

CITY CHARTER

The following named Commissioners, being duly appointed, qualified and acting members of the Charter Commission in and for the City of Gilbert, have prepared and framed this charter.

RENO ANGELONI	ROBERT J. NANTI
JAMES CONNOR	HERMAN PELZER
PATRICK HOGAN, JR.	RUSSELL E. PLAISTED
JAMES L. KRAUSE	ELI PONTINEN
FRANK MALOVRH	HELEN SKALKO
LAVERN MAROLT	BEN C. VERBICK
RONALD L. MUSTER	THOMAS VUKELICH

At the general election held in the City of Gilbert for the Adoption of the Charter on November 8, 1977, the charter was ratified and adopted by the voters by the following vote:

YES	677
NO	362
SPOILED	4
BLANK	23

The following named Commissioners, being duly appointed, qualified and acting members of the Charter Commission in and for the City of Gilbert, have amended this charter.

JOHN BAKER	FRANK OMERSA
DANIEL BERRY	LAUREL ROERING
TERRY CRAVEN	MARY SALO
RACHEL DEVICH	EDWARD SCHNEIDER, SR.
LINDA MILOS	LEO SKRBEC

At the General Election held in the City of Gilbert for Adoption of the Charter on November 6, 2012, the charter was ratified and adopted by the voters by the following vote:

YES	581
NO	359
SPOILED	0
BLANK	132

CITY CHARTER OF GILBERT, ST. LOUIS COUNTY, MINNESOTA

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Editor's note:

This City Charter was adopted on 11-8-1977 and was effective 1-1-1978. The City Charter was amended on 1-1-2013.

Chapter 1: Name, Boundaries, Powers, and General Provisions

Sec 1.01. Name of City.

The City of Gilbert, Minnesota, shall continue to be a municipal corporation under that name and with the boundaries described below.

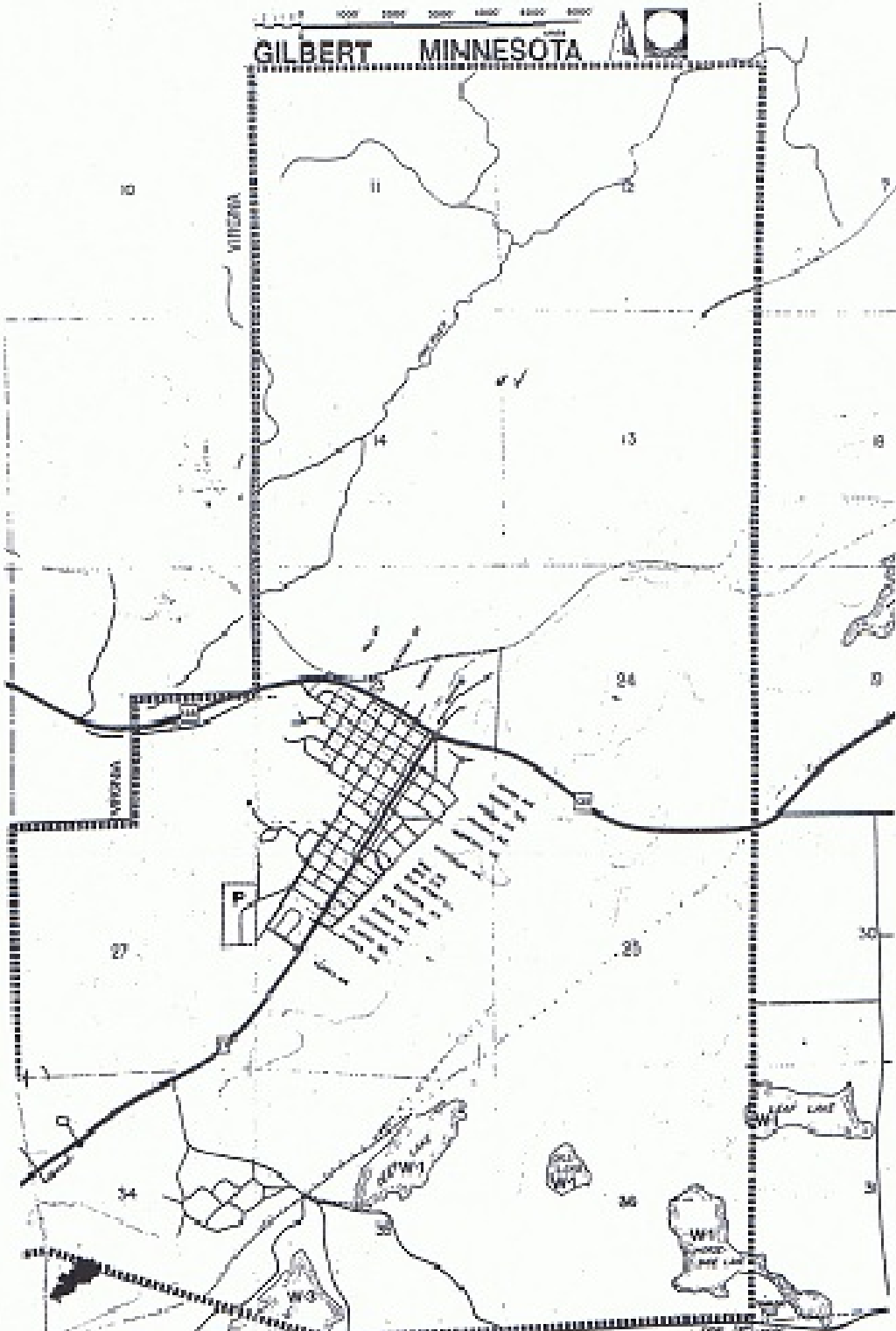
Sec. 1.02. Boundaries of City.

