affiant only, personally circulated the foregoing paper, that all the signatures appended thereto were made in the affiant's presence, and that the affiant believes them to be the genuine signatures of the persons whose names they purport to be.

Signed

(Signature of Circulator)

Subscribed and sworn to before me

this day of

Notary Public (or other officer)

authorized to administer oaths

The foregoing affidavit shall be strictly construed and any affiant convicted of swearing falsely as regards any particular thereof shall be punishable in accordance with existing law.

Subd. 3. May be assembled as one petition. All petition papers for a proposed amendment shall be assembled and filed with the charter commission as one instrument. Within ten days after such petition is transmitted to the city council, the city clerk shall determine whether each paper of the petition is properly attested and whether the petition is signed by a sufficient number of voters. The city clerk shall declare any petition paper entirely invalid which is not attested by the circulator thereof as required in this section. Upon completing an examination of the petition, the city clerk shall certify the result of the examination to the council. If the city clerk shall certify that the petition is insufficient the city clerk shall set forth in a certificate the particulars in which it is defective and shall at once notify the committee of the petitioners of the findings. A petition may be amended at any time within ten days after the making of a certificate of insufficiency by the city clerk, by filing a supplementary petition upon additional papers signed and filed as provided in case of an original petition. The city clerk shall within five days after such amendment is filed, make examination of the amended petition, and if the certificate shall show the petition still to be insufficient, the city clerk shall file it in the city clerk's office and notify the committee of the petitioners of the findings and no further action shall be had on such insufficient petition. The finding of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

Subd. 4. Election. Amendments shall be submitted to the qualified voters at a general or special election and published as in the case of the original charter. The form of the ballot shall be fixed by the governing body. The statement of the question on the ballot shall be sufficient to identify the amendment clearly and to distinguish the question from every other question on the ballot at the same time. If 51 percent of the votes cast on any amendment are in favor of its adoption, copies of the amendment and certificates shall be filed, as in the case of the original charter and the amendment shall take effect in 30 days from the date of the election or at such other time as is fixed in the amendment.

Subd. 5. Amendments proposed by council. The council of any city having a home rule charter may propose charter amendments to the voters by ordinance. Any ordinance proposing such an amendment shall

be submitted to the charter commission. Within 60 days thereafter, the charter commission shall review the proposed amendment but before the expiration of such period the commission may extend the time for review for an additional 90 days by filing with the city clerk its resolution determining that an additional time for review is needed. After reviewing the proposed amendment, the charter commission shall approve or reject the proposed amendment or suggest a substitute amendment. The commission shall promptly notify the council of the action taken. On notification of the charter commission's action, the council may submit to the people, in the same manner as provided in subdivision 4, the amendment originally proposed by it or the substitute amendment proposed by the charter commission. The amendment shall become effective only when approved by the voters as provided in subdivision 4. If so approved it shall be filed in the same manner as other amendments. Nothing in this subdivision precludes the charter commission from proposing charter amendments in the manner provided by subdivision 1.

Subd. 6. Amendments, cities of the fourth class. The council of a city of the fourth class having a home rule charter may propose charter amendments by ordinance without submission to the charter commission. Such ordinance, if enacted, shall be adopted by at least a four-fifths vote of all its members after a public hearing upon two weeks' published notice containing the text of the proposed amendment and shall be approved by the mayor and published as in the case of other ordinances. The council shall submit the proposed amendment to the people in the manner provided in subdivision 4, but not sooner than three months after the passage of the ordinance. The amendment becomes effective only when approved by the voters as provided in subdivision 4. If so approved, it shall be filed in the same manner as other amendments.

Subd. 7. Amendment by ordinance. Upon recommendation of the charter commission the city council may enact a charter amendment by ordinance. Within one month of receiving a recommendation to amend the charter by ordinance, the city must publish notice of a public hearing on the proposal and the notice must contain the text of the proposed amendment. The city council must hold the public hearing on the proposed charter amendment at least two weeks but not more than one month after the notice is published. Within one month of the public hearing, the city council must vote on the proposed charter amendment ordinance. The ordinance is enacted if it receives an affirmative vote of all members of the city council and is approved by the mayor and published as in the case of other ordinances. An ordinance amending a city charter shall not become effective until 90 days after passage and publication or at such later date as is fixed in the ordinance. Within 60 days after passage and publication of such an ordinance, a petition requesting a referendum on the ordinance may be filed with the city clerk. The petition must be signed by registered voters equal in number to at least five percent of the registered voters in the city or 2,000, whichever is less. If the requisite petition is filed within the prescribed period, the ordinance shall not become effective until it is approved by the voters as in the case of charter amendments submitted by the charter commission, the council, or by petition of the voters, except that the council may submit the ordinance at any general or special election held at least 60 days after submission of the petition, or it may reconsider its action in adopting the ordinance. As far as practicable the requirements of subdivisions 1 to 3 apply to petitions submitted under this section, to an ordinance amending a charter, and to the filing of such ordinance when approved by the voters.

History: (1286) *RL s 756; 1907 c 199 s 1; 1911 c 343 s 1; 1939 c 292 s 1; 1943 c 227 s 1; 1949 c 122 s 1; 1959 c 305 s 3,4; 1961 c 608 s 5,6; 1969 c 1027 s 3; 1973 c 503 s 1-4; 1986 c 444; 1998 c 254 art 1 s 107; 1999 c 132 s 42; 2005 c 93 s 1; 2008 c 331 s 7; 2010 c 184 s 43*

410.121 SALE OF INTOXICATING LIQUOR OR WINE; FAVORABLE VOTE.

If the charter which is to be amended or replaced contains provisions which prohibit the sale of intoxicating liquor or wine in certain areas, such provisions shall not be amended or removed unless 55 percent of the votes cast on the proposition shall be in favor thereof.

History: *1969 c 1027 s 2*

410.13 [Repealed, 1959 c 305 s 6]

410.14 ALTERNATIVE PROPOSALS.

In submitting a charter or an amendment to the voters any alternative section or article may be presented and voted on separately, without prejudice to other articles or sections of the charter or any amendments thereto.

History: *(1288) RL s 757*

410.15 SUCCESSION; SUBSISTING RIGHTS.

The new city so organized shall be in all respects the legal successor of the former corporation, and no charter so adopted, nor any amendment thereof, shall prejudice any subsisting right, lien, or demand against the city superseded, or affect any pending action or proceeding to enforce the same. All rights, penalties, and forfeitures accrued or accruing to such former corporation, all property vested therein or held in trust therefor, all taxes and assessments levied in its behalf, and all its privileges and immunities not inconsistent with the new charter, shall pass to its successor. All ordinances, resolutions, and bylaws in force at the adoption of such new charter, and not in conflict with its provisions, shall continue in force until duly altered or repealed.

History: *(1289) RL s 758; 1973 c 123 art 5 s 7*

410.16 FORMS OF GOVERNMENT INCORPORATED IN CHARTER.

The charter commission may incorporate as part of the proposed charter for any city the commission, mayor-council, council-manager form of city government or any other form not inconsistent with constitution or statute, and may provide that all elective city officers, including mayor and members of the council, shall be elected at large or otherwise.

History: *(1290) 1909 c 170 s 1; 1959 c 305 s 5; 1961 c 608 s 7*

410.17 [Repealed, 1973 c 503 s 6]

410.18 DISTRIBUTION OF ADMINISTRATIVE POWERS.

Such charter commission may also provide that the administrative powers, authority, and duties in any such city shall be distributed into and among departments and may provide that the council may determine the powers and duties to be performed by and assign them to the appropriate department and determine who shall be the head of each department and prescribe the powers and duties of all officers and employees thereof, and may assign particular officers or employees to perform duties in two or more departments, and make such other rules and regulations as may be necessary or proper for the efficient and economical conduct of the business of the city.

