

COUNCIL-MANAGER CHARTER

City of Bemidji, Minnesota



Adopted March 16, 2021

Replaces Charter adopted November 14, 2017

WE, the undersigned, being the duly appointed, qualified and acting members of the Charter Commission in and for the City of Bemidji, Beltrami County, Minnesota, hereby certify that the foregoing document consisting of Chapters one through twelve, inclusive, is the draft of a revised Charter prepared and framed by the Charter Commission, and we hereby affix our signatures to that draft in testimony of our approval thereof, and deliver the same to the City Clerk of the said City, for action pursuant to law.

CHARTER COMMISSION:

Appointed under Minnesota Statute 410.05.

Randi Su Tanem
2701 Irvine Ave NW

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4160 Connelly Circle NE

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1003 15th Street NW

Don Heinonen
415 Gould Avenue NE

I, Michelle R. Miller, Clerk of the City of Bemidji, Beltrami County, Minnesota, hereby certify that the foregoing draft of a proposed (revised) Charter and certificate in connection therewith was delivered to me this 16th day of March, 2021.

Michelle R. Miller, City Clerk

STATE OF MINNESOTA)
) ss.
COUNTY OF BELTRAMI)

I, Michelle R. Miller, the duly appointed and acting City Clerk of the City of Bemidji, Minnesota, do hereby certify that the attached revised Council-Manager Charter of the City of Bemidji, Minnesota, was adopted by:

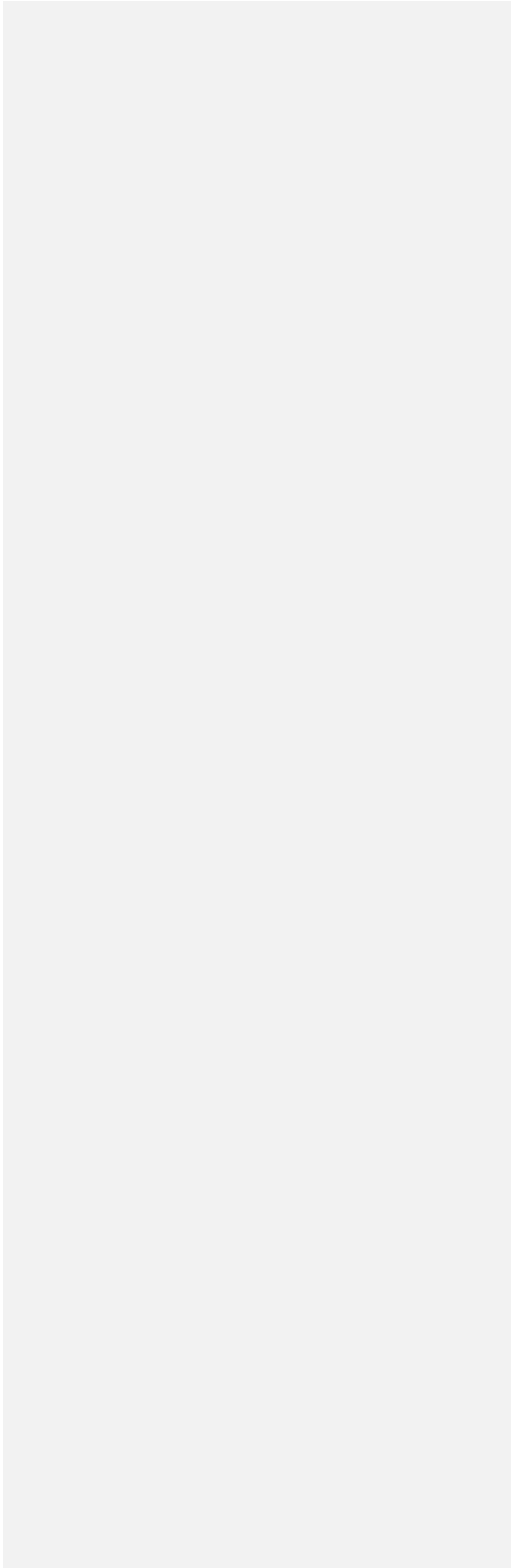
Ordinance No. 170, 3rd Series, Amending Chapter 4 (Nominations and Elections)

that the attached Council-Manager Charter of the City of Bemidji, Minnesota, is a true and correct copy of the Charter as certified by the Charter Commission on the 16th day of March, 2021, and the original of this certified copy is duly filed as a part of the permanent records of the City of Bemidji.

