

Hutchinson City Charter

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CITY CHARTER
City of Hutchinson, Minnesota

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CHAPTER 1

Name and General Provisions

Section 1.01. NAME AND BOUNDARIES. The City of Hutchinson, McLeod County, Minnesota (hereinafter referred to as City) shall continue to be a municipal corporation under that name and with the same boundaries as now are or may be established hereafter.

Section 1.02. POWERS OF THE CITY. The City shall have all the powers which it may now or hereafter be possible for a municipal corporation in this State to exercise in harmony with the constitution of the State of Minnesota and of the United States. It is the intention of this Charter to confer upon the people of the City of Hutchinson every power which the Charter would have if such power 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

Section 2.01. FORM OF GOVERNMENT. The form of government established by this Charter is the Mayor-Council plan. The council, consisting of the mayor and four council members elected at large, shall exercise the legislative power of the City and determine all matters of policy.

Section 2.02. BOARDS AND COMMISSIONS. The council may 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. The mayor and council shall determine which board or commission shall have a council representative.

Section 2.03. DUTIES AND POWERS. The council shall determine and assign the duties of the several city departments and appointed boards and commissions subject to provisions herein and shall prescribe the powers and duties of appointive officers and employees.

Section 2.04. ELECTIVE OFFICERS. The elective officers of the City shall be registered voters of the City and shall consist of a mayor who shall serve for two years and four council members elected at large who shall serve for four years. The term of office of each elective officer shall begin the first Monday in January following the city

election and qualification of such elective officer and shall continue until a successor is elected and qualified. If the first Monday is a holiday, the term of office shall then begin the first Tuesday in January.

Section 2.05. APPOINTIVE OFFICER. The appointive officer of the City, not including members of boards or commissions established herein or by ordinance, shall be appointed by majority vote of the council, and shall consist of a city administrator.

Section 2.06. MAYOR AND MAYOR PROTEM. The mayor shall be the presiding officer of the council. At its first regular meeting in January after each city election, the council shall choose a mayor protem who shall serve as presiding officer in the mayor's absence and as acting mayor in case of the mayor's disability or absence from the City, or in case of a vacancy in the office of mayor. The mayor shall have a vote as a member of the council. The mayor protem shall exercise all powers and perform all duties conferred and imposed upon the mayor by this Charter, the ordinances of the City and laws of the State of Minnesota.

The mayor shall be recognized as the official head of the City for all ceremonial purposes, by the courts for the purposes of serving civil process, and by the governor for the purposes of martial law. The mayor 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 the mayor may, with the consent of the council, take command of the police, maintain order and enforce the law.

Section 2.07. INCOMPATIBLE OFFICES. No elective officer shall hold any other paid municipal office or employment for the City, and no former elective officer shall be appointed to any paid appointive office or employment for the city which office or employment was created or the compensation for which was increased during such elective officer's term of office, within one year of leaving such elective office.

Section 2.08. SALARIES. The salaries of the elective officers shall be established by Minnesota Statute 415.11, as such statute may be amended from time to time. The council shall establish the salary of the city administrator.

Section 2.09. VACANCIES IN THE COUNCIL. A vacancy in the council shall be deemed to exist in case of expiration of the term of any elective officer without an elected successor, the failure of any elective officer to qualify on or before the date of the second regular meeting of the new council, or by reason of the death, resignation, removal from office, removal from the city, continuous absence from the city of more than three months, conviction of a felony of any such elective officer whether before or after such qualification, or by reason of the failure of any elective officer without good cause to perform any of the duties of membership in the council for a period of three months. In each such case the council shall by resolution declare such vacancy to exist and shall forthwith appoint an eligible person to fill the same. In the case of a tie vote in the council, the mayor shall make the appointment. In the event the unexpired term of

the vacant seat is one year or less, such appointee shall complete the unexpired term. In the event the unexpired term of the vacant seat exceeds one year, a special election shall be held at or before the next regular municipal election to fill the remainder of the vacancy. The city administrator shall give published notice of such special election in the official newspaper of general circulation, at least 30 days prior to said special election.

Section 2.10. INVESTIGATION OF CITY AFFAIRS. The council and any person formally authorized by the council shall have power to make investigations into the City's affairs, to subpoena witnesses, administer oaths, and compel the production of books and papers. The council may at any time provide for an examination or audit of any commission, board, department or employee of the city government and it may cause to be made any survey or research study of any subject of municipal concern.