History: *(1292) 1909 c 170 s 3; 1959 c 305 s 5*

410.19 POWERS OF MAYOR AND COUNCIL.

The charter commission may incorporate in such charter provisions defining the powers and duties of the mayor and each member of the council, and may provide that each member of the council shall perform such administrative duties as may be designated in such charter.

History: (1293) 1909 c 170 s 4; 1959 c 305 s 5

410.191 CITY COUNCIL MEMBERS; CITY EMPLOYMENT.

Notwithstanding any charter provision, neither the mayor nor any city council member may be employed by the city. For purposes of this section, "employed" refers to full-time permanent employment as defined by the city's employment policy.

History: 2010 c 206 s 1

410.20 RECALL AND REMOVAL OF OFFICERS; ORDINANCES.

Such commission may also provide for the recall of any elective municipal officer and for removal of the officer by vote of the electors of such city, and may also provide for submitting ordinances to the council by petition of the electors of such city and for the repeal of ordinances in like manner; and may also provide that no ordinance passed by the council, except an emergency ordinance, shall take effect within a certain time after its passage, and that if, during such time, a petition be made by a certain percentage of the electors of the city protesting against the passage of such ordinance until the same be voted on at an election held for such purpose, and then such ordinance to take effect or not as determined by such vote.

History: (1294) 1909 c 170 s 5; 1959 c 305 s 5; 1986 c 444

410.21 APPLICATION OF GENERAL ELECTION LAWS.

The provisions of any charter of any such city adopted pursuant to this chapter shall be valid and shall control as to nominations, primary elections, and elections for municipal offices, notwithstanding that such charter provisions may be inconsistent with any general law relating thereto, and such general laws shall apply only in so far as consistent with such charter.

History: (1295) 1909 c 170 s 6

410.22 [Repealed, 1973 c 503 s 6]

410.23 [Repealed, 1959 c 305 s 6]

410.24 NEW OR REVISED CHARTER.

Any city having a home rule charter may submit and adopt a new or revised charter in the manner provided by law for the original adoption of such home rule charter.

History: (1298) 1909 c 236 s 2; 1961 c 608 s 8

410.25 [Repealed, 1959 c 305 s 6]

410.26 [Repealed, 1961 c 608 s 10]

410.27 [Repealed, 1973 c 503 s 6]

410.30 CITY MAY REVERT TO STATUTORY CITY; PROCESS; TRANSITION.

Any city of any class having a home rule charter may abandon such charter and become a statutory city. A proposal to abandon the charter shall be presented, adopted, and become effective in the same manner as a charter amendment, and all statutory provisions relating to home rule charter amendments shall apply to a proposal to abandon a charter. Such proposal shall include a schedule containing all necessary provisions for transition to a statutory city form of government, including such provisions with reference to terms of incumbent officers as are deemed appropriate to place the municipality on the regular statutory city election schedule as soon as practicable. The proposal may provide in effect for continuance of specified provisions of the home rule charter for an interim period and shall specify the standard plan or the optional plan under which the municipality is to operate as a statutory city.

History: 1965 c 561 s 1; 1973 c 123 art 5 s 7; 1973 c 503 s 5

410.31 [Repealed, 1973 c 503 s 6]

410.32 CITIES MAY ISSUE CAPITAL NOTES FOR CAPITAL EQUIPMENT.

(a) Notwithstanding any contrary provision of other law or charter, a home rule charter city may, by resolution and without public referendum, issue capital notes subject to the city debt limit to purchase capital equipment.

(b) For purposes of this section, "capital equipment" means:

(1) public safety equipment, ambulance and other medical equipment, road construction and maintenance equipment, and other capital equipment; and

(2) computer hardware and software, whether bundled with machinery or equipment or unbundled, together with application development services and training related to the use of the computer hardware and software.

(c) The equipment or software must have an expected useful life at least as long as the term of the notes.

(d) The notes shall be payable in not more than ten years and be issued on terms and in the manner the city determines, provided that notes issued for projects that eliminate R-22, as defined in section 240A.09, paragraph (b), clause (2), must be payable in not more than 20 years. The total principal amount of the capital notes issued in a fiscal year shall not exceed 0.03 percent of the estimated market value of taxable property in the city for that year.

(e) A tax levy shall be made for the payment of the principal and interest on the notes, in accordance with section 475.61, as in the case of bonds.

(f) Notes issued under this section shall require an affirmative vote of two-thirds of the governing body of the city.

(g) Notwithstanding a contrary provision of other law or charter, a home rule charter city may also issue capital notes subject to its debt limit in the manner and subject to the limitations applicable to statutory cities pursuant to section 412.301.

History: 1983 c 361 s 1; 1988 c 702 s 2; 1988 c 719 art 5 s 84; 1989 c 1 s 4; 1990 c 612 s 15; 2003 c 127 art 12 s 15; 1Sp2003 c 21 art 10 s 11; 2005 c 152 art 1 s 8; 2008 c 154 art 10 s 15; 2013 c 143 art 12 s 8; art 14 s 64; 1Sp2017 c 1 art 7 s 3

410.325 TAX ANTICIPATION CERTIFICATES.

Notwithstanding a contrary provision of other law or charter, a home rule charter city may issue tax anticipation certificates in the manner and subject to the limitations applicable to statutory cities under section 412.261. The certificates may also be issued in anticipation of federal and state aids, but the total amount of certificates issued against any fund for any year with interest on them must not exceed any limits in the charter relating to the total of the anticipated tax levy and the anticipated state aids for any fund not yet collected or received.

History: 1995 c 264 art 9 s 10

410.33 SAVINGS CLAUSE.

If a city charter is silent on a matter that is addressed for statutory cities by chapter 412 or other general law and general law does not prohibit a city charter from addressing the matter or expressly provide that a city charter prevails over general law on the matter, then the city may apply the general law on the matter.

History: 1994 c 446 s 1

Chapter 4

The Home Rule Charter City

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Chapter 4

The Home Rule Charter City

Understand the authority to form a home rule charter city, charter city powers and the ways it may be organized. Contrast charter cities to those operating under the statutory city code. These broad categories are the two basic types of city organization available in Minnesota.

RELEVANT LINKS:

[Minn. Const. art. XII, § 4.](#)
[Minn. Stat. ch. 410.](#)

See Part VIII – *Conflicts with state law.*

[Minn. Stat. ch. 412.](#)

See Part IV – *The charter commission.*
[Minn. Stat. § 410.33.](#)
[Minn. Stat. ch. 412.](#)

I. Home rule in Minnesota

The Minnesota Constitution permits the Legislature to establish home rule charter cities, counties, and other units of local government. State statutes enacted under this constitutional authority authorize cities to adopt home rule charters. Any city may adopt a home rule charter. Of the 854 cities in the state, 107 are currently operating under a voter-approved home rule charter.

Home rule charter cities can exercise any powers in their locally adopted charters as long as they do not conflict with state laws. Conversely, charter provisions can specifically restrict the powers of a city. As a result, voters in home rule cities have more control over their city’s powers.

II. Distinction between home rule charter and statutory cities

The major difference between home rule cities and statutory cities in Minnesota is the kind of enabling legislation from which they gain their authority. Statutory cities derive their powers from Chapter 412 of Minnesota Statutes, commonly known as the statutory city code (“city code”). Home rule cities obtain their powers from a home rule charter. The distinction between home rule cities and statutory cities is one of organization and powers, not differences in population, size, location, or other physical features.