The City of Gilbert embraces the following described territory in the County of St. Louis in the State of Minnesota, together with such territory as may hereafter be attached thereto and less such territory as may be detached therefrom, as follows:

All of Sections Eleven (11), Twelve (12), Thirteen (13), Fourteen (14), Twenty-three (23), Twenty-four (24), Twenty-five (25), Twenty-six (26), Twenty-seven (27), Thirty-four (34), Thirty-five (35), Thirty-six (36), Southeast quarter (SE 1/4), of Section Twenty-two (22), East one Half (E 1/2), of the East one Half of Section Thirty-three (33); all in Township Fifty-eight (58), North of Range Seventeen (17), West, of Fourth Principal Meridian.

Sec. 1.03. 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 constitutions 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.



*Chapter 2: Form of Government***Sec. 2.01. Form of Government.**

The form of government established by this character is the “Council Mayor Plan”.

Except as otherwise provided by law or this charter, all powers of the city are vested in the Council. It shall have complete control of the city administration.

Sec. 2.02. Boards and Commissions.

There shall be no separate administrative board or commission except for the administration of a function jointly with another political subdivision. The Council shall itself be and perform the duties and exercise the powers of such boards and commissions provided for by statute. The Council may, however, establish boards or commissions to advise the Council with respect to any municipal function or activity, to investigate any subject of interest to the city, or to perform quasi-judicial functions. All commission and board members shall serve without pay. Appointments shall be made in January. Terms commence the first day of February immediately following appointment. No Councilmember shall serve on more than one commission or board simultaneously.

Sec. 2.03. Council Composition and Election.

The Council shall be composed of a Mayor and four Councilors who shall be qualified electors and all of whom shall have the right to vote at Council meetings and who shall be elected at large. Each Councilor shall serve for a term of four years and until his successor is elected and qualifies. The Mayor shall serve for a term of two years and until his successor is elected and qualifies.

Sec. 2.04. Incompatible Offices.

No member of the Council shall hold any other paid municipal office or employment under the city; and until one year after the expiration of his term as Mayor or Councilor no former member shall be appointed to any paid appointive office under the city.

Sec. 2.05. Vacancies.

A vacancy in Mayor, Council, and other elective and appointed offices shall be deemed to exist in case of the failure of any person elected thereto to qualify within ten days after the written notification of his election by the City Clerk or by reason of death, written resignation filed with the City Clerk, removal from office, removal from the city, continuous absence from the city for more than three months, or upon felony conviction of any such person, whether before or after his qualification; or is adjudged incompetent by a court of competent jurisdiction; or by reason of the failure of any such person without good cause to perform any of the duties of membership in the Council for a period of three months. In each such case the Council shall by resolution declare such vacancy to exist within 30 days and shall forthwith appoint an eligible person to fill the vacancy until the next regular election. If the Council because of equal division of votes is unable to fill the vacancy, then the Mayor shall fill the vacancy by appointment for the time specified above, but if the vacancy is that of Mayor and the Council members fail for 30 days after the vacancy to appoint a mayor for the time specified above, a special election to elect a mayor for the time specified above shall be held immediately.

Sec. 2.06. The Mayor.

The Mayor shall be the presiding officer of the Council, except that a president protempore shall be chosen who shall serve as President in the Mayor's absence and as acting Mayor in case of the Mayor's disability or absence from the city. The Mayor shall be the chief executive officer of the city, and shall exercise all powers and perform all duties conferred upon him or her by this charter, the ordinances, resolution and motion of the Council of the city and laws of the state. He shall be recognized as the official head of the city for all ceremonial purpose, by the courts for the purpose of serving civil processes and by the Governor for the purpose of martial law.* In time of public danger or emergency he may, with consent of the Council, take command of the police, maintain order and enforce the law. He shall have equal vote with other members of the Council on any matter coming before that body, and he shall have no veto power. The Mayor shall be an ex officio member of all boards and commissions.

Sec. 2.07. Salaries.

The Mayor and Councilors shall receive such salaries or wages as are fixed by the Council in accordance with law. All salary increases shall not exceed 10% of the existing salary and will not become effective for one year following the adoption of the resolution. The City Clerk and all subordinate officers and employees of the city shall receive such salaries or wages as may be fixed by the Council.

Sec. 2.08. Investigation of City Affairs.

The City Council may make investigations into the affairs of the city and the conduct of any city department, office or agency and for this purpose may subpoena witnesses, administer oaths, take testimony, and require the production of evidence. 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 certified public accountant experienced in municipal accounting. At any time the Council may provide for an examination or audit of the accounts of any city officer or agency and it may provide for any survey or research study of any subject of municipal concern.

* Also see Sec. 12.13.

Chapter 3: Nominations and Elections**Sec. 3.01. The Regular Municipal Election.**

A regular municipal election shall be held on the first Tuesday after the first Monday in November of every even-numbered year at such place or places as the City Council may designate. The City Clerk shall give at least two weeks published notice of the time and place of holding such election and of the officers to be elected, in accordance with the state statutes.

Sec. 3.02. Primary Elections.