Section 2.11. INTERFERENCE WITH ADMINISTRATION. Neither the council nor any of its members shall dictate the appointment or removal of any city employee, but the council may express its views and freely discuss with the city administrator anything pertaining to appointment and removal of city employees. Except for the purpose of inquiry and investigation under Section 2.10, the council and its members shall deal with and control city employees under the jurisdiction of the city administrator solely through the city administrator, and neither the council nor any council member shall give orders to any city employee either publicly or privately.

CHAPTER 3

Procedure of Council

Section 3.01. COUNCIL MEETINGS. On the first Monday in January following a regular municipal election the council shall meet at the usual place and time for the holding of council meetings. If the first Monday is a holiday, the first Tuesday in January shall then be used. At this time the newly elected members of the council shall assume their duties. Thereafter the council shall meet at such time each month as may be prescribed by ordinance and resolution. The mayor or any other three members of the council may call special meetings of the council upon at least twelve hours notice to each member of the council and such reasonable public notice as may be prescribed by council rule in compliance with the laws of Minnesota. To the extent provided by law all meetings of the council shall be public, and any citizen shall have access to the minutes and records thereof at all reasonable times.

Section 3.02. SECRETARY OF THE COUNCIL. The city administrator may designate any employee of the City (except a member of the council) to act as secretary of the council. The secretary shall keep a journal of council proceedings and such other records and perform such other duties as this charter or the council may require. The council may provide for such other officers and employees as may be necessary to serve at its meetings.

Section 3.03. RULES OF PROCEDURE AND QUORUM. The council shall determine its own rules and order of business. A majority of all elective officers shall constitute a quorum to do business, but a smaller number may adjourn from time to time. The council may by ordinance provide a means by which a minority may compel the attendance of absent members. Except as otherwise provided by statute, this Charter, or ordinances enacted pursuant to it, the proceedings of the council shall be conducted in accordance with “Roberts Rules of Order Revised.”

Section 3.04. ORDINANCES, RESOLUTIONS AND MOTIONS. Except as otherwise provided in this charter, all legislation shall be by ordinance. A roll call vote on all ordinances, resolutions and motions shall be recorded unless the vote is unanimous, provided however, that a roll call vote is required on each appropriation of money, except for payment of judgments, claims and amounts fixed by statute. An affirmative vote of a majority of all the members of the council shall be required for the passage of all ordinances and resolutions except as otherwise provided in this Charter or Minnesota Statutes.

Section 3.05. PROCEDURE ON ORDINANCES. Every proposed ordinance shall be presented in writing. No ordinance shall contain more than one subject which shall be clearly expressed in its title. The enacting clause shall be “The City of Hutchinson ordains.” No ordinance, except an emergency ordinance, shall be passed at the meeting at which it is introduced and at least seven days shall elapse between its introduction and final passage.

Section 3.06. 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.

Section 3.07. PROCEDURE ON RESOLUTIONS. Every resolution shall be presented in writing. If requested by an individual elective officer, a resolution shall be read in full before a vote is taken.

Section 3.08. SIGNING AND PUBLICATION OF ORDINANCES AND RESOLUTIONS. Every ordinance or resolution passed by the council shall be signed by the mayor or by the mayor protem in the absence of the mayor, or by any one council member, in the absence of the mayor and the mayor protem, attested, filed and preserved by the city administrator. Every ordinance shall be published at least once in the official newspaper. In the case of lengthy ordinances, or ordinances which include charts or maps, if the council determines that publication of the title and a summary of the ordinance would clearly inform the public of the intent and effect of the ordinance, the council may by a majority vote direct that only the title and a summary be published, with notice that a printed copy of the entire text of the ordinance is available for inspection at the office of the city administrator and any other public location which the council designates. Prior to publication, the council shall approve the title and text of

the summary for accuracy and clarity. To the extent and in the manner provided by law an ordinance may incorporate by reference statute, state administrative rule or regulation of Minnesota, a code or ordinance or part thereof without publishing the material referred to in full.

Section 3.09. WHEN ORDINANCES AND RESOLUTIONS TAKE EFFECT. Every resolution and emergency ordinance shall take effect immediately upon its passage or at such later date as is fixed in it. Every other ordinance shall take effect upon publication or at such later date as is fixed therein. Every ordinance adopted by the voters of the city shall take effect immediately upon its adoption or at such later time as is fixed thereon.