Despite this distinction, home rule charter cities are often interested in the statutory city code. For example, a charter commission will often review Chapter 412 when drafting amendments to the charter. In addition, when a charter is silent on a matter addressed in the statutory city code (or other general law), the home rule charter city can generally use that statutory authority as well.

RELEVANT LINKS:

[Minn. Stat. § 410.16.](#)
Handbook, *Local*
Government in Minnesota.

Statutory cities are sometimes interested in home rule charters themselves. This may occur when problems arise that cannot be solved under the statutory city code. When a statutory city finds itself in such a situation, it can either request that the Legislature change the city code (or adopt a special law for that specific city), or it can become a home rule city with a charter provision that provides the necessary authority.

III. The home rule charter

Home rule charters are, in effect, local constitutions. State laws give cities a wide range of discretion to draft charters that will meet the specific needs of the community.

A. Forms of city organization

The charter may provide for any form of municipal government that is consistent with state laws that apply uniformly to all cities in Minnesota. Home rule charter cities in Minnesota have operated under the following four forms of city government. An individual charter may, however, alter some of these features.

1. Weak mayor-council

The weak mayor-council plan is the most predominant form of city organization and is used by 74 of the 107 home rule charter cities. Under this plan, administrative and legislative authority is the council's ultimate responsibility. The powers of the mayor are generally no greater (or less) than those of any other member of the council. No individual councilmember holds any specific administrative powers.

2. Strong mayor-council

The strong mayor-council plan is not very common in Minnesota. This plan is used by only three home rule charter cities: St. Paul, Duluth, and St. Cloud. Under this plan, the mayor is responsible to the council for the operation of all administrative agencies. Under the usual strong mayor-council plan, the mayor can generally appoint and remove subordinates, is not a councilmember but can veto council legislation, and prepares and administers a budget that is subject to council approval. The chief functions of the council are to legislate and set policies.

RELEVANT LINKS:

[LMC Charter Assistance Program.](#)

See Part V-C – *Amendments.*

See Part VII – *Charter subjects and provisions.*

3. Council-manager

Under the council-manager form of government, the council has policy-making and legislative authority, but the administration is the responsibility of an appointed manager who answers directly to the council. Thirty Minnesota home rule cities use the council-manager plan.

4. Commission

Under the commission form of government, each elected councilmember is responsible for a particular administrative department. So, in addition to having duties as a legislative official, the councilmember is also a department head. The commission form has never been very popular. Over the years, it was used by only a few home rule cities. Today, no Minnesota city is operating under a commission.

B. Advantages of a home rule charter

The home rule charter type of city government has advantages and disadvantages. Some of the advantages of home rule include:

- One of the principle virtues of the home rule charter is that it allows each city to tailor its charter to its own individual needs and desires (cities are encouraged to contact the League of Minnesota Cities Charter Assistance Program for model and sample charters, research memos, and advice that will assist in drafting, amending, or adopting a charter). City residents draft, adopt, and amend the city's charter.
- A home rule city, unlike a statutory city, has the power to make changes to fit its own needs by amending its charter. These changes can occur locally, rather than waiting (and hoping) for a new law to be passed when the Legislature is in session.
- The home rule process educates the voters of the city. Some work on charter commissions, while others will learn about the charter and any amendments when they vote on proposed changes.
- A city charter may cover many functions and procedures, or it may be very similar to the statutory form of city government.
- If general state laws are silent on a specific subject, local citizens may address them in their city's charter.
- A charter may provide for initiative and referendum, recall, and election of councilmembers by wards.
- City charters sometimes include limitations that are more stringent than those in the general state laws. For example, a few home rule charters contain tax and debt limitations.
- The cost of government under a city charter need not be greater or less than the cost of the statutory city form of government.

RELEVANT LINKS:

National Civic League
Model City Charter, Eighth
Edition (2011).

C. Disadvantages of a home rule charter

A home rule charter also has its disadvantages. Some of these can include:

- While the cost of preparing a home rule charter should be relatively minor, the smaller the community, the larger the cost in proportion to population.
- Poor charter drafting can be a problem. A charter city can minimize these concerns by relying on model charters and consulting competent professional advice.
- The process for amending a charter is often time-consuming and cumbersome.
- Charter amendments can be difficult to pass (particularly when the subject matter is controversial). Sometimes, city advocates will go directly to the Legislature for a solution, in order to bypass local opposition or to avoid dividing the community. This tends to defeat the original purpose of home rule: local control.
- If the city charter provides for special elections, election expenses may be overly burdensome to city budgets.
- Anyone looking for the applicable law relating to a home rule charter city must consult not only the state statutes, but the particular home rule charter. Only a few collections of the home rule charters exist. An up-to-date copy of a city charter is of utmost importance to ensure the advice is accurate.
- The experiences of other cities may be of little help to a home rule charter city. For example, when the Supreme Court or the attorney general gives a ruling that concerns a statutory city, that opinion will, in most instances, be equally applicable to all other statutory cities in the state. Rulings affecting a home rule charter may, however, only be relevant to those cities that have very similar charter provisions.
- The procedure for abandoning the charter form of city government may be similarly complicated.

D. Essentials of a good home rule charter

Effective charters maximize the advantages while minimizing the potential disadvantages. In addition, a good home rule charter will also address the following:

1. Comprehensive grant of power

The most essential element of a good charter is a comprehensive grant of power that allows the city to exercise all powers legally available under state law and the state constitution.

RELEVANT LINKS:

Because cities are organized to promote the welfare of the people, and city residents are in control through their elected representatives and charter commission members, citizens should not be afraid of entrusting their city government with a wide range of powers. If the citizens feel it necessary, the charter can include initiative, referendum, and possibly recall provisions as additional checks to prevent the abuse of power.

An example of a comprehensive grant of power clause in a home rule charter is as follows:

“Powers of the City. The city shall have all powers which it may now or hereafter be possible for a municipal corporation in this state to exercise in harmony with the constitution of this state and of the United States. It is the intention of this charter to confer upon the city every power which it would have if it were specifically mentioned. The charter shall be construed liberally in favor of the city and the specific mention of particular municipal powers in other sections of this charter does not limit the powers of the city to those thus mentioned. Unless granted to some other officer or body, all powers are vested in the city council.”

2. Simplicity and brevity

Simplicity and brevity are also essential to a good charter. Provisions should be simple and clear, avoiding the possibility of more than one interpretation. A charter should also be brief enough to be read in a reasonable amount of time.

3. Governance fundamentals

Because of the difficulty in amending and abandoning a home rule charter, the charter should only deal with governance fundamentals and give the city council the authority to provide more detailed regulations through city ordinances.

4. Responsive organization

A good city charter provides for a workable, responsive governmental organization. Its design should eliminate unnecessary “red tape” and makes city government more effective by reducing the number of working parts.

5. Centralize administration

Whenever possible, the charter should centralize responsibility for administration in one person: a chief administrative officer.

RELEVANT LINKS:

[Minn. Stat. § 205.07.](#)

[Minn. Stat. § 410.05, subd. 1.](#)

[Minnesota District Courts.](#)

[Minn. Stat. § 410.05, subd. 5.](#)

See Section IV-D –
Dissolution.

This encourages and rewards expertise and efficiency in the administration of the city.

6. Representative democracy

A charter should emphasize representative democracy. A city should limit the number of elective offices so voters will be able to intelligently cast their ballots. The charter should never ask voters to elect non-policy-making administrative officers. The city should have only a single body elected by voters to legislate and determine policies for the city. This single legislative body, the city council, should be composed of between five and nine members. Councilmember terms should be long enough (up to four years) to gain experience. State law mandates that most council terms be four years, although a two-year mayoral term is allowed.

7. Advisory boards

All advisory boards should report directly to the city council.