A municipal primary election shall be held on the first Tuesday after the first Monday in September of any year in which a municipal general election is held, at such place or places as the City Council may designate. The City Clerk shall give at least two weeks published notice of the time and place of holding such election and of the officers to be elected, in accordance with the state statutes.

Sec. 3.03. Special Elections.

The Council may by resolution order a special election and provide all means for holding it. The Clerk shall give at least two weeks published notice of a special election. The procedure at such election shall conform as nearly as possible to that prescribed for other city elections.

Sec. 3.04. Filing for Office.

No earlier than 70 days nor less than 56 days before the first Tuesday after the second Monday in September preceding the municipal general election, any voter of the city qualified under the state constitution for elective office may, by filing an affidavit and paying a filing fee of \$2.00 to the City Clerk, have his name placed on the municipal election ballot, or, if there is no primary election, on the municipal election ballot pursuant to and in compliance with M.S. § 205.13, Subd. 1A or as this section may be amended in the future.

Sec. 3.05. Procedure at Elections.

Subject to this charter and applicable state laws, the Council may by ordinance further regulate the conduct of municipal elections. Except as otherwise provided by this charter and supplementary ordinance, general state laws on elections shall apply to municipal elections.

Chapter 4: Initiative and Referendum**Sec. 4.01. General Voter Authority.**

The voters of the city shall have the right, in accordance with this chapter, to propose ordinances and to require ordinances to be submitted to a vote by processes known respectively as the initiative and referendum.

Sec. 4.02. Petitions.

An initiative or referendum shall be initiated by a petition signed by registered voters of the city equal in number to 25 percent of those who voted for mayor in the last preceding city election. Each petition shall be sponsored by a committee of five voters whose names and addresses shall appear on the petition. A petition may consist of one or more papers, but each paper circulated separately shall contain at its head or attached to it the statement required by Section 4.5 or 4.6, as the case may be. Each signer shall sign his name and give his street address. Each separate page of the petition shall have appended to it a certificate, verified by oath, that each signature is the genuine signature of the person whose name it purports to be. The person making the certificate shall be a resident of the city. Any person whose name appears on a petition may withdraw his name by a statement in writing filed with the City Clerk before the Clerk advises the Council of the sufficiency of the petition. Once a petition has resulted in an election there cannot be a re-petition of this same matter for at least a two-year period.

Sec. 4.03. Determination of Sufficiency.

Immediately upon receipt of the petition, the City Clerk shall examine the petition as to its sufficiency and report to the Council within 20 days. Upon receiving the report, the Council shall determine by resolution the sufficiency of the petition.

Sec. 4.04. Disposition of Insufficient Petition.

If the Council determines that the petition is insufficient or irregular, the City Clerk shall deliver a copy of the petition, together with a written statement of its defects, to the sponsoring committee. The committee shall have 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 Council finds that the petition is still insufficient or irregular, the City Clerk shall file the petition in his office and notify the sponsoring committee. The final finding that the petition is insufficient or irregular shall not prejudice the filing of a new petition for the same purpose nor shall it prevent the council from referring the ordinance to the voters at the next regular or special election at its option.

Sec. 4.05. Initiative.

Any ordinance, except an ordinance relating to the budget or capital program, the appropriation of money, the levy of taxes, or the salaries of city officers or employees, may be proposed by a petition which shall state at the head of each page or attached thereto the exact text of the proposed ordinance. If the Council passes the proposed ordinance with amendments and a majority of the sponsoring committee do not disapprove the amended form by a statement filed with the City Clerk within ten days of its passage by the Council, the ordinance need not be submitted to the voters. If the Council fails to enact the ordinance in an acceptable form within 60 days after the final determination of sufficiency of the petition, the ordinance shall be placed on the ballot at the next election occurring in the City. If no election is to occur within 120 days after the filing of the petition, the Council shall call a special election on the ordinance to be held within such period. If a majority of those voting on the ordinance vote in its favor, it shall become effective 30 days after adoption unless the ordinance specifies a later effective date.

Sec. 4.06. Referendum.

Any ordinance subject to the initiative may be subjected to referendum by a petition which shall state, at the head of each page or on an attached paper, a description of the ordinance. Any ordinance upon which a petition is filed, other than an emergency ordinance, shall be suspended in its operation as soon as the petition is found sufficient. If the ordinance is not thereafter entirely repealed, it shall be placed on the ballot at the next election or at a special election called for that purpose, as the Council determines. If a majority of the voters voting thereon favors the ordinance, it shall go into effect immediately or on the date specified in the ordinance; if a majority of the electors voting thereon votes

against the ordinance, it shall be considered repealed upon certification of the election results. If a petition is filed against an emergency ordinance, the ordinance shall remain in effect but shall be repealed if a majority of the voters voting on the ordinance vote against it.

Chapter 5: Council Procedures

Sec. 5.01. Council Meetings.

The City Council shall meet regularly at least once each month at such times and places as the Council may designate by rule. The Mayor or any three members of the Council may call special meetings of the Council upon at least 72 hours notice to each member. To the extent provided by law, all meetings of the Council and its committees shall be public and any citizen shall have access to the minutes and records of the Council at all reasonable times.

Sec. 5.02. Secretary of the Council.

The City Clerk shall act as the secretary of the Council. He shall keep a journal of Council proceedings and perform such other duties as this charter or the Council may require.