Section 3.10. 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.

Section 3.11. REVISION AND CODIFICATION OF ORDINANCES.

The city council may revise, rearrange and codify its ordinances with such additions and deletions as may be deemed necessary. Such ordinance code shall be published in book, pamphlet or continuously revised looseleaf form and copies shall be made available by the council at the office of the city administrator for general distribution to the public free or at a reasonable charge. Publication in such a code shall be 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 administrator is published in the official newspaper for at least two successive weeks.

CHAPTER 4

Nominations and Elections

Section 4.01. REGULAR MUNICIPAL ELECTION. A regular municipal election shall be held on the first Tuesday after the first Monday in November of each even-numbered year at such place or places as the city council may designate. The city administrator shall give at least two weeks' publication notice of the time and place of holding such election, and of the officers to be elected. At least one week before the election the city administrator shall publish a sample ballot in the official newspaper and post a sample ballot at appropriate locations for public inspection. Failure to give such a notice or to make such publication or posting shall not invalidate the election.

Section 4.011. PRIMARY MUNICIPAL ELECTION. The city shall establish a primary election to coincide with state primary elections. No later than the next city council

meeting after the adoption of this charter change, the council shall designate each council seat, whether occupied or not, by a separate numerical number or letter of the alphabet and assign each council member to one of the seats, with the mayor assigned as mayor. Each council seat and the office of mayor so designated, shall be a separate office for each subsequent election. Any incumbent member of the council filing for re-election shall be a candidate only for the office of which he/she is the incumbent, except in the case where an incumbent council member files for the office of mayor. Each person filing for the office of council member shall state in his/her affidavit of candidacy, the designated council seat that he/she is a candidate for. If less than three candidates file for any one seat, the candidates or candidate shall proceed to the general or special election. Incumbency shall not be designated on the ballot.

Section 4.02. SPECIAL ELECTIONS. The council may by resolution order a special election and provide all means for holding it. Except as provided in Section 2.09, the city administrator 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, including a primary municipal election if an elective office is to be filled at the special election.

In the event that there is only one official candidate on the ballot for the vacant council seat, the special election for the council seat may be canceled by the city council on its own motion pursuant to Minnesota Statute Section 205.10, Subd. 6 and that candidate shall be appointed to serve the remainder of the unexpired term for the vacant council seat.

Section 4.03. FILING FOR OFFICE. No earlier than 60 days or later than 45 days before the municipal primary election, or such other time periods mandated by law, any registered voter of the city qualified under the state constitution for elective office may, by filing an affidavit of candidacy for a designated elective office and paying a filing fee of \$20 to the city administrator, have such voter's name placed on the municipal primary election ballot. Absentee ballots shall be available 30 days prior to the primary or regular municipal election. Each such candidate who is not eliminated in the municipal primary election becomes a candidate for the designated elective office for which such candidate has filed, and shall be placed on the regular municipal election ballot.

Section 4.04. 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 in this Charter and supplementary ordinances, general state laws on elections shall apply to municipal elections.

CHAPTER 5

Initiative, Referendum, and Recall

Section 5.01. GENERAL VOTER AUTHORITY. The voters of the City shall have the right, in accordance with this Charter, to propose ordinances, to require ordinances to be submitted to a vote, and to recall elected public officials by processes known respectively as the initiative, referendum and recall.

Section 5.02. PETITIONS. An initiative, referendum or recall, shall be initiated by a petition signed by registered voters of the City equal in number to 10 percent of registered voters as of the last city election. Each petition shall be sponsored by a committee of five registered 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 Sections 5.06, 5.07 or 5.08, as the case may be. The signature and street address of each signer shall appear on the petition. 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 such name by a statement in writing filed with the city administrator before the city administrator advises the council of the sufficiency of the petition.

Section 5.03. DETERMINATION OF SUFFICIENCY AND REGULARITY. Immediately upon receipt of the petition, the city administrator 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 and regularity of the petition, setting forth in detail any insufficiency or irregularity. Sufficient means the required number of registered voters have signed the petition and each required signature is authentic. Regular means the petition contains all subject matter upon which a vote of the people is authorized under initiative, referendum or recall procedures of this Charter, or the initiation of Charter amendments by Minnesota statutes. No member of any initiative, referendum, or recall committee, no person circulating a paper for signatures, and no signer of any such paper, or any other person, shall accept or offer any pecuniary or other reward for service rendered in connection with the circulation.