IV. The charter commission

A. Creation

Every home rule charter begins with the appointment of a charter commission by the state district court. There are three ways a city's charter commission may be created:

- First, the chief judge of the district court in which the city lies may appoint a charter commission if it is deemed to be in the best interest of the city. The court will probably not do this without local interest in the matter.
- Second, the court must make the appointment if it receives a petition signed by voters who constitute at least 10 percent of the number of voters who voted at the last city election. Smaller cities may find it easier to get the necessary number of signatures.
- Third, the city council may, by resolution, request the district court appoint a charter commission.

Once appointed, a charter commission becomes a continuing body. Its membership will change from time to time, but the commission goes on indefinitely until it is formally dissolved using statutory procedures. Mere failure of the body to meet, to propose a successful charter for election, or to function does not end its existence.

RELEVANT LINKS:

[Minn. Stat. § 410.05, subd. 1.](#)

[Minn. Stat. § 410.05, subd. 1.](#)

[Handbook, *Election Procedures*.](#)

[Minn. Stat. § 410.05, subd. 3.](#)

[Minn. Stat. § 410.05, subd. 2.](#)

[Minn. Stat. § 410.05, subd. 2.](#)

[Minn. Stat. § 410.05, subd. 2.](#)

B. Commission members

Charter commissions must have between seven and 15 members. The court will determine its size, unless a petition of the voters or resolution of the city council specifies the size of the commission. Any city with a home rule charter may amend the charter to fix the size of the commission to be between seven and 15 members.

1. Appointment

The district court usually makes charter commission appointments. The only statutory qualification for members of charter commissions is that they be qualified voters of the city. Commission members may hold some other public office or employment except for a judicial office. City councilmembers may serve on charter commissions.

However, the city's charter may provide that members of the governing body cannot serve on the charter commission. Charter commission members may serve unlimited successive terms.

The court may receive information from interested citizens concerning these appointments. A city council, the petitioners requesting appointment of a commission or, in the case of new appointments to an existing commission, the charter commission itself, may suggest names of eligible nominees to the district court for consideration.

The court, acting through the chief judge, makes the charter commission appointments by filing an order with the district court clerk. The district court clerk then notifies the appointees, who have 30 days to file their written acceptances and oaths of office with the district court clerk.

Appointments are for staggered (or overlapping) four-year terms. Of the initial appointments, half the members plus one will serve two-year terms, with the remainder serving full four-year terms. Thereafter, the chief judge appoints new members or reappoints existing members every two years. The chief judge must make these appointments within 60 days of the expiration of each term.

2. Vacancies

The commission will experience vacancies due to various reasons, such as death, inability to perform duties, resignation (including failure to file the acceptance and oath of office), or based on moving out of the corporate limits of the city. The district court may remove members from the commission at any time by written order. The order must show the reason for removal.

RELEVANT LINKS:

[Minn. Stat. § 410.05, subd. 2.](#)

[Minn. Stat. § 410.07.](#)

[Minn. Stat. § 410.05, subd. 5.](#)
[Minn. Stat. § 410.10, subd. 4.](#)

[Minn. Stat. § 410.05, subd. 2.](#)

[Minn. Stat. § 410.05, subd. 4.](#)

[Minn. Stat. § 410.12, subd. 1.](#)

[Minn. Stat. § 410.12, subd. 1.](#)

[Minn. Stat. § 13D.01.](#)
[DPO 04-059.](#)
[Minn. Stat. § 15.17.](#)
[LMC information memo,](#)
[Meetings of City Councils.](#)

If any member fails to perform the prescribed duties and fails to attend four consecutive meetings of the commission without satisfactory explanation, a majority of the members may sign a request for the member's removal and the court must order the removal.

The commission should always contain its full complement of members. When a vacancy occurs, the chief judge must appoint a new member for the unexpired term.

C. Purpose and functions

The primary concern of a new charter commission in a statutory city is discussing and drafting a home rule charter document to be voted on by the city's residents.

If the voters reject the first charter proposed by a commission (absent discharge of the commission by a vote of its members or a referendum by the city's voters), the commission may continue to submit proposals until the voters finally adopt one.

Within 30 days after its appointment, a newly created charter commission must make rules, including quorum requirements, on its operations and procedures. The commission must file an annual report of its activities with the chief judge on or before Dec. 31 of each year, and must send a copy of the report to the city clerk.

After adoption of the charter, the charter commission continues to function. The charter commission's statutorily prescribed duty is to study the local charter and government. The commission is required by law to meet at least once each calendar year. In addition, the commission must meet upon presentation of a petition signed by at least 10 percent of registered voters, according to the last annual city election, or by resolution of a majority of the city council. Further, the commission must specifically convene to propose charter amendments upon presentation of a petition of at least 5 percent of the number of votes cast at the last state general election in the city.

The charter commission is like a standing constitutional convention. It has the power to propose charter changes at any time. If the city's charter does not work or proves to be faulty in operation, it is the commission's duty to propose improvements. It should, therefore, meet at regular intervals as required and keep its organization intact should any emergency arise.

Charter commissions are subject to the Minnesota Open Meeting Law (OML) and the Minnesota Government Data Practices Act (MGDPA). In addition, as government entities, charter commissions are required by law to keep a complete record of their activities and affairs.

RELEVANT LINKS:

Handbook, [Records Management](#).

[Minn. Stat. § 410.05, subd. 5\(a\).](#)

LMC information memo, [City Special Elections](#).

[Minn. Stat. § 410.05, subd. 5\(b\).](#)

See Section V-E – *Abandoning a home rule charter*.

[Minn. Stat. § 410.07.](#)

[Minn. Stat. § 410.06.](#)

Charter commission members should familiarize themselves with the requirements of these laws, specifically those that concern the notice and public posting of meetings under the OML.

D. Dissolution

An appointed charter commission in a statutory city (where a home rule charter has not been adopted) may be discharged in only one of the following ways:

- By a three-fourths vote of the charter commission, if the charter commission determines that a charter is not necessary or desirable.
- After a general or special election (called by a petition of registered voters equal to at least 5 percent of the registered voters in the city) where a majority of the votes cast support the discharge of the charter commission.

If dissolved, another commission may not be formed sooner than one year from the date of discharge.

In a home rule charter city, the charter commission cannot be dissolved or otherwise cease to exist unless the home rule charter is abandoned through the statutory process for changing the city form of government.

V. The charter process

A. Drafting

In a statutory city without a home rule charter, the new charter commission must deliver to the city clerk the draft of a proposed charter or a report that states a home rule charter is not necessary or desirable. One of these documents must be provided as soon as practicable, and a majority of the members of the commission must sign it.

When a majority of commission members approves a charter draft, the commission should make and authenticate at least three identical, clear copies. All the members who approved the draft should sign each of the copies. One copy should go to the clerk of the city, who will deliver it to the city council. The charter commission should keep the second copy in its files. A third copy might be useful for newspaper publication.

1. Professional assistance

Drafting a city charter is a complex and difficult job that requires special skill.

RELEVANT LINKS:

[LMC Charter Assistance Program.](#)

[National Civic League Model City Charter, Eighth Edition \(2011\).](#)

[Minn. Stat. § 410.10, subd. 1.](#)
LMC information memo,
City Special Elections.

[Minn. Stat. § 410.10, subd. 1.](#)

[Minn. Stat. § 410.10, subd. 1.](#)

A charter commission may, subject to the dollar limitations contained in the law, employ an attorney and other personnel to assist in drafting a charter. Before getting too far along in the process, a charter commission should seek advice on what should be included in a charter and should also submit a draft to an impartial expert for final review.