WITNESSETH, my hand and the corporate seal of said City of Bemidji, Minnesota, this 16th day of March, 2021.

(SEAL)

Michelle R. Miller, City Clerk
City of Bemidji, Minnesota



STATE OF MINNESOTA)
) ss.
COUNTY OF BELTRAMI)

I, Michelle R. Miller, the duly appointed and acting City Clerk of the City of Bemidji, Minnesota, do hereby certify that the attached revised Council-Manager Charter of the City of Bemidji, Minnesota, was adopted by:

	<u>Votes Cast</u>	<u>In Favor</u>	<u>Opposed</u>	<u>Over Votes</u>	<u>Under Votes</u>
Section 2.03	7149	3543	2955	2	649

that the attached Council-Manager Charter of the City of Bemidji, Minnesota, is a true and correct copy of the Charter as certified by the Charter Commission on the 16th day of March, 2021, and the original of this certified copy is duly filed as a part of the permanent records of the City of Bemidji.

WITNESSETH, my hand and the corporate seal of said City of Bemidji, Minnesota, this 16th day of March, 2021.

(SEAL)

Michelle R. Miller, City Clerk
City of Bemidji, Minnesota

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PREAMBLE

“We, the people of the City of Bemidji, under the constitution and laws of the State of Minnesota, in order to secure the benefits of local self-government and to provide for an honest and accountable council-manager government do hereby adopt this charter and confer upon the city the following powers, subject to the following restrictions, and prescribed by the following procedures and governmental structure. By this action, we secure the benefits of home rule and affirm the values of representative democracy, professional management, strong political leadership, citizen participation, and regional cooperation.”

CHAPTER 1

NAME, BOUNDARIES, POWERS, AND GENERAL PROVISIONS

Section 1.01 INCORPORATION. The inhabitants of the City of Bemidji, Beltrami County, State of Minnesota, within the corporate limits as now established or as hereafter established in the manner provided by law, shall continue to be a municipal body politic and corporate in perpetuity, under the name of the "City of Bemidji".

Section 1.02 WARDS. The city shall be divided into five wards. The number of wards shall not be increased except in accordance with the laws of the State of Minnesota and shall be as nearly equal in population as practicable. After each decennial United States Census the council by ordinance shall either confirm the existing ward boundaries as conforming to population requirements or shall re-determine ward boundaries in order to do so. If the council shall fail to do so within a period of 180 days after the official certification of the decennial census, no further remuneration shall be paid to the mayor or councilpersons until the wards of the city are duly re-determined as required by this Charter. The city clerk shall maintain legal and graphic descriptions of each ward for public inspection.

Section 1.03 POWERS OF THE CITY. The city shall have all powers, which may now or hereafter be possible for a municipal corporation in this state to exercise in harmony with the constitutions of this state and the United States. It is the intention of this Charter to confer upon the city every power that 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 of the city to those thus mentioned. Except as inconsistent with this Charter, the city shall have all power given to a statutory city. 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 "Council-Manager Plan". Except as otherwise required by law or this Charter, all powers of the city are vested in the council. The manager shall be the head of the administrative branch of the city government and shall be responsible to the council for the proper administration of all city affairs.

Section 2.02 BOARDS AND COMMISSIONS. There shall be no separate administrative boards or commissions except for the administration of a function jointly with another political subdivision. The council may 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.

Section 2.03 COUNCIL COMPOSITION AND ELECTION. The council shall be composed of a mayor and six councilpersons who shall be qualified voters and who shall be elected in the manner hereinafter provided. The mayor shall be elected at large and shall serve for a term of four years, and shall coincide with the Presidential Election, and until /her successor is elected and qualified. The other six councilpersons shall be elected one from each of five wards and one at large. Each shall serve for a term of four years and until his/her successors are elected and qualified.