Sec. 5.03. 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, but a smaller number may adjourn from time to time. The Council may by rule provide a means by which a minority may compel the attendance of absent members. All votes of the Council shall be spread upon the minutes and shall be recorded and preserved in the records of the proceedings of the Council as kept by the City Clerk.

Sec. 5.04. Ordinances, Resolutions, and Motions.

Except as otherwise provided in this charter, all legislation shall be by ordinance. The votes of the Council members on any action taken shall be recorded in accordance with statute.

Except as otherwise provided in this charter or by statute, an affirmative vote of a majority of all of the members of the Council shall be required for the adoption of all ordinances, resolutions, and motions.

Sec. 5.05. Procedures on Ordinances.

Every proposed ordinance, excepting emergency ordinances, shall be presented in writing and no ordinance shall be introduced except at a regular meeting, and provided further, that a copy of said ordinance shall have been made available to each member of the Council at the previous regular meeting. No ordinance shall contain more than one subject, which shall be clearly expressed in its title. The style of all ordinances shall be: "The City Council of the City of Gilbert, do ordain as follows...". No ordinance except an emergency ordinance shall be adopted at the meeting at which it is introduced. Every proposed ordinance, excepting emergency ordinances, shall have two readings. The first reading of the proposed ordinance shall be held at the first regular meeting following the meeting in which the exact copies of the ordinance are made available to the Council members. Its second reading shall be held at the next regular meeting and such ordinance shall not be changed after the meeting at which it receives its first reading. A vote upon the ordinance shall then be taken and said ordinance declared either adopted or not. The inclusion in the Council proceedings of any proposed ordinance shall not be deemed as necessary prior to its first reading.

Sec. 5.06. Emergency Ordinances.

An emergency ordinance is an ordinance necessary for the immediate preservation of the public peace, health, morals, safety or welfare in which the emergency is defined and declared in a preamble and the ordinance is adopted by a vote of at least four members of the Council.

Sec. 5.07. Procedure on Resolutions.

Every resolution shall be presented in writing and read in full before adoption. All resolutions shall be passed by a majority affirmative vote of the members.

Sec. 5.08. Signing, and Publication of Ordinances, Resolutions and Council Proceedings.

Every ordinance, resolution and record of the proceedings of the Council, which are passed by the Council shall be signed by the Mayor, and attested to by the City Clerk, and filed and preserved by him or her. Every ordinance shall be published at least once in the official newspaper. Publication of ordinances, resolutions and records of the proceedings of the Council shall be in accordance with the state statute and sufficient to satisfy the provisions of the charter. To the extent and in the manner provided by law an ordinance may incorporate by reference a statute, state administrative rule or regulation of Minnesota, a code, or ordinance or part thereof without publishing the material referred to in full. The annual financial statement shall be published and made available at the City Clerk's office and shall be displayed at the public library.

Sec. 5.09. When Ordinances and Resolutions take effect.

Every resolution and emergency ordinance shall take effect immediately upon its passage or at such later date as it specifies. Every other ordinance shall take effect 30 days after its publication or at such later date as it specifies.

Sec. 5.10. Amendment and Repeal of Ordinances and Resolutions.

Every ordinance or resolution repealing all or part of a previous ordinance or resolution shall give the number, if any, and the title of the ordinance or resolution to be repealed in whole or in part. No ordinance or resolution shall be amended by reference to the title alone, but such an amending ordinance or resolution shall set forth in full each section or subdivision to be amended and shall indicate by appropriate type or symbols matter to be omitted or added.

Sec. 5.11. Revision, Codification and Preservation of Ordinances.

The city may revise, rearrange and codify its ordinances with such additions and deletions as may be deemed necessary. The ordinance code shall be made available by the Council at the Office of the City Clerk for general distribution to the public free or for a reasonable charge. Publication in such a code shall be a sufficient publication for 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 two successive weeks.

Chapter 6: Administration of City Affairs**Sec. 6.01. Administrative Organization.**

At its first regular meeting in January in each year, the council may appoint a City Attorney and a City Assessor. The Council may by ordinance establish city departments, offices, and agencies and prescribe their functions. No power or duty conferred by this charter upon a particular office or agency shall be transferred to any other.

Editor's note:

Election results for the 12-17-2002 special election on the city charter were ratified on 12-18-2002.

Sec. 6.02. City Clerk.

The Clerk-Treasurer shall be chosen solely on the basis of training, experience and administrative qualifications. The individual shall be appointed and after one year of such appointment can only be removed by the action of the Council after a hearing and on specified grounds, pursuant to PELRA procedures, for just cause, which may include but is not limited to: conviction of a felony, refusal to carry out the policies of the Council, or failure or refusal to promptly perform his specified duties. There shall be an annual written evaluation on the Clerk-Treasurer's job performance. The Clerk-Treasurer shall be required to submit a 30-day written notice of resignation to the Council. The Council may designate some properly qualified person to perform the duties of the Clerk-Treasurer during absences or disability or while the office is vacant.

Editor's note:

Election results for the 12-17-2002 special election on the city charter were ratified on 12-18-2002.

Sec. 6.03. Powers and Duties of the City Clerk.

Subd. 1. The City Clerk shall be responsible to the Council for the administration of the city's affairs. The City Clerk shall have the powers and duties set forth in the following subdivisions:

Subd. 2. The City Clerk shall see that this charter and the laws, ordinances, and resolutions of the city are enforced.