The League of Minnesota Cities Charter Assistance Program can be of assistance in furnishing the commission with pertinent charter materials. The charter commission may also find it helpful to have a member of the League's staff attend an early meeting of the commission to talk about forms of government, drafting procedures, and major policy problems. The League will also provide general advice. For a nominal fee, League counsel will examine and comment on an existing charter, charter draft, or amendment.

Most proposed charters have been sent to the League for this kind of review and comment.

2. Community involvement

The commission and its committees should collect the informed and interested opinions from citizens and city officials about the existing form of government and the proposed changes. The charter commission should consider criticism or positive experiences with the existing government when drafting the charter. The commission should bring tentative proposals to the attention of the public and city officials before making final decisions. Often, the mayor, city councilmembers, and other city officials may have special insights into the merits or practicality of particular proposals.

B. Election

After receiving the signed draft charter, the clerk notifies the city council of its receipt and will typically remind the council to submit the charter to an election of the voters. If the council fails to do so, the court may order it. The ordinary rules of the conduct of elections apply and the city covers the expense of a charter election.

The charter commission may recall its proposed charter at any time before the council has fixed a date for the election. The council may authorize the commission to recall the charter at any time prior to its first publication.

The council may have options regarding the timing of the election. If no general city election is to occur within six months after the clerk receives the draft, the council must call a special charter election on a date allowable by law.

RELEVANT LINKS:

[Minn. Stat. § 410.10, subd. 2.](#)

If a general city election will occur within six months, the council may either postpone the election on the charter until that general election, or it may call for a special election prior to the general election. If the election is held at the same time as the general election, the voting places and election officers shall be the same for both elections.

The notice of election must include the complete charter. The notice must be published once a week for two successive weeks in the official newspaper and may also be published in any other legal newspaper in the city. In first-class cities, the publication must be made in a newspaper having a regular paid circulation of at least 25,000 copies.

1. Charter campaign

What is the role of the charter commission in the campaign for adoption of the charter? There are sometimes different views about the role of the charter commission and that of individual commission members.

The law does not give the commission any responsibility after the charter has left the commission, nor does it set any restrictions. Some charter commissions have served as the principal sponsoring organization for the charter. Commission members have been responsible for publicity and have made public speeches or written editorials on the commission's (as well as the proposed charter's) behalf.

In other cities, the commission as a whole has not been involved in the campaign, but sometimes individual members have participated. Because the statutes do not address the subject, what commission members do will depend on their perception of what is or is not appropriate. Surely, no other group is likely to know more about what is contained in the proposed charter and why or is likely to be more interested in the outcome of the charter election.

No outsider can give much advice on how to campaign for adoption of the charter. Local conditions and the kind of opposition that might develop will determine the necessary community response. Overconfidence, however, frequently results in the defeat of a charter. The opposition is usually vocal and well organized. It is no easy task, especially at a general election, to get the necessary majority to vote in favor of the charter. Frankness and honesty about the contents of the charter can help "disarm" the opposition. Throughout its entire proceedings, the commission should inform the public of its actions.

Charter commissions should keep in mind that the use of public funds to promote a particular election outcome may be questionable.

LMC information memo,
[Public Purpose](#)
[Expenditures.](#)

RELEVANT LINKS:

A.G. Op. 442-a-20 (Jul. 18, 1927). A. G. Op. 442-a-20 (Jul. 10, 1952). A. G. Op. 159-A-3 (May 24, 1966). See “[Statement of Position: Expenditure of Public Funds on Ballot Issue Advocacy](#),” Office of the State Auditor.

[Minn. Stat. § 410.10, subd. 3.](#)
LMC information memo,
[City Special Elections](#).

[Minn. Stat. § 410.11.](#)
[Minn. Stat. § 410.04.](#) [Minn. Stat. § 410.121.](#)

[Bard v. Minneapolis](#), 256 Minn. 581, 99 N.W.2d 468 (1959).

[Minn. Stat. § 410.11.](#)

While efforts to inform voters about the charter and to encourage voters to cast their ballot seem reasonable, a “vote yes” campaign brochure is more questionable. Campaign efforts by commission members in their role as private citizens seem acceptable, provided they do not claim to speak for the entire commission.

2. Ballot

The ballot shall bear the printed words: “Shall the proposed new charter be adopted? Yes ___ No ___” (with a box after each of the last two words, in which the voter may indicate his or her choice). If alternative charters or charter provisions are submitted, the ballot shall be so printed as to permit the voter to indicate the preferred language.

3. Ratification

The majority needed to adopt a charter is 51 percent of those voting on the question at the election.

A three-fourths majority, however, is needed if a proposed charter alters liquor patrol limits (provisions to remove or amend charter provisions changing the sale of intoxicating liquor require a 55 percent majority). Statutory provisions specifying the percentage of necessary votes to adopt a new or revised charter or to amend a charter supersede conflicting charter provisions.

4. Filing

If voters adopt the charter, the city clerk must file copies in the office of the secretary of state, the office of the county recorder, and the clerk’s office. A certificate attesting to the accuracy of the charter giving the date of the election and the vote by which the charter was adopted, must accompany each copy.

Although the Minnesota Constitution and laws do not require it, the charter commission should retain at least one copy of the charter. Printed copies of the charter should be sent to the League of Minnesota Cities, the Minnesota Historical Society, and to state and local libraries. These groups will frequently refer to the charter and it will be available to other Minnesota charter commissions considering new or amended charters. If the city has a website, it may want to consider posting an electronic copy of the charter for increased public access.

RELEVANT LINKS:

[Minn. Stat. § 410.11.](#)

[Minn. Stat. § 410.11.](#)

[Minn. Stat. § 410.10, subd. 4.](#)

[Minn. Stat. § 410.05, subd. 5\(a\)\(1\).](#)

[Minn. Stat. § 410.05, subd. 5\(a\)\(2\).](#)

[Minn. Stat. § 410.05, subd. 5\(b\).](#)

[Minn. Stat. § 410.12, subd. 1a.](#)

[Minn. Stat. § 410.12, subd. 1.](#)

5. Effective date

The charter will take effect 30 days after the election or at another time specified by the charter. The charter supersedes any previous charter of the city. The courts must take judicial notice of the charter.

The officials elected and appointed under the newly adopted charter may then take control of the city's records, money, and property at any time specified by the charter. The charter may provide that until an election of officers occurs, the officers under the old charter will continue to function. When the new charter becomes fully operational, the re-organized city corporation is in all respects the legal successor of the corporation organized under the old charter or state law. Existing, consistent ordinances and contracts continue until the council changes them or they expire by their terms.

6. Rejected charters

If less than 51 percent of those voting on the question do not vote in favor of the proposed charter:

- The charter commission may choose to modify its proposed charter and re-submit the charter for election.
- The charter commission may choose to disband by a three-fourths vote of its members.
- The city voters may disband the charter commission through a petition and referendum process.

When a charter commission disbands itself or is discharged by the city voters, another commission may not be formed sooner than one year from the date of discharge.

C. Amendments

Charter cities will find it necessary to update or otherwise modify their charter to reflect current needs and expectations. Amendments must originate through one of the several ways that are provided in statute:

1. Amendment by proposal

a. Charter commission

A charter commission may propose amendments to the charter at any time.

RELEVANT LINKS:

[Minn. Stat. § 410.12, subds. 1-3.](#)
[A.G. Op. 59a-11 \(Dec. 30, 1981\).](#)

[Minn. Stat. § 410.12, subd. 1.](#)

[Minn. Stat. § 204B.071.](#)
[Minnesota Secretary of State - Petitions.](#)

[Minn. Stat. § 410.12, subds. 1, 4.](#)

[Davies v. City of Minneapolis](#), 316 N.W.2d 498 (Minn. 1981). [Haumant v. Griffin](#), 699 N.W.2d 774 (Minn. Ct. App. 2005).