Section 2.04 INCOMPATIBLE OFFICES. No member of the council shall be appointed manager, nor shall any member hold any paid municipal office or employment under the city. Until one year after the expiration of his/her term as mayor or councilperson, no former member shall be appointed to any paid appointive office or employment under the city which was created or the compensation for which was increased during his/her term as councilperson. No member of the city council may serve on the Charter Commission.

Section 2.05 VACANCIES. An elective office becomes vacant when the person elected or appointed, or the incumbent thereto, dies before taking office or fails to qualify, resigns in writing filed with the city clerk, is convicted of a felony, ceases to reside in the city or ward from which elected, is absent from three consecutive regular council meetings except for excused absences as defined by a five-sevenths vote of the council, or is adjudged incompetent by a court of competent jurisdiction. In each such case the council shall by resolution declare the vacancy to exist.

In the event there are 364 days or less remaining after the Council has declared a vacancy, the City Council must appoint a qualified replacement to complete the term of the vacated seat within 30 days of the declaration of vacancy.

In the event there are 365 days or more remaining after the Council has declared a vacancy, the City Clerk shall call for a special election (Section 4.03) to be held ~~not sooner than 84 days and not later than 145 days in accordance with Minn. Stat. §205.10, as the same may be revised, amended, or recodified from time to time.~~

Section 2.06 THE MAYOR. The mayor shall preside at meetings of the council and shall have a vote as a member. The mayor shall be recognized as head of the city government for all ceremonial purposes, by the courts for the purpose of serving civil process, and by the governor for purposes of martial law. The mayor shall have no administrative duties. Annually, during the month of January or February, the mayor shall, during a regular meeting of the city council, provide a state of the city address to the city residents. The address shall include information on the financial condition of the city, explain the strategic issues facing the city, and may provide other information of importance to the citizens.

Section 2.07 SALARIES. The mayor and councilpersons shall receive such compensation as is approved by the council in accordance with law. The manager and all subordinate officers and employees of the city shall receive such salaries or wages as may be approved by the council. Changes in salaries or wages for individuals cannot be made after the adoption of the budget without council approval.

Section 2.08 INVESTIGATION OF CITY AFFAIRS. The council may make investigations into the affairs of the city and the conduct of any city department, office or agency ~~by hiring an independent third (3rd) party investigator to conduct said investigation with a five-seventh (5/7th) majority vote of the council, and for this purpose may subpoena witnesses.~~ The Council may grant the investigator the power to 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. 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.

Section 2.09 INTERFERENCE WITH ADMINISTRATION. Neither the Mayor nor any other member of the City Council shall dictate the appointment or removal of any city administrative officer or employee, but the council may express its views and freely discuss with the manager anything pertaining to the appointment and removal of officers and employees. Except for the purpose of inquiry and investigation under Section 2.08, the council and its members shall deal with and control city administrative officers and employees under the jurisdiction of the manager solely through the manager. Publicly or privately directing or managing the work of a subordinate of the manager by either the mayor or a councilmember violates this charter.

CHAPTER 3 COUNCIL PROCEDURE

Section 3.01 COUNCIL MEETINGS. The council shall meet regularly at least twice 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 twelve hours notice to each member 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 and its committees shall be public and any citizen shall have access to the minutes and records of the council at all reasonable times.

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Section 3.02 SECRETARY OF COUNCIL. The city clerk shall act as secretary of the council. He/She shall keep a journal of council proceedings and perform such other duties as this Charter or the council may require. The council may designate any other city official or employee except the manager or a member of the council as acting secretary of the council.

Section 3.03 ~~PRESIDENT MAYOR~~ PRO-TEM. The council shall choose from its members a ~~president-mayor~~ pro tem who shall hold office at the pleasure of the Council. He/She shall serve as ~~president mayor~~ in the mayor's absence and as mayor in case of the mayor's disability or absence from the city.

Commented [KN3]: Approved March 6, 2024

Section 3.04 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; however, 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.