Section 5.04. FURTHER REGULATIONS. The council may provide by ordinance such further regulations for the initiative, referendum, recall, not inconsistent with this charter, as it deems necessary.

Section 5.05. DISPOSITION OF PETITION. If the council determines that the petition is insufficient or irregular, the city administrator shall deliver a copy of the petition, together with the resolution describing the insufficiency or irregularity, 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 petition shall be filed in the office of the city administrator who shall 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.

Section 5.06. 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 4/5 majority of the sponsoring committee do not disapprove the amended form by a statement filed with the city administrator within 10 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 acceptable form within 60 days after the final determination of sufficiency and regularity 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.

Section 5.07. 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 and regular. 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.

Section 5.08. THE RECALL. In the recall petition of any elective officer of the city, the committee shall certify to the city administrator the name of the elective officer whose removal is sought, a statement of the grounds for removal in not more than 250 words, and their intention to petition for the recall of such elective officer. The statement of grounds for removal must allege serious malfeasance or nonfeasance during the term of office in the performance of the duties of the office, or conviction during the term of office of a serious crime. A copy of this certificate shall be attached to each signature paper and no signature paper shall be put into circulation previous to such certification.

Section 5.09. RECALL ELECTION. If the petition or amended petition is found sufficient and regular, the city administrator shall officially notify the person sought to be recalled of the sufficiency and regularity of the petition and of the pending action. The

council shall at its next meeting, by resolution, provide for the holding of a special recall election not less than 30 nor more than 45 days after such meeting, but if any other election is to occur within 60 days after such meeting, the council may in its discretion provide for the holding of the recall election at that time.

CHAPTER 6

Administration of City Affairs

Section 6.01. THE CITY ADMINISTRATOR. The city administrator shall be the chief administrative officer of the City. The city administrator shall be chosen by the council solely on the basis of training, experience, executive and administrative qualifications. The city administrator need not be a resident of the city at the time the council makes the appointment, but may reside outside the city while in office only with the approval of the council, as described in Minnesota Statute § 415.16, subd. 2. The city administrator shall be appointed for an indefinite term and may be removed at any time by an affirmative vote of a majority of the council; but after one year of service the city administrator may demand written charges and a public hearing on the charges before the council prior to the effective date of final removal. After the hearing, if one is demanded, the council shall have unlimited discretion either to reinstate the administrator or affirm final removal. Pending the hearing and removal, the council may suspend the administrator from office. With the approval of the council, the administrator may designate some properly qualified person to perform the duties of the administrator during any absence or disability of the city administrator or while the office is vacant.

Section 6.02. POWERS AND DUTIES OF THE CITY ADMINISTRATOR.

The city administrator shall be responsible to the council for the administration of the City's affairs, and shall have the powers and duties set forth in the following subdivisions:

Subd. 1. The enforcement of this Charter and the laws, ordinances, and resolutions of the City.

Subd. 2. The appointment, supervision, removal or transfer, upon the basis of merit and fitness and subject to applicable personnel rules, all heads of departments and city employees.

Subd. 3. The direction and supervision of all departments and offices of the City, except Hutchinson Utilities as otherwise provided by law or charter.

Subd. 4. The city administrator shall attend all meetings of the council and may take part in discussion but not vote; but may be excluded from any meeting at which the city administrator's removal is considered, if the council, in its discretion so chooses.

Subd. 5. The city administrator shall recommend to the council for adoption such measures as are necessary for the welfare of the people and the efficient administration of the City's affairs.

Subd. 6. The city administrator shall keep the council fully advised on the financial condition and needs of the City, and shall prepare and submit to the council the annual budget and capital program.

Subd. 7. The city administrator shall submit to the council and make available to the public a complete report on the finances and administrative activities of the city at the end of each fiscal year.

Subd. 8. The city administrator shall perform such other duties as are prescribed by this Charter or may be required by the council.