[Minn. Stat. § 410.12, subd. 5.](#)

b. Citizen petition

A charter commission must propose amendments upon receiving a petition signed by a number of registered voters equal to 5 percent of the total votes cast at the previous state general election in the city. This percentage cannot be changed by the charter itself.

All petitions circulated must be uniform in character. The petition must state the proposed amendment to the charter in full. However, if the proposed amendment is larger than 1,000 words, a true and correct copy must be filed with the city clerk, and the petition will contain a summary (between 50 and 300 words) setting forth the “substance and nature” of the proposed amendment. When a summary is used, that summary (along with a copy of the proposed amendment) must be first submitted to the charter commission for its approval as to form and substance. The commission has 10 days to return the summary with any modifications necessary to fairly comply with these requirements.

The secretary of state is required to develop rules governing the manner in which petitions required for any election in this state are circulated, signed, filed, and inspected. The secretary of state shall provide samples of petition forms for use by election officials. Once received, the commission must submit the petition to popular vote.

c. Process and procedure

The amendment goes to the city clerk, who notifies the council. The council then provides for the election under the same rules that apply to a new charter. The council may not refuse to submit or change the amendment as long as it is constitutional. A city council does not need to submit an unconstitutional charter amendment or an amendment that violates state or federal law to the voters. When an amendment to a charter is proposed by the charter commission or petitioned for by the voters of the city, the proposed amendment must be submitted at least 17 weeks before the general election.

2. Amendment by ordinance

a. City council

The city council may propose an amendment by ordinance. The council submits the ordinance proposing an amendment to the commission, which has 60 days for review (which may be extended by the commission an additional 90 days by filing a resolution determining that additional time is necessary with the city clerk).

RELEVANT LINKS:

[Minn. Stat. § 410.12, subd. 7.](#)

[Minn. Stat. § 410.12, subd. 7.](#)

[Minn. Stat. § 410.12, subd. 7.](#)

[Minn. Stat. § 410.12, subd. 6.](#)

After the review period, the commission returns the amendment or its own substitute amendment to the council. The council then submits to the voters either the amendment it originally proposed or the commission's substitute amendment.

b. Charter commission

The charter commission may recommend the council amend the charter by ordinance. Within one month of receiving a recommendation to amend the charter by ordinance, the city must publish notice of a public hearing of the proposal (which must also contain the text of the proposed amendment).

The city must hold the public hearing on the proposed charter amendment at least two weeks but not more than one month after the notice is published. Within one month of the public hearing, the city council must vote on the proposed charter amendment ordinance. The vote must be unanimous, including approval by the mayor if the mayor has veto power.

The ordinance proposing the amendment is subject to the same publication requirements as other ordinances. The ordinance becomes effective 90 days after passage and publication, unless a later date is provided in the ordinance.

Within 60 days after passage and publication, a petition signed by registered voters equal in number to at least 5 percent of the registered voters in the city or 2,000, whichever is less, may be submitted to force a referendum on the amendment.

If voters file a proper petition, the city must handle the amendment like any other charter amendment, except the council may submit the ordinance at a general or special election that occurs within 60 days after filing the petition, or it may reconsider its action in adopting the ordinance.

c. Cities of the fourth class

In cities with a population of less than 10,000, the council may propose amendments by ordinance without submitting them to the charter commission. Four-fifths of the councilmembers must vote for the ordinance. Two weeks published notice is necessary before the vote. The council must then submit the ordinance to the voters like any other amendment.

RELEVANT LINKS:

[Minn. Stat. § 410.10.](#) [Minn. Stat. § 410.12, subd. 4.](#) [Minn. Stat. § 410.121.](#)
See Section V-B – *Election*.

[Minn. Stat. § 410.12.](#) [Minn. Stat. § 410.11.](#)

[LMC Charter Assistance Program.](#)

[Minn. Const. art. XII, § 5.](#)

[Minn. Stat. § 410.30.](#)

[Minn. Stat. § 410.30.](#)

3. Elections

The election concerning proposed amendments and the arrangement of the ballot are substantially the same as in the case of the adoption of a new charter. An amendment needs the favorable vote of 51 percent of those voting on the question.

4. Notice

Amendments, like charters, need the clerk’s certification. Copies must be filed in the offices of the secretary of state and county recorder, as well as in the clerk’s office. Amendments take effect either at the end of 30 days after the election, or at some other time if the amendment so specifies. The law also allows for alternative proposals.

The League of Minnesota Cities Charter Assistance Program would appreciate a copy in order to keep the LMC charter collection up to date. State and local libraries and the Minnesota Historical Society are also suggested recipients. A city may also want to consider posting charter amendments to its website to keep the online charter up to date.

D. New or revised charters

Any city having a home rule charter may adopt a new or revised charter in the same manner as an original charter. If a new or completely revised charter is to go to the voters, the preparation of the ballot and other procedures are substantially the same as for the original charter.

E. Abandoning a home rule charter

Any home rule city may abandon its charter and become a statutory city. Since the state was formed, only three cities—Jordan, Isanti, and Sauk Centre, all since 1989—have abandoned their charter form of government.

These three cities are now Plan A statutory cities. A city may abandon its charter by presenting a proposal, adopting it, and having it become effective in the same manner as a charter amendment. Accordingly, abandonment would require the approval of 51 percent of those voting on the question.

The proposal must include a schedule containing necessary provisions for transition to the statutory city form of government in order to place the city on a regular election schedule as soon as practicable. The proposal may provide for continuation of specified provisions of the home rule charter for an interim period and must specify the plan under which the city will operate as a statutory city.

RELEVANT LINKS:

[Minn. Stat. § 410.16.](#)

[National Civic League
Model City Charter, Eighth
Edition \(2011\).](#)

Park v. City of Duluth, 134 Minn. 296, 159 N.W. 627 (1916). *State v. City of Duluth*, 134 Minn. 355, 159 N.W. 792 (1916). *City of Duluth v. Cervený*, 218 Minn. 511, 16 N.W.2d 779 (1944).

[Minn. Stat. § 410.33.](#)
[Minn. Stat. ch. 412.](#)
*In re HUC Pipeline
Condemnation Litig., No.
A03-1125* (Minn. Ct. App.
May 4, 2004) (unpublished
decision).

*Nordmarken v. City of
Richfield*, 641 N.W.2d 343
(Minn. Ct. App. 2002). *Lilly
v. City of Minneapolis*, 527
N.W.2d 107 (Minn. Ct. App.
1995).

VI. General powers

A city charter should deal only with the fundamentals of the governmental organization of the city, leaving the council free to exercise a broad grant of authority by ordinance. Modern charters contain provisions that claim for the city all powers that the home rule provision of the constitution permits a city to assume. Older charters contain a long list of specific grants giving various powers to the city. The strong statements of intent found in League and National Civic League model charters should be adequate to ensure that the omnibus grant gives the city all the municipal power it might receive through more specific grants.

Minnesota Supreme Court decisions generally have given a liberal construction to all-powers grants in city charters. In addition to powers granted by the charter, various state statutes may give additional powers to a city and regulate certain activities. For example, authority for planning, police civil service commissions, and municipal forest maintenance is included in laws dealing specifically with these subjects.

A home rule charter may provide any municipal powers the Legislature could have delegated to the city, as long as the powers are consistent with state statutes. A number of city charters have attempted to do this. Under such a grant, the charter may authorize the city to provide for medical clinics, public transit, and industrial parks. It may authorize any of a range of public enterprises as long as they do not involve the use of public funds for an unconstitutionally private purpose. The limits depend more on public policy than on the lack of home rule charter power.