Subd. 3. The City Clerk shall keep the corporate seal of the city, and all papers and records thereof.

Subd. 4. The City Clerk shall attend all meetings of the Council and keep a record of all proceedings thereof, and may take part in discussion but not vote.

Subd. 5. The City Clerk shall keep regular books of accounts, showing in detail at all times the business and financial affairs and the accounts of the city. The City Clerk shall present to the City Council each month at one regular meeting thereof a report setting forth in detail and classified as to funds, all monies received and paid out.

Subd. 6. The City Clerk shall keep the Council fully advised on the financial condition and needs of the city, and he shall prepare and recommend to the Council the annual budget and capital program, as finally adopted under policies formulated by the Mayor and Council.

Subd. 7. The City Clerk shall submit to the Council and make available to the public a complete report on the finances and administrative activities of the city not later than the last day of May or as provided by state statute.

Subd. 8. The City Clerk shall have the power to administer oaths and affirmations and to take acknowledgments.

Subd. 9. The City Clerk shall perform such other duties as are prescribed by charter, the Council or state statute.

Sec. 6.04. Subordinate Officers.

There shall be such other officers subordinate to the City Clerk as the Council may establish by ordinance. The Clerk shall be designated to act as secretary of the Council and also as treasurer. The Council may by ordinance abolish offices which have been created by ordinance and it may combine duties of various offices as it may see fit.

Sec. 6.05. City Attorney.

The City Attorney shall be the chief legal officer of the city, and shall have been, prior to his appointment, admitted to practice in all the courts in Minnesota. It shall be his duty, when necessary, to appear in and conduct all civil suits and legal proceedings in which the city or any department thereof shall be directly or indirectly interested; when necessary, to take charge of and conduct prosecutions for the violations of all ordinances, resolutions or regulations of the Council or any commission or officer of the city; upon request of any officer of the city, including members of commissions of the city, to give written legal opinions or advice on any matters respecting their official duties or municipal affairs; to perform such duties consistent with his office, as may be required of him or her by the Council; and such further duties as may be imposed by law on city attorneys. No special or assistant attorney shall be employed by any department of the city without the request of the City Attorney and the prior approval of the City Council. In case of sickness or inability of the City Attorney to act, he may, at his own expense, appoint, by and with the consent of the Council, another attorney to act in his stead for the duration of his absence. It shall be his duty to attend at least one meeting per month of the City Council. The City Attorney may be removed at any time by an affirmative vote of the majority of the City Council. He shall submit his resignation in writing to the City Council.

Sec. 6.06. City Assessor.

The City Assessor shall make a fair and equitable valuation of all taxable property in the city, according to the tax laws of the State of Minnesota. He shall be a certified assessor in the State of Minnesota as provided by state statute. The City Assessor shall establish and maintain an office in the Gilbert City Hall from which he shall perform his duties as prescribed by law. The assessor may be removed at any time by an affirmative vote of the majority of the City Council. He shall submit his resignation in writing to the City Council.

Sec. 6.07. Purchases and Contracts.

The City Clerk shall be the chief purchasing agent of the city. All city purchases and contracts shall be made or let by the City Clerk when the amount involved does not exceed \$500. All other purchases shall be made and all other contracts let by the Council. Contracts shall be made in compliance with the uniform contracting law, and whenever competitive bids are required, the contract shall be let to the lowest responsible bidder, meeting specifications. The Council may, however, reject any and all bids which it feels are not in the best interest of the city. All contracts, bonds, instruments of any kind to which the city is a party shall be signed by the Mayor and the City Clerk on behalf of the city and shall be executed in the name of the city. The Council may by ordinance adopt further regulations for the making of bids and the letting of contracts. Only the City Council shall have power to order or authorize any compromise in the performance of any work to be done or delivery to be made under contract.

*Chapter 7: Taxation and Finance***Sec. 7.01. Council to Control Finances.**

The Council shall have full authority over the financial affairs of the city. It 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.

Sec. 7.02. Fiscal Year.

The fiscal year of the city shall be the calendar year.

Sec. 7.03. Power of Taxation.

The Council shall have full authority to levy taxes on the real and personal property within the city. This authority includes the power by ordinance to assess, levy and collect taxes as limited or prohibited by the state constitution, by this charter or by laws imposing restrictions upon the city irrespective of charter provisions.

Sec. 7.04. Budget System.

Expenditures of the city shall be planned and made in accordance with a budgeting procedure. The budget shall be prepared by a budget board, composed of the Mayor, Clerk, and two or more Councilors as the Council may designate. Not later than August 1 of each year, administrative officers, commissions, boards and department heads shall submit to the budget board detailed estimates and

supporting explanations of their financial needs for the ensuing fiscal year. Also not later than August 1, the clerk shall provide the budget board with a detailed estimate of all probable receipts and a statement of obligations already incurred for the ensuing fiscal year. The budget board shall submit to the Council on or before its first regular meeting in September, a budget of expenditures for the ensuing fiscal year, recommending specific appropriations by the Council statement of receipts and expenditures of the city of the past fiscal year, and estimate of receipts and expenditures of the city for the current fiscal year, and an estimate of the receipts of the city for the ensuing fiscal year.

The budget board shall also submit to the Council income and expenditures of the Water, Light and Building Department, and show net surplus or deficit and the proposed method of disposition.

Sec. 7.05. Capital Improvement Program.