Section 6.03. ADMINISTRATIVE ORGANIZATION. The council may by resolution establish city departments, offices, enterprise funds and agencies and prescribe their functions. No power or duty conferred by this Charter upon a particular department, office, enterprise fund or agency shall be transferred to any other. Department means any city function organized under the direct control of a single department head. Office means a city function carried out by a single individual. Enterprise fund means an organization which provides a quasi public service, recovering its costs primarily through user fees, with any surplus periodically deposited in the city general fund. Agency means an organization which carries out a city function, funding its operations primarily through ad valorem taxes, grants, and appropriations from the city budget.

Section 6.04. CITY EMPLOYEES. The council may by resolution establish such employee positions as the council may see fit. The council may by resolution abolish such employee positions and it may combine the duties of various employees as it may see fit.

Section 6.05. PURCHASES AND CONTRACTS. The city administrator shall be the chief purchasing agent of the City. Subject to Chapters 11 and 12, all City purchases and contracts shall be made or let by the city administrator, either personally or by appropriate delegation. The amount shall be governed by ordinance. All other purchases shall be made and all other contracts let by the council after the recommendation of the city administrator has first been obtained. 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. All contracts, bonds, and instruments of any kind to which the City is a party shall be signed by the mayor and the city administrator 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.

CHAPTER 7

Taxation and Finances

Section 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, settlement of accounts, and the safekeeping and disbursement of public monies. The council shall provide for an annual certified audit of the City's accounts.

Section 7.02. FISCAL YEAR. The fiscal year of the City shall be the calendar year.

Section 7.03. SYSTEM OF TAXATION. Subject to the state constitution, and except as forbidden by it or by state law, the council shall have full power to provide by ordinance for a system of local taxation. This authority includes the power by ordinance to assess, levy, and collect taxes on all subjects or objects of taxation except as limited or prohibited by the state constitution, by this charter or by laws imposing restrictions upon the City irrespective of charter provisions.

Section 7.04. SUBMISSION OF BUDGET. Annually the city administrator shall recommend and submit to the council a budget in accordance with a budget calendar to be established by ordinance or, in the absence of ordinance, by September 1. The budget shall provide a complete financial plan for all city funds and activities for the ensuing fiscal year and, except as required by law or charter, shall be in such form as the city administrator deems desirable or the council may require. It shall include a summary and show in detail all estimated income and all proposed expenditures, including debt service and comparative figures for the current fiscal year, actual and estimated, and the preceding fiscal year. In addition to showing proposed expenditures for current operations, it shall show proposed capital expenditures to be made during the year and the proposed method of financing each such capital expenditure. The total proposed operating budget to be provided from the property tax shall not exceed the amounts authorized by law and this Charter. Consistent with these provisions, the budget shall contain such information and be in the form prescribed by ordinance and by law.

Section 7.05. CAPITAL IMPROVEMENT PROGRAM. The city administrator shall prepare and submit to the council a recommended five-year capital improvement program no later than August 1 each year. The capital improvement program shall include a list of all capital improvements proposed to be undertaken during the next five fiscal years, with appropriate supporting information as to the necessity for such improvements; cost estimates, method of financing and recommended time schedules for each such improvement; and the estimated annual cost of operating and maintaining the facilities to be constructed or acquired. This information shall be revised and extended each year for capital improvement still pending or in process.

Section 7.06. COUNCIL ACTION ON BUDGET. The budget shall be considered by the second regular monthly meeting of the council in September and at subsequent meetings until a budget is adopted for the ensuing year. The meetings shall be so conducted as to give interested citizens a reasonable opportunity to be heard. 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 adopt the budget by a resolution which shall set forth the total for each budgeted fund and each department with such segregation as to objects and purposes of expenditures as the council deems necessary for purposes of budget control. The council shall also adopt a resolution levying the amount of taxes provided in the budget and the city administrator shall certify the tax resolution to the county auditor in

accordance with law. Adoption of the budget resolution shall constitute appropriations at the beginning of the fiscal year of the sums fixed in the resolution for the several purposes named.

Section 7.07. ENFORCEMENT OF THE BUDGET. The city administrator shall enforce strictly the provisions of the budget, and shall not authorize any payment or the incurring of any obligation by the City unless an appropriation has been made in the budget resolution and there is a sufficient unexpended balance left after deducting the total past expenditures and encumbrances against the appropriation; provided, however, that the city administrator is authorized to approve a transfer of funds from one appropriation to another within the budget of any department of the City. Department means any city function organized under the direct control of a single department head, and does not include Hutchinson Utilities Commission. Approval by the city administrator of such transfer shall be made by written memorandum setting forth the reasons therefor. 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, or as authorized by the city administrator as described herein. Any obligation incurred by any person in the employ of the City for any purpose not authorized in the budget resolution, or not authorized by the city administrator as described herein, or for any amount in excess of the amount authorized shall be a personal obligation upon the person incurring the obligation. 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 time-sheet or other document approved and signed by the responsible city officer who vouches for its correctness and reasonableness.