Section 3.05 ORDINANCES, RESOLUTION, AND MOTIONS. Except as otherwise provided in this Charter, all legislation shall be by ordinance. The votes of council member on any action taken shall be recorded in accordance with statute. Except as otherwise provided in this Charter or required by law, an affirmative vote of a majority of all the members of the council shall be required for the adoption of all ordinances and resolutions.

Section 3.06 PROCEDURE ON ORDINANCES. Every proposed ordinance shall be presented in writing with copies given to the mayor and each councilperson. No ordinance shall contain more than one subject, which shall be clearly expressed in its title. The enacting clause shall be, "The City of Bemidji ordains." Every proposed ordinance, other than emergency ordinances, shall have three public readings by title only. Following its ~~second-first~~ reading a summary of the proposed ordinance shall be published in the official newspaper. Any proposed ordinance may be amended at the first or second reading thereof by the same vote as required to pass the ordinance, and at the third reading, before the final vote thereon, by the unanimous vote of the council. No ordinance except an emergency ordinance shall be adopted at the meeting at which it is introduced and at least three weeks shall elapse between its introduction and final passage. Every ordinance shall remain on file in the office of the clerk from the time it is introduced.

Commented [KN4]: Approved on March 6, 2024

Section 3.07 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. The ordinance must be adopted by a vote of at least five members of the council and unless renewed shall terminate within six months.

Section 3.08 PROCEDURES ON RESOLUTIONS. Every resolution shall be presented in writing and read in full before adoption unless the reading is dispensed with by unanimous consent of the council.

Section 3.09 SIGNING AND PUBLICATION OF ORDINANCES. Every ordinance or resolution passed by the council shall be signed by the mayor, attested, filed and preserved by the city clerk. Every ordinance shall be published once in the official newspaper. In the case of lengthy ordinances or ordinances which include maps or charts, if the city council determines that the publication of the title and a summary of the ordinance would clearly inform the public of the intent and affect of the ordinance, the council may by a majority of its members direct that only the title of the ordinance and a summary be published with notice that a printed copy of the ordinance is available for inspection by any person during regular office hours at the office of city clerk and at any other location which the council designates. 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.

Section 3.10 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 publication or at such later date as it specifies. Every ordinance and resolution adopted by the voters of the city shall take effect immediately upon its adoption or at such later date as it specifies.

Section 3.11 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. 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 3.12 REVISION AND CODIFICATION OF ORDINANCES. The city may revise, rearrange, and codify its ordinances with such additions and deletions as may be deemed necessary. The ordinance code may be published in book, pamphlet, or continuously revised loose-leaf form. Copies 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 of any ordinance provision not previously published if a notice that copies of the codification are available at the office of the city clerk is published in the official newspaper for at least two successive weeks.

Section 3.13 CODE OF CONDUCT. The council shall adopt a code of conduct, which may be amended from time to time.

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CHAPTER 4 NOMINATIONS AND ELECTIONS

Section 4.01 THE 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 commencing in 1984 at such place or places as the city council may designate. The city clerk shall give at least two weeks published notice pursuant to Minn. Stat. § 205.16, as the same may be revised, amended or re-codified, of the time and place of holding such election and of the officers to be elected. Failure to give such notice shall not invalidate the election.

Section 4.02 PRIMARY ELECTION. In accordance with Minnesota Stat. § 205.065, as the same may be revised, amended or re-codified from time to time, on the day and month set therein for holding a state primary election, there shall be a primary election for the selection of two nominees for elective office at the regular municipal election, unless only two nominees file for each elective office.

Section 4.03 SPECIAL ELECTIONS. The council may, by resolution, order a special election and provide all means for holding it in accordance with Minn. Stat. §205.10, as the same may be revised, amended or re-codified. The city 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.