The Council may prepare a recommended five year capital improvement program in connection with the preparation of the budget. The program shall include appropriate supporting information relative to necessity of proposed improvements, cost estimates, method of financing and time schedules for each improvement. This information shall be revised and updated annually.

Sec. 7.06. Adoption of the Budget.

The budget meetings will be in accordance with state open meeting laws. The Council may revise the proposed budget but no amendment to the budget shall increase the authorized expenditures to an amount greater than the estimated income. The Council shall also adopt a resolution levying the amount of taxes provided in the budget and the Clerk shall certify the tax resolution to the County Auditor in accordance with the law. No exemptions from taxation shall be allowed except such as are expressly required or permitted to be made by statute. At the beginning of the fiscal year, the sums fixed in the budget resolution shall be appropriated for the several purposes named in the budget resolution and no other.

Sec. 7.07. Enforcement of Budget.

The Mayor and the City Council shall observe and enforce strictly the provisions of the budget. No officers or employees of the city shall place any order or make any purchase except for a purpose and to the amount authorized in the budget resolution. No officer or employee of the city shall make any purchase without a purchase order obtained from the Clerk. Any obligation incurred by any officer or employee of the city for any purpose in excess of the amount authorized shall be a personal obligation upon the person incurring the obligation. At the beginning of each quarterly period during the fiscal year, and more often if required by the Council, the Clerk shall submit to the Council data showing the relationship between the estimated and actual revenues and expenditures to date; and if it shall appear

that the revenues are less than anticipated, the Council may reduce appropriations except amounts required for debt and interest charges or by contract, to such a degree as may be necessary to keep expenditures within the revenues.

No check shall be issued or transfer made to any account other than one owned by the city until the claim to which it relates has been supported by an itemized bill, payroll, or timesheet or other document approved and signed by the responsible city officer who vouches for its correctness and reasonableness. Any board or commission that exceeds its budget shall be subject to removal upon notice or as otherwise provided.

Sec. 7.08. Alterations in the Budget.

Subsequent to adoption of the budget, the Council shall have no power to increase the amount in the budget resolution, except to the extent that actual receipts or transfers exceed the estimate. At any time the Council may, by resolution approved by a majority of its members, reduce the sums appropriated for any purpose by the budget resolution, or by a unanimous vote of all members of the Council, authorize the transfer of sums from unencumbered balances of appropriations in the budget resolution to other purposes.

Sec. 7.09. Funds.

Subd. 1. There shall be maintained in the city treasury the funds as provided in the following subdivisions, and such other funds as may be required, by statute, ordinance, or resolution. The Council may, by ordinance or resolution, make inter-fund loans, as it may deem necessary and appropriate.

Subd. 2. **General Fund.** From the receipts of taxes collected annually, and sums budgeted by the Council for the payment of such expenses of the city as the Council may deem proper.

Subd. 3. **Library Fund.** From the receipts of taxes collected annually, and sums budgeted by the Council for the maintenance of the public library.

Subd. 4. **Fireman's Relief Association Fund.** From the receipts of taxes collected annually, and sums shall be specifically appropriated to the Firemen's Relief Association in accordance with law.

Subd. 5. **Bond Fund.** From receipts of taxes and revenue collected annually for bonded indebtedness and interest thereon, there shall be paid in the bond and interest fund all receipts from such taxes or other sources for the payment of principal and interest of all bonded indebtedness.

Subd. 6. **Police Pension Fund.** From the receipts of taxes collected annually, sums shall be specifically appropriated to the Police Pension Fund in accordance with law.

Subd. 7. **Public Utility and Building Fund.** From receipts derived from the sale of utility services, and from the sale of any property acquired for or used in connection with any such utility. There shall be paid out of this fund the cost of the purchase, construction, operation, maintenance, and repair of such utility, including the principal and interest on obligations which have been or shall be issued on its account. Separate accounts within the public utility shall be kept for all utilities which are operated separately.

Sec. 7.10. Disbursements.

No money demand against the city shall be paid until audited and allowed by the Council. Each claim allowed shall bear the number of the order or check drawn for its payment, and the Clerk shall take and file a receipt for each order or check issued. Every order drawn for the payment of money shall be signed by the Mayor, Clerk, and countersigned, if required by the Council.

Sec. 7.11. City Indebtedness.

Except as provided in Section 7.12, no obligations shall be issued to pay current expenses. No obligation shall be issued and sold without the approval of the majority of the voters voting on the question at a general or special election.

Sec. 7.12. Tax Anticipation Certificates.

At any time after January 1, the Council may issue certificates of indebtedness in anticipation of state and federal aids and of the collection of taxes levied the previous year for any fund not yet collected. No certificates shall be issued and outstanding for any separate fund exceeding 50 percent of the amount allocated to that fund by the City Council.

It shall be the duty of the Council to see that such issues are negotiated at the lowest possible cost to the city, and at the best possible terms. Certificates shall become due not later than April 1, of the year following 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. Every member of the City Council or any board or commission of the city present at a meeting of the board, commission, or Council when any action is taken with reference to paying money or incurring indebtedness or entering into any contract in violation of the provisions of this charter shall be deemed to have participated in and authorized the same unless he shall have caused his dissent therefrom to be entered upon the minutes of the meeting.

*Chapter 8: Public Improvements and Special Assessments***Sec. 8.01. The City Plan.**

The City Council may prepare and adopt a complete plan for the future physical development of the city. Such plan may be altered from time to time. It shall include provisions for zoning, for the platting and development of new areas, for the planning and location of public buildings, parks, playgrounds, transportation lines, bridges, and other public facilities, and for the laying out, grading and improving of streets and public places, as well as for all other matters which may seem essential to such a plan.