Section 7.08. ALTERATIONS IN THE BUDGET. After the budget resolution has been adopted, the council shall not increase the amounts fixed in the resolution beyond the estimated receipts except to the extent that actual receipts 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 authorize the transfer of sums from unencumbered balances of appropriations in the budget resolution to other purposes.

Section 7.09. EMERGENCY DEBT CERTIFICATES. If in any year the receipts from taxes or other sources should from some unforeseen cause become insufficient for the ordinary expenses of the City, or if any calamity or other public emergency necessitates the making of extraordinary expenditures, the council may by ordinance issue on such terms and in such manner as the council determines emergency debt certificates to run not to exceed three 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 certificate shall state the nature of the emergency and be approved by at least four members of the council. It may be passed as an emergency ordinance.

Section 7.10. FUNDS. There shall be maintained in the city treasury a general fund and such other funds as may be required by statute, ordinance, or resolution. The council may, by ordinance or resolution, make inter-fund loans, except from trust and agency funds, as it may deem necessary and appropriate.

Section 7.11. CITY INDEBTEDNESS. Except as provided in Section 7.09, 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 law, no such obligations shall be issued and sold without the approval of the majority of voters voting on the question at a general or special election.

CHAPTER 8

Public Improvements and Special Assessments

Section 8.01. 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 any 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.

Section 8.02. LOCAL IMPROVEMENT PROCEDURE. When the City undertakes any local improvement to which the state local improvement 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.

CHAPTER 9

Eminent Domain

Section 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 Minnesota Statutes, Chapter 117 or other applicable law.

CHAPTER 10

Franchises

Section 10.01. FRANCHISES REQUIRED. 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 therefore from the City, except where the city's authority is preempted by state or federal law; provided, however, that temporary uses such as street vendors, periodic displays and sales of food, beverages and merchandise, facilities for short-term public gatherings and similar enterprises shall be regulated by permit or Council approval as the Council may see fit. 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 administrator to guarantee publication before the ordinance is passed.

Section 10.02. TERMS. No exclusive or perpetual franchise shall ever be granted. No franchise for a term exceeding twenty years shall be effective until approved by a majority of the electors voting thereon, except for franchises granted for improvements made upon the property of the Hutchinson Municipal Airport in which case the term of the franchise shall not exceed 99 years.

Section 10.03. PUBLIC HEARING. Except where preempted by state or federal law, the City may regulate any rates, fares or prices to be charged by any public utility. Before any franchise ordinance is adopted or any rates, fares, or prices to be charged by any 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.

Section 10.04. POWER OF REGULATION RESERVED. Except where preempted by state or federal 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 or in proceedings for municipal acquisition of the grantee's property by purchase or eminent domain.

Section 10.05. RENEWALS OR EXTENSIONS. Every renewal or modification of a franchise, including any existing franchise, shall be granted in the same manner as a new franchise.

CHAPTER 11

Public Ownership and Operations of Utilities

Section 11.01. CONTROL AND MANAGEMENT. The Hutchinson Utilities Commission of the City of Hutchinson shall have control and management of the Electric Plant, the Electric Plant distribution system, the Gas Plant and the Gas Distribution system in the City of Hutchinson.

Section 11.02. APPOINTMENT AND TERMS. The commission shall consist of five (5) persons, registered voters of Hutchinson, who shall be appointed by the council. One of the members may be a member of the city council appointed annually by the mayor with the consent of the city council, at the first meeting of the city council in January of each year. After initial appointments for such terms as are set by the council, a member shall be appointed every year for a term of 5 years, to fill the place of the member whose term has expired, except for any city council member appointed to serve on the Utilities Commission, and in such case, that person shall serve a one year term subject to reappointment. The commissioners in office at the time of adoption of this charter shall continue to serve the term to which they were previously appointed. Commissioners shall qualify for their office by taking and subscribing to the oath of office required of members of the council and filing the same with city administrator. They shall hold office until their successors are appointed and qualified and vacancies in office for any cause shall be filled for the balance of the term in which the vacancy occurs in the same manner as the original appointment is made. No member shall serve more than two consecutive five-year terms, exclusive of the fulfillment of an unexpired term, but shall be again eligible for such service following a break in service of not less than one year. The members of the commission, excluding the city council member, may receive compensation for their services as determined by the council.