When a special election is required to fill a vacant office, the special election shall occur on a date established by the City Council per Minn. Stat. §205.10, as the same may be revised, amended or re-codified. A special primary election shall be held if more than two candidates file for such office, with the two candidates receiving the most votes proceeding to the special election, except that if one candidate receives greater than 50 percent of all votes cast at the special primary election, that candidate shall be declared the winner and no special election shall be held. When a special primary election is held and no candidate receives greater than 50 percent of all votes cast, the special election shall be held pursuant to Minn. Stat. §205.10, as the same may be revised, amended, or recodified.

Section 4.04 FILING FOR OFFICE. The City Clerk shall follow Minn. Stat. §205.13, as the same may be revised, amended or re-codified from time to time.

Section 4.05 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 ordinances, general state laws on elections shall apply to municipal elections.

CHAPTER 5

INITIATIVE AND REFERENDUM

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

Section 5.02 PETITIONS. An initiative or referendum shall be initiated by a petition signed by registered voters of the city equal in number to twenty percent of those who voted for mayor in the last election. Each petition shall be sponsored by a committee of five voters whose names and address 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 5.05 or 5.06, as the case may be. Each signer shall sign his/her name and give his/her 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/her name by a statement in writing filed with the city clerk before the clerk advises the council of the sufficiency of the petition.

Section 5.03 DETERMINATIONS 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.

Section 5.04 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 the period the council finds that the petition is still insufficient or irregular, the city clerk shall file the petition in his/her 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.

Section 5.05 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 does not disapprove the amended form by a statement filed with the city clerk 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 an acceptable form within 60 days after the final determination of sufficiency of the petition, the ordinances 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 certification of the election results unless the ordinance specifies a later effective date.

Section 5.06 REFERENDUM. Any ordinance covering a matter subject to 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 voters 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 5.07 RECALL. Any elective officer, whether elected by popular vote or appointed to fill a vacancy, may be removed at any time for malfeasance or nonfeasance in office, by the electors qualified

to vote for a successor of such officer. The procedure to effect a recall of such elective municipal officer shall be as follows:

Any five (5) registered voters qualified to vote for a successor of the officer sought to be removed may form themselves into a committee for the purpose of bringing about the recall of such elected officer of the City. Such proposal shall be in the form of a certified statement stating the name of the officer whose removal is sought, the grounds for recall in not more than two hundred fifty (250) words, and the committee's intention to bring about the officer's removal. Such committee shall prepare their proposal in all regards and shall conduct the signature gathering and file the completed petition according to Section 5.02; however, the number of necessary signatures shall be equal in number to twenty (20) percent of those who voted for that office in the last election.

Completed recall petition papers shall be filed in the Office of the City Clerk within thirty (30) days of the filing of the initial recall proposal. Within thirty (30) days of filing of the petition, the City Clerk shall determine a) the number of registered voters whose signatures are on the petition, and b) the percentage of the total number of registered voters (at the time of the state or city general election immediately prior to the filing of the petition) which such number constitutes, and c) whether the petition is irregular in any manner.

If the City Clerk finds the numbers of signatures insufficient or finds the petition irregular in any other manner, the Clerk shall at once notify one or more of the committee members of the fact, certifying the reasons for the findings. The committee shall then be given ten (10) working days in which to file additional signature papers or to correct the petition in all other particulars. The City Clerk shall then be given ten (10) additional working days to examine the corrected petition.

If at the end of that period the petition is found still to be insufficient or irregular, the Clerk shall notify each member of the committee of that fact. The final finding of the insufficiency or irregularity of a petition shall not prejudice the filing of a new petition for the same purpose.

If the petition is found to be sufficient, the Clerk shall transmit the same to the Council without delay, and shall also officially notify the elected officer sought to be recalled of the sufficiency of the petition and of the pending action. The Council shall at its next regular meeting, on motion, order and fix a date for the holding of a special recall election not less than thirty (30) nor more than forty-five (45) days thereafter, provided that if any other municipal election is to occur within sixty (60) days after such meeting, the Council may in its discretion provide for the holding of the recall election at that time. The Council shall make or cause to be made publication of notice, and all arrangements for holding such election, provided, that in the published notice of and for the election there shall be given the statement of the grounds for the recall, and also in not more than two hundred fifty (250) words the answer of the officer concerned in justification of his or her course in office.