If a charter is silent on a topic that Chapter 412 or another statute addresses for statutory cities, home rule cities may usually apply the general law on the subject. If, however, general law prohibits a charter from addressing the matter or provides that the charter prevails over general law, the home rule city may not apply the general law.

No city, however, even one organized under a city charter, has inherent powers. A city may only exercise such powers that are expressly conferred by statute or are implied as necessary in aid of those powers. If a matter presents a statewide problem, the implied necessary powers to regulate are narrowly construed unless the Legislature has provided otherwise.

VII. Charter subjects and provisions

The following list of powers are addressed within many home rule charters is not complete or all-inclusive. Many provisions contained within a city charter are also discussed in more detail in other chapters of the LMC Handbook for Minnesota Cities.

RELEVANT LINKS:

Handbook, [Property Tax Levy](#).

[Minn. Stat. § 275.75](#).

Handbook, [Municipal Budgeting](#).
Handbook, [Property Tax Levy](#).

[Minn. Stat. § 410.325](#).

Handbook, [Debt and Borrowing](#).

[Minn. Stat. § 412.321](#).

A.G. Op. 624a-3 (June 28, 1999).

A. Taxes

Presumably, a charter may grant a home rule city power to tax although the state has largely pre-empted two local non-property taxes: the sales tax and the income tax. State law has historically provided some differences between home rule charter cities and statutory cities in property tax levy authority.

For example, the Legislature allows charter cities to exceed their charter limits or referendum requirements for levy increases if the increased levy was needed to offset reductions in city local government aid (however, any state-imposed levy limits still apply).

B. Finance

The charter may, but does not need to, require a budget system (however, current truth-in-taxation laws require all cities to prepare a budget).

The charter may regulate the payment of claims and may also limit or broaden the purposes for which the city may spend money beyond the limits set for statutory cities. For example, a charter could allow appropriations to private agencies performing work of a public nature, while statutory cities probably could not. The law limits statutory cities in their issuance of warrants in anticipation of the collection of taxes. A charter may broaden or curtail this authority.

Both statutory and home rule charter cities may use a system of anticipation certificates. A charter may lower the debt limit applicable to cities, but it may not raise the limit. A charter can also restrict the purposes for which the city may issue bonds, and it can make the procedure easier or more difficult.

C. Utilities

1. Municipal utilities

While statutory cities may establish electric, gas, light, and power utilities only after a vote by the people—regardless of the method of financing—a charter may provide for acquisition without a vote or may require a different majority from the majority necessary in statutory cities. A charter may give the right of condemnation without a time limit. A charter may also allow the city to use surplus utility funds to support general funds.

RELEVANT LINKS:

Minn. Stat. § 444.075, subd. 3(b).
LMC information memo,
Securing Payments of Utility Charges.

Handbook, *City Regulatory Functions*.
Minn. Stat. § 410.09.

Minn. Stat. § 412.191, subd. 4.

Minn. Stat. § 410.20.

Minn. Stat. § 410.20.

Hanson v. City of Granite Falls, 529 N.W.2d 485 (Minn. Ct. App. 1995).

HRA v. City of Minneapolis, 293 Minn. 227, 198 N.W.2d 531 (Minn. 1972). A.G. Op. 858 (Oct. 26, 1970). A.G. Op. 858 (August 5, 1970).

Charters may not attempt to set utility rates for water, sewer, and stormwater utilities. Charter provisions may not artificially inflate or suppress rates. Authority to set rates is vested exclusively in the city council by state statute.

2. Regulation

The Minnesota Public Utilities Commission and the Department of Commerce regulate the service and rates of private gas, electric, and telephone utilities. However, charters may acquire gas and electric franchises and may adopt regulations, including requirements for a gross earnings tax or similar fees. Strict limitations on the use of franchises, taxation, and fees for the use of public rights-of-way exist, whether or not a city has a charter.

D. Ordinances

1. Procedures

Statutory cities may pass an ordinance on a single reading at the same meeting that the ordinance first comes before the council.

The ordinance must be published in full or in summary form in the local newspaper. Statutory cities may, but do not need to, require several readings and a lapse of time between readings. Charters may or may not provide for publication, and they may impose other restrictions on the ordinance process.

2. Initiative and referendum

In statutory cities, city voters cannot petition the council to or city voters to adopt ordinances through the initiative process. Similarly, in statutory cities, city voters cannot act on ordinances passed by the council through the referendum process. Only home rule charter cities may provide for initiative and referendum through their charter.

Only ordinances that are “legislative in character” may be enacted through the initiative process and passed upon by the voters through the referendum process. Legislative actions are those that are general in nature and lay down a permanent and uniform rule of law.

Administrative actions, on the other hand, are those of a temporary and special character. They merely carry out existing laws and relate to the daily administration of municipal affairs.

RELEVANT LINKS:

But see *City of Cuyahoga Falls v. Buckeye Cmty. Hope Found.*, 538 U.S. 188, 123 S. Ct. 1389 (U.S. 2003). A.G. Op. 185b-2 (Mar. 8, 1962).

Minn. Stat. § 205.02, subd. 2.
Minn. Stat. § 205.07, subd. 1.

Minn. Stat. § 205.10, subd. 3a.

Minn. Stat. § 410.16.

Minn. Stat. § 351.02.
A.G. Op. 59a-30 (Jul. 24, 1996).

Minn. Stat. § 410.20.
Minn. Const. art VIII, § 5.
Jacobsen v. Nagel, 255 Minn. 300, 96 N.W. 2d 569 (1959).

Minneapolis Term Limits Coalition v. Keefe, 535 N.W.2d 306 (Minn. 1995).

Administrative actions include the settlement of lawsuits, entering of contracts, acceptance or rejection of bids, sale of municipal bonds, appointment of city officials, levying of taxes, granting of licenses and permits, and the adoption of budgets.

E. Elections

State statutes regulate many phases of election procedure, but some may be open to city regulation through the charter. State law fixes the date of city elections in both statutory and home rule cities for the first Tuesday after the first Monday in November in even or odd years. In charter cities, special elections may only be held on the days allowable by law.

F. Elected officials

1. Wards

The charter may use proportional representation and may set up different nomination procedures from those in statutory cities. The charter may provide for ward representation, which is generally not available to statutory cities.

2. Removal by the council

State law establishes the specific situations that create vacancies in elective office. A charter may not provide for removal of councilmembers by the council for any reason not explicitly stated in statute.

3. Recall

Home rule charter cities have some limited authority to provide for recall elections of the city's elected officials. The Minnesota Constitution and state court decisions have restricted the recall of elected city officials to cases of serious malfeasance or nonfeasance during the term of office in the performance of the duties of the office. Recall does not exist in statutory cities.

4. Term limits

A charter may not impose term limits on city elected officials.

RELEVANT LINKS:

A.G. Op. 624a-3 (June 28, 1999) . A.G. Op. 1001-a (Sept. 15, 1950). *Muehring v. School District No. 31*, 224 Minn. 432, 28 N.W.2d 655 (1947). *Minneapolis Gas and Light Co. v. City of Minneapolis*, 36 Minn. 159, 30 N.W. 450 (1886).

[Minn. Stat. § 471.345.](#)

A.G. Op. 59-a-15 (Aug. 22, 1969)

[Queen City Constr., Inc. v. City of Rochester](#), 604 N.W.2d 368 (Minn. Ct. App. 1999).
Handbook, [Expenditures Purchasing and Contracts](#).