Section 11.03. ORGANIZATION. The commission shall provide for its own organization and rules of procedure and annually shall elect a president and vice-president from among its members who shall perform the usual duties of those positions, under the direction of the commission. It shall also appoint a secretary who may or may not be a member of the commission. All monies received for gas and electric services rendered shall be deposited in a separate municipal Electric Plant Fund and Natural Gas Division Fund. The commission shall keep record of the monies (above mentioned) and pay them out only upon verified orders and upon warrants signed by two members of the commission.

Section 11.04. POWERS OF THE COMMISSION. The commission shall have full, absolute and exclusive control of power over the City Electric Plant, the City Electric Plant distribution system, the City Gas Plant and the City Gas distribution system. The commission shall buy all materials, supplies and fuel in accordance with the charter provisions for purchases and contracts. It may enter into contracts subject to the same limitations imposed on the city council, and may sue and be sued in its own name. It

shall regulate the distribution, use and sale of electricity and gas within and without the city limits, collect for services, and shall fix the rates for all such sales and services for public and private use, subject to right of the council to veto any proposed charge and rate by a four-fifths vote. Such veto power shall be exercised, if at all, within 30 days after the council has received notice of any proposed change in charge and rate. The commission shall have power and authority to extend, add to, change or modify the electric system and the gas system, and to do any and all things it may deem necessary and proper for operation except as by this chapter otherwise restricted or qualified. The cost of extended service or installation thereof shall in no case create any general obligation upon the City. It shall employ such competent help as may be necessary to properly operate the plant, and pay these employees such compensation as the commission deems proper. The commission shall not have power to sell, lease, rent or in any way dispose of or encumber or permit the electric plant or the gas system to come under the control of any person or corporation whatever. The commission may pledge the net earnings of the electric plant and/or gas plant and system, after providing for the payment of all operating and maintenance charges and setting aside annually an amount sufficient to meet the interest and principal required of any previously created obligations of the plant, to secure payment of any previously created obligations of the plant, to secure payment of any equipment purchased for said plants and systems.

Section 11.05. TRANSFER OF FUNDS. On or before September 1 of each year, the commission and the city council shall exchange information regarding the financial resources and financial needs of both the commission and the City, and shall reach agreement on the amount of surplus utility funds, if any, which are reasonably available for transfer to the general fund of the City during the next calendar year. Surplus utility funds reasonably available shall be transferred to the city general fund.

It shall be mandatory upon the commission to transfer funds from earnings to the City to meet all interest and support principal required on obligations of the City incurred by the City in the construction of the gas and electric plants and systems. Such funds shall not be considered surplus funds. Funds so turned over to the City by the commission shall, during such time as the bonded indebtedness remains currently unpaid in connection with construction of the gas and electric plants and systems, be used solely for the purpose of retiring such currently unpaid indebtedness.

Section 11.06. BY-LAWS AND REGULATIONS. The commission may make and enforce such reasonable by-laws and regulations as may be necessary to carry into effect the objectives and purposes of this chapter. All such by-laws and regulations are to be entered in a book kept for that purpose by the secretary and signed by the president and secretary.

Section 11.07. REPORTS. The commission shall keep a record of all of its financial operations and shall furnish monthly to the city council summarized statements showing receipts, disbursements, and liabilities for such period of time. The commission shall

publish a summarized audited annual statement in the official city newspaper. Such statement shall be prepared by a certified public accountant.

Section 11.08. REMOVAL OF COMMISSIONERS. If a commissioner is guilty of malfeasance or misfeasance in office, has become incapacitated to hold office, or ceases to be a resident of the City of Hutchinson, and such fact is brought to the City Council by council investigation or a petition of ten (10) or more voters of the City of Hutchinson, the commissioner may be removed from office by a four-fifths (4/5) majority vote of the council. Upon the filing of any such fact, together with a copy of such charges, such commissioner shall be notified of the time and place where the council will meet to consider such charges. Notice shall be given at least ten days before the meeting, at which time such commissioner shall have the right to be present and produce testimony and evidence. No member of the commission shall continue in office after the loss of any qualification required for appointment to that position.