The recall election shall be city-wide if the officer is the mayor or councilmember-at-large, and shall be limited to a particular ward if the officer is a ward councilmember. The officer shall be considered removed and the office vacant, if a majority of the votes cast on the question be in favor of the recall of said officer, said officer shall be removed and the Council shall thereupon declare a vacancy to exist. Said vacancy shall be filled in accordance with the provisions of Section 2.05 of this Charter

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

No person who has been removed from office by recall, or has resigned from office after the filing of a recall petition, shall be appointed to any office under this Charter within one (1) year after such recall or resignation.

No removal petition shall be filed against any officer until the officer has actually held office for at least six (6) months.

Insofar as practical, all laws and provisions for holding regular or special elections in the City shall apply to such removal election and the preliminaries thereto, and wherein applicable or impractical the Council shall, by Ordinance, provide such other and further regulation consistent herewith as may be necessary to carry out the provisions of this Section.

CHAPTER 6

ADMINISTRATION OF CITY AFFAIRS

Section 6.01 THE CITY MANAGER. The manager shall be the chief administrative officer of the city. He/She shall be chosen by the council solely on the basis of his/her training, experience, executive and administrative qualifications. The manager need not be a resident of the city. The city council shall appoint the manager for an indefinite term and may remove him at any time by a majority vote of its members. At least thirty days before such removal becomes effective the council shall by majority vote of its members adopt a preliminary resolution stating the reason(s) for removal. If the manager has served for one year, he/she may request, prior to the effective date of his/her removal, a public hearing, which shall be held during a regularly scheduled council meeting not later than thirty days after the filing of such request. After such hearing, if one is requested, the council by majority vote of its members may either reinstate the manager or may adopt a final resolution of removal. By the preliminary resolution the council may suspend the manager from duty and shall pay any remaining balance due of his/her salary and benefits for the month.

Section 6.02 POWERS AND DUTIES OF THE CITY MANAGER. The manager shall be responsible to the council for the administration of the city's affairs. He/She shall have the powers and duties set forth in the following subdivisions:

Subd. 1. The manager shall see that this Charter and the laws, ordinances, and resolutions of the city are enforced.

Subd. 2. The manager shall appoint and may suspend and remove, upon the basis of merit and fitness and subject to applicable personnel rules, the city clerk, all heads of departments, and all subordinate officers and employees except for personnel who are governed by appropriate civil service commissions and/or other relevant boards as provided by statute.

Subd. 3. The manager shall direct and supervise all departments, officers, and agencies of the city, except as otherwise provided by law or Charter.

Subd. 4. The manager shall attend all meetings of the council and may take part in discussion but not vote; but the council may, in its discretion, exclude the manager from any meeting at which the manager's removal is considered.

Subd. 5. The manager shall recommend to the council for adoption such measures, as he/she deems necessary for the welfare of the people and for the efficient administration of the city's affairs.

Subd. 6. The manager 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 manager 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. With the approval of the council, the manager may designate a properly qualified person or persons to perform the duties of the manager during his/her absence or disability or while the office is vacant.

Subd. 9. If the manager cannot or will not designate a properly qualified person or persons to perform the duties of the manager during his/her absence or disability or while the office is vacant, the council may

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designate a properly qualified person or persons to perform said duties of the manager during his/her absence or disability or while the office is vacant.

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Section 6.03 ADMINISTRATION ORGANIZATION. 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.

Section 6.04 SUBORDINATE OFFICERS. There shall be a city clerk and such other officers subordinate to the manager as the council may establish by ordinance. The city clerk shall be subject to the direction of the manager and shall have such duties as the council may prescribe. The council may by ordinance abolish offices which have been created by ordinance and it may combine the duties of various offices as it may see fit.

Section 6.05 PURCHASES AND CONTRACTS. The manager shall be the chief purchasing agent of the city. All city purchases and contracts shall be made or let by the manager when the amount involved does not exceed \$20,000.00. All other purchases shall be made and all other contracts let by the council after the recommendation of the manager 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. The council may, however, reject any or all bids. All contracts, bonds, and instruments of any kind to which the city is a party shall be signed by the mayor and the manager 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 for the letting of contracts.