[Minn. Stat. § 412.222.](#)

[Minn. Stat. § 6.54.](#) [Minn. Stat. § 6.55.](#)

[Minn. Stat. §§ 471.695-.698.](#)

Handbook, [Property Tax Levy](#).

G. City personnel

In home rule cities, the charter may establish procedures for the appointment and removal of non-elective officers and employees at the discretion of the council. The charter may include restrictions, such as a formal civil service system, and it may authorize the council to fix administrative salaries subject to the limitations and procedures provided by the charter.

H. Delegation of powers

Absent specific statutory or charter authority, the council of a charter city may not delegate powers and duties that require the exercise of judgment and discretion to other persons or bodies. Specific language must exist in the charter for any delegation to occur.

I. Contracts

State law establishes bidding procedures and uniform dollar limits for all city contracts for the purchase, sale, or rental of supplies, materials, or equipment, or the construction, alteration, repair, or maintenance of real or personal property.

While the language leaves some doubt about the application of the law to home rule charter cities, the attorney general was of the opinion that the statute supersedes all charter provisions concerning uniform dollar limitations. Presumably, the charter may regulate some phases of the contracting procedure, but most charters deal only with subjects not covered by the state law.

J. Accounting

Under the law, statutory cities may employ a public accountant or the state auditor to perform an audit. By charter, cities may require an annual audit by the person designated to perform the audit. Charter cities are also subject to the law that requires the state auditor to examine a city's records on the initiative of the council or a petition of citizens.

All cities are required to publish their annual financial statements. In home rule cities, the charter may require additional reports and publication of the reports depending on the desires of the community. The number and kinds of funds, and the authority to transfer between funds, may come under charter regulation with minimum statutory restriction. In statutory cities, the law is more restrictive on this subject.

RELEVANT LINKS:

Handbook, [City Licensing](#).
Handbook, [City Regulatory Functions](#).

Handbook, [Financing Public Improvements](#).
Minn. Const. art. X, § 1.
Minn. Stat. ch. 429.
Minn. Stat. § 429.111.

Minn. Stat. § 429.021, subd. 3.

Minn. Const. art. X, § 1.

[Curiskis v. City of Minneapolis](#), 729 N.W.2d 655 (Minn. Ct. App. 2007).

Handbook, [Expenditures Purchasing and Contracts](#).
LMC information memo, [Purchase and Sale of Real Property](#).

K. Licensing and regulation

While statutory cities must find a specific statute authorizing the licensing or regulation of an activity before they can regulate that activity, a charter city can often rely on an all-powers provision in its charter to license or regulate activities within its borders. Without such an all-powers or other broad grant of authority, a charter city must find a specific charter provision or state law authorizing the regulation.

L. Special assessments

Both statutory and home rule cities may finance local improvements by special assessments against benefited property under a uniform constitutional and statutory procedure. While most home rule cities follow state law, a city charter may provide a different procedure or authorize the council to adopt a different procedure and may require the city to use that method exclusively. A charter city, however, must conform to certain requirements of state law. The charter can require the city to use general funds or service charges, rather than special assessments, for local improvements. Any special assessments used must comply with the constitutional requirement that the amount of the special assessments cannot exceed the increased market value of the property as a result of the benefit due to the local improvement.

Some charters with special assessment provisions authorize the city council to choose between utilizing the charter provisions or state law when imposing special assessments. A court case has validated such charter provisions. However, when a city elects to use its charter provisions for a special assessment project, the charter provisions must be followed throughout the entire project.

The city cannot later elect to use the state law provisions for the same special assessment project. Likewise, the city cannot commence a special assessment project under the procedure in state law and then later elect to utilize the charter procedure.

M. Real estate

Charter and statutory cities may acquire real estate that is needed for public purposes, and the council can dispose of it when it is no longer needed. State law does not require bids or approval of the voters, but a charter may impose such restrictions.

RELEVANT LINKS:

Handbook, [Liability](#).

[Nordmarken v. City of Richfield](#), 641 N.W.2d 343 (Minn. Ct. App. 2002).

[Mangold Midwest Co. v. Village of Richfield](#), 274 Minn. 347, 143 N.W.2d 813 (Minn. 1966). [State v. Kuhlman](#), 729 N.W.2d 577 (Minn. 2006).

[Bicking v. City of Minneapolis](#), 891 N.W.2d 304 (Minn. 2017); [Graco, Inc. v. City of Minneapolis](#), 937 N.W.2d 756 (Minn. 2020).

[State v. Burns](#), No. A05-2554 (Minn. Ct. App. Mar. 20, 2007) (unpublished decision).

N. Liability

Both statutory and home rule cities are subject to the same tort liability imposed by statutes and court decisions.

Home rule charter cities may not attempt to extend or curtail the city's liability to any extent.

VIII. Conflicts with state law

Harmonizing general statutory language and charter provisions that deal with the same subject can be difficult.

Cities can resolve potential conflicts between state laws and charter provisions through the following process:

A. General rule

The general rule is that when a charter provision is in conflict with the state statutes, the statutory provisions prevail and the charter provision is ineffective to the extent it conflicts with the state policy.

B. Identifying conflicts

When state law is silent on an issue covered by charter and the issue is one that the Legislature has the power to delegate to a city, the assumption is that there is no conflict with state policy. On the other hand, when a charter provision and state law deal with the same issue, the possibility for conflict or preemption occurs. Charter provisions or charter city ordinances conflict with state law when they contain express or implied terms that are irreconcilable with each other. State law preempts charter provisions or charter city ordinances when state law fully occupies a particular field of legislation.

Rather than requesting an attorney general's opinion or having a court resolve the possible conflict, a city council can, by resolution, rely on the opinion of its attorney as to whether a conflict exists. In making this decision, the attorney should consider the following points:

- Is there a court case or attorney general opinion that deals with the same or similar provisions? If so, the city must follow the court ruling. Even though attorney general opinions are only advisory, a city should seriously consider the reasoning behind the opinion.
- In the absence of a court decision or attorney general ruling, does the state law clearly outline or imply a policy decision by the Legislature that the law applies to charter cities as well as to statutory cities?

RELEVANT LINKS:

[Minn. Stat. § 410.015.](#)

[Columbia Heights Relief Ass'n v. City of Columbia Heights](#), 305 Minn. 399, 233 N.W.2d 760 (1975). [State v. Kuhlman](#), 729 N.W.2d 577 (Minn. 2006). [State v. Burns](#), No. A05-2554 (Minn. Ct. App. Mar. 20, 2007) (unpublished decision).

For laws passed by the Legislature since 1976, this determination is easy. In any law taking effect after July 1, 1976, the word “city” means statutory city only. After that date, in order for a law to apply to charter cities, the law itself must clearly state it applies to both statutory and home rule charter cities. A mere reference to all cities would not be sufficient to include charter cities.

For laws enacted prior to July 1, 1976, cities should look for phrases such as, “all cities shall” or “unless the council determines to proceed under charter provisions” for clues of legislative intent.

Generally, laws enacted by the Legislature for the purpose of protecting the public prior to July 1, 1976, probably apply to all cities.

C. Resolution

Even if a general state law applies to charter cities, it does not necessarily supersede a charter provision. If both the charter and state law direct the city to take certain actions or follow certain procedures, it may be advisable to follow both the charter provision and the state law, in order to resolve any conflicts between the two provisions. State law supersedes charter provisions only to the extent the charter provisions conflict with state policy.

IX. How charter cities should use the LMC handbook

This handbook is written for both statutory and home rule charter cities. Each chapter includes a section on how the chapter relates to charter cities. Because of the differences in city charters, it is difficult to generalize about how an individual charter city will be impacted by any particular state law. The handbook does, however, address statewide laws and rules, court decisions, and attorney general opinions that apply to charter cities.