Section 11.09. SALE OF PUBLIC UTILITY. The public utility owned by the City shall not be sold or otherwise disposed of by the City unless the full terms of the proposition of sale or other disposition are embodied in an ordinance approved by the city council and by a majority of the voters voting thereon at a general or special municipal election. Approval by the voters as described herein shall not apply to the sale or other disposition of component parts of the public utility which are no longer needed for public utility purposes.

Section 11.10. FISCAL YEAR. The fiscal year of the Hutchinson Utilities Commission shall be the calendar year.

Chapter 12

Public Ownership and Operation of Waste Management Facilities and Related Services

Section 12.01. ESTABLISHMENT. The City has established, and is hereby authorized to further establish and continue waste management facilities and ancillary programs including, without limitation, collection, testing, processing and disposal of mixed municipal solid waste, source separated waste, recyclable materials, and all other soil amendments for the operation of resource recovery facilities, biosolids drying facilities, compost facilities, waste reduction facilities, and similar operations; the mixing, bagging, blending and incorporating of ingredients reasonably related to the reuse and resale of recovered waste, or reasonably related to improving the economic efficiency of waste management facilities and programs and reducing the cost thereof to the City, the State of Minnesota, and other generators of waste within Minnesota.

Section 12.02. CONTROL AND MANAGEMENT. The city council, acting through the city administrator as required by this Charter, shall have control and management of all waste management facilities and ancillary programs.

Section 12.03. STATUS OF OPERATIONS. The waste management facilities and programs shall be operated by the City as an enterprise fund in which costs, including capital costs, are recovered through user fees, gate fees, and sale of ancillary products and services. Any surplus in the enterprise fund shall be periodically deposited in the City general fund.

CHAPTER 13

Miscellaneous Provisions

Section 13.01. OFFICIAL PUBLICATIONS. The council shall annually designate a legal newspaper as provided by the laws of Minnesota 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.

Section 13.02. OATH OF OFFICE. Every elected or appointed officer of the City, and every member of each board or commission shall, before entering upon the duties of office, take and subscribe an oath of office in substantially the following form: "I do solemnly swear (or affirm) to support the constitution of the United States and of the State of Minnesota and to discharge faithfully the duties devolving upon me as (title of office) of the City of Hutchinson to the best of my judgment and ability."

Section 13.03. OFFICIAL BONDS. The mayor, city administrator, and such other officers or employees of the city as may be specified by ordinance shall each, before entering upon the duties of their respective offices or employment, be covered by a surety bond from the City in such form and amount as may be fixed by the council. 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 administrator. 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.

Section 13.04. SALE OF REAL PROPERTY. No real property of the City shall be disposed of except by ordinance. The net cash 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.

Section 13.05. VACATION OF STREETS. A majority of the council may by resolution vacate any street, alley or any public grounds 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 such further terms and by such procedure as is prescribed

in Minn. Stat. § 412.851, and which the council by resolution may prescribe. A notice of completion of such proceedings shall be filed with the proper county officers in accordance with law.

Section 13.06. FINES AND PENALTIES. All fines, forfeitures and penalties recovered for the violation of any ordinances shall be paid into the city treasury. Every court or officer receiving such monies, within 30 days thereafter, shall make return thereof under oath and be entitled to duplicate receipts for the amounts paid. One of the receipts shall be filed with the city administrator.

Section 13.07. OFFICIAL INTEREST 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 or personally benefit from such contract.

Section 13.08. 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 legal obligations of the City under the former Charter.

Section 13.09. EXISTING ORDINANCES. All ordinances and regulations of the City in force when this Charter takes effect and not inconsistent with this Charter are continued in full force and effect until amended or repealed.

Section 13.10. PENDING CONDEMNATIONS, IMPROVEMENTS AND ASSESSMENTS. Any condemnation, improvement, 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 as if this Charter had not been adopted.

Section 13.11. ORDINANCES TO MAKE CHARTER EFFECTIVE. The council shall by ordinance, resolution, or other appropriate action take such steps as may be necessary to make effective the provisions of this charter.

Section 13.12. 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 the laws and charter previously in effect. The officers shall continue to govern until their normal terms expire and their successors under this new charter are elected and qualified.