Section 6.06 WHEN CONTRACTS AND EXPENDITURES PROHIBITED. No officer, department, or agency shall, during any budget year, expend or contract to expend any money or incur any liability, or enter into any contract which by its terms involves the expenditure of money, for any purpose, in excess of the amounts appropriated for that general classification of expenditure pursuant to this Charter. Any contract, verbal or written, made in violation of this Charter shall be null and void. Any officer or employee of the city who shall violate this section shall be guilty of a misdemeanor and, upon conviction thereof, shall cease to hold his/her office or employment. Nothing contained in this section, however, shall prevent the making of contracts for lease or for services for a period exceeding the budget year, in which such contract is made, when such contract is permitted by law.

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, the auditing and settlement of accounts, and the safekeeping and disbursement of public moneys.

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 manager shall submit to the council the recommended budget. 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 manager 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. For each utility operated by the city, the budget shall show anticipated net surplus or deficit and the proposed method of its disposition; subsidiary budgets for each such utility giving income and expenditure information shall be included or attached as appendices. 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 manager shall prepare and submit to the council a recommended five-year capital improvement program along with the annual budget. 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 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 improvements still pending or in progress. The city council shall hold a public hearing on the capital improvement program and adopt it with or without amendment with the annual budget.

Section 7.06 COUNCIL ACTION ON BUDGET. The budget shall be considered and adopted by the council in the form and within the time period established by Minnesota Statute.

Section 7.07 ENFORCEMENT OF THE BUDGET. The manager shall enforce strictly the provisions of the budget. The Manager 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. No officer or employee of the city shall place any order or make any purchase except for a purpose and to the amount authorized in the budget resolution. Any obligation incurred by any person in the employ of the city for any purpose not authorized in the budget resolution or for any amount in excess of the amount authorized in the budget resolution 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, time-sheet, or other document approved and signed by the responsible city officer who vouches for this 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, and except as provided in Section 7.12. 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, authorize the transfer of sums from unencumbered balances of appropriations in the budget resolution to other purposes, or authorize additional appropriations from city reserves/surpluses.

Section 7.09 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 7.10 CITY INDEBTEDNESS. Except as provided in Section 7.11 and 7.12, 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 the voters voting on the question at a regular or special election.

Section 7.11 ANTICIPATION CERTIFICATES. At any time after January 1 the council may issue certificates of indebtedness in anticipation of state and federal aids and the collection of taxes levied the previous year for any fund and not yet collected. The total amount of certificates issued against any fund for any year together with interest thereon until maturity shall not exceed the total of state and federal aids and current taxes due to the fund and uncollected at the time of issuance. Such certificates shall be issued on such terms and conditions as the council may determine, but they shall become due not later than April 1 of the year following their issuance. The proceeds of the tax levied and such state or federal aids as the governing body may have allocated 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.

Section 7.12 EMERGENCY DEBT CERTIFICATES. If in any year the receipts from taxes or other sources should from some unforeseen cause become insufficient for the ordinary expense 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 five members of the council. It may be passed as an emergency ordinance.

CHAPTER 8

PUBLIC IMPROVEMENTS AND SPECIAL ASSESSMENTS

Section 8.01 THE CITY PLAN. The city council shall, with the assistance of the manager and, if desired, of an advisory city planning commission, prepare and adopt a complete plan for the future physical development of the city. Such plan may be altered from time to time. It may include provisions for zoning, for the platting and development of new areas, for the planning and location of public works of art, public buildings, parks, playgrounds, harbors, bridges, transportation lines, and other public facilities, and for the laying out, grading and improving of streets and public places, as well as for all other matters, which may seem essential to such a plan.

Section 8.02 ENFORCEMENT OF CITY PLAN. The council shall have all necessary power, acting through the manager, to enforce complete adherence by all persons to the plan adopted as provided above. The manager shall report to the council all departure from the city plan by individuals or corporations.

Section 8.03 POWER TO MAKE IMPROVEMENTS