Sec. 8.02. Enforcement of the City Plan.

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

Sec. 8.03. Power to make improvements and levy assessments.

The city may make any type of public improvement not forbidden by law and levy special assessments to pay all or part of the cost of such improvements as are of a local character. The total assessments for any local improvement may not exceed the cost of the improvement, including all costs and expenses connected, therewith, with interest. No assessment shall exceed the benefits to the property.

Sec. 8.04. Assessments for services.

The Council may provide by ordinance that the cost of city services to streets, sidewalks, or other public or private property may be assessed against property benefitted and collected in the same manner as special assessments.

Sec. 8.05. Local improvement procedure.

When the city undertakes any local improvement to which the state local improvements code applies, it shall comply with the provisions of that law. The Council may by ordinance prescribe the procedure to be followed in making any other local improvement and levying assessments therefor.

Sec. 8.06. Public Works, How Performed.

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

Chapter 9: Eminent Domain**Sec. 9.01. Acquisition of property.**

The city may acquire, by purchase, gift, condemnation, or otherwise, any property, either within or without its boundaries, that may be needed by the city for any public purpose. In acquiring property by exercising the power of eminent domain, the city shall proceed according to M.S. Chapter 117 or other applicable law.

Chapter 10: Franchises**Sec. 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, upon, or under any street or public place for the purpose of operating a public utility or for any other purpose, without a franchise therefor from the city. A franchise shall be granted only by ordinance, which shall not be an emergency ordinance. Every ordinance granting a franchise shall contain all the terms and conditions of the franchise. The grantee shall bear the costs of publication of the franchise ordinance and shall make a sufficient deposit with the Clerk to guarantee publication before the ordinance is passed.

Sec. 10.02. 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 days prior to the date of the hearing.

Sec. 10.03. Granting of Franchises.

No exclusive or perpetual franchise shall ever be granted. No franchise ordinance shall be enacted nor become operative until the same shall have first been referred to the people at a regular or special election and received a majority vote of the electors. No election for such purpose shall be ordered by the Council, unless the expense of holding such election, shall have first been paid to the city by the grantee.

Sec. 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.

Sec. 10.05. Conditions of Franchises.

Every franchise shall contain the following provisions:

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

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

Sec. 10.06. Renewals or extensions.

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

*Chapter 11: Public Ownership and Operation of Utilities***Sec 11.01. Acquisition and operation of utilities.**

The city may own and operate any water, gas, light, power, heat, telephone, transportation or other public utility for supplying its own needs for utility service to private consumers or other governmental agencies. It may construct all facilities reasonably needed for that purpose and may acquire any existing utility properties so needed. The city shall not acquire or construct any public utility unless the proposition to acquire or to construct it has been incorporated in an ordinance and adopted by the Council. Such ordinance shall not be an emergency ordinance.

Sec. 11.02. Regulations and rates.

The Council may by ordinance fix rates, fares, and prices for any municipal utility, prescribe the time and manner of payment for any such service, make such other regulations as may be necessary, and prescribe penalties for violation of such regulations.

Sec. 11.03. Lease of plant.

The Council may by ordinance contract with any person, firm, or corporation for the operation of any municipal utility for a term not to exceed ten years. Such ordinance shall not be an emergency ordinance.

Sec. 11.04. Sale of public utility.

No public utility owned by the city shall be sold or otherwise disposed by the city unless the full terms of the proposition of sale or other disposition are embodied in an ordinance approved by a majority of the voters voting thereon at a general or special election. Any sale, lease or abandonment of a water works or light plant shall be subject, in addition, to the requirements of state law.

*Chapter 12: Miscellaneous and Transitional Provisions***Sec. 12.01. Official Publication.**

The Council shall annually at its first meeting of the year designate a local newspaper of general circulation in the city as its official newspaper in which shall be published ordinances and other matters required by law to be so published as well as such other matters as the Council may deem it in the public interest to have published in this manner. The annual financial statement shall be published and made available not later than the last day of May.

Sec. 12.02. Oath of Office.

Every elected or appointed officer of the city shall, before entering upon the duties of his office, take and subscribe an oath of office in substantially the following form: "I do solemnly swear to support the constitution of the United States and of this state and to discharge faithfully the duties devolving upon me as an elected or appointed officer of the City of Gilbert to the best of my judgment and ability."

Sec. 12.03. Official Bonds.

The City Clerk and such other officers or employees of the city as may be specified by ordinance shall each, before entering upon the duties of this respective office or employment, give a corporate surety bond to the city as security for the faithful performance of his official duties and the safekeeping of the public funds. Such bonds shall be in such form and amount as the council determines and may be either individual or blanket bonds at the discretion of the Council. They shall be approved by the city Council and filed with the City Clerk. The provisions of state laws relating to official bonds not inconsistent with this charter shall be complied with. The premiums on such bonds shall be paid by the city.

Sec. 12.04. City Property Not Lost by Adverse Possession.

No right, title, estate or easement of the city in any property shall be lost by adverse possession or occupancy, and no statutes of limitations shall operate against the city in favor of any person occupying any public property or highway, whether such highway shall have been improved or not.

Sec. 12.05. Official Interest in Contracts of City Business.

No officer or employee of the city shall solicit or receive any pay, gift, commission, money or thing of value, or derive any benefit, profit, or advantage directly from or by reason of any improvement or repair required by the city, or contract to which the city shall be a party, except his lawful compensation or salary as such officer or employee. Any violation of the provisions of this section shall disqualify the offender from continuing in office.

Sec. 12.06. Sales and Purchase of Real Property.

No real property of the city shall be purchased sold or disposed of except upon payment or receipt thereof of an amount equal to the fair and reasonable market value of said real property as found by the City Council and declared in the resolution authorizing any such sale. Further the said acquisition or deposition shall be pursuant to a 4/5 affirmative vote of the council. Designated park areas are exempt from sale unless determined by referendum.

The proceeds of any such sale shall be used as far as possible to retire any outstanding indebtedness incurred by the city in the purchase, construction or improvement of this or other property used for the same public purpose, but if there be no such outstanding indebtedness the Council may by a resolution adopted by an affirmative vote of 4/5 members of the Council designate some other public use for such proceeds.

Editor's note:

Election results for the 12-17-2002 special election on the city charter were ratified on 12-18-2002.

Sec. 12.07. Vacation of Streets.

The Council may by ordinance approved by 4/5 of its members vacate any streets, avenues, alleys or other public way and easements thereof within the city. Such vacation may be made only after published notice and an opportunity for affected property owners and public to be heard, and upon 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.

Sec. 12.08. Succession of Rights and Liabilities.

When this charter takes effect the City of Gilbert shall be vested with all the rights and immunities formerly vested in the city, and shall be subject to all liabilities existing against the city at that time.

All ordinances, resolutions and regulations in force at the time of the adoption of this charter and not in conflict with its provisions shall continue in force until duly amended or repealed; any tax levy, assessment, improvement, condemnation or other municipal action in progress when this charter takes effect shall be continued and completed under the laws under which such proceedings were begun.

Sec. 12.09. Existing Ordinances, Regulations, Boards & Commissions Continued.

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

Sec. 12.10. Ordinance to Make Charter Effective.

The Council shall by ordinance take such steps as may be necessary to make effective the provisions of this charter.

Sec. 12.11. Present Officers Continued.

The present officers of the city shall continue in their respective offices and functions and shall continue to govern the city under this charter and existing ordinances, including Ordinance 6-97, until the expiration of their respective terms.

Sec. 12.12. Conflicting Provisions.

If there are any provisions of this charter which conflict with any other provisions of this charter, the City Council may follow the provision of its choice by an affirmative vote of 4/5 of its members.

Sec. 12.13. Service of Process.

Whenever any suit or action shall be commenced against the city, except garnishment proceedings, all and every process and notice whatsoever affecting the city shall be served upon the Mayor, or, in his absence, upon the City Clerk and it shall be the duty of the officer so served to forthwith inform the City Council and City Attorney thereof. (Also see Sec. 2.6.)

Sec. 12.14. Resignations.

Resignation from Council members and all appointed board and commission members shall be in writing to the City Council.

Sec. 12.15. Advertising.

The City Council may spend a reasonable amount for advertising the city, its resources and advantages.

Sec. 12.16. Regulation and Control of Liquor License Issuance.

The City Council shall not issue additional liquor licenses exceeding the number issued, as of the effective date of this charter unless it does so by referendum, at a special or general election.

Sec. 12.17. Cemetery.

The City Council shall have the power to acquire, establish, own, operate, control, supervise, manage and maintain a cemetery and cemetery grounds and expend money therefor. It may sell lots therein to purchasers.

Sec. 12.18. Transition of Officers.

The provisions of this charter shall take effect on the August 1, following its adoption. The four councilors and the Mayor, who held office at the time this charter became law as the Charter of the City of Gilbert shall continue in the office so held by them for the balance of the term of office for which they were elected, or until their successors, have been duly elected and qualify by virtue of this charter.

Sec. 12.19. Charter Commission Membership.

The Charter Commission of the City of Gilbert shall consist of nine members.

Sec. 12.20. Charter Amendments.

This charter may be amended or revised in any manner provided by law. However, the Council is encouraged to provide for a referendum concerning amendments

Sec 12.21. Sundays and Holidays.

Whenever the date fixed by this charter or by ordinance for the doing or completion of any act falls on a Sunday or legal holiday, such act shall be done or completed on the next succeeding day which is not a Sunday or legal holiday.

Sec. 12.22. Election to Adopt.

This charter shall be submitted to a vote of the qualified electors of the City of Gilbert pursuant to state statute or as subsequently amended. This election shall be conducted by the officers under the existing charter charged with the conduct and supervision of the elections, and shall follow the election procedure and be canvassed in the same manner provided in the existing charter.

Sec. 12.23. Form of Ballot.

The form of ballot for the submission of this charter is prescribed by M.S. § 410.10, Subd. 3.

Instructions to the Voters: Voters desiring to vote in favor of adoption of the proposed new Charter for the City of Gilbert shall put an (X) in the square after the word "Yes." Voters desiring to vote against the adopting of the proposed new charter for the City of Gilbert shall put an (X) in the square after the word "No."

BALLOT

“Shall the City of Gilbert adopt the proposed charter as amended by the City Charter Commission and recommended by the City Council?”

YES

NO

Sec. 12.24. Effective Date.

This Charter becomes effective the first day of the second full month following the certification of the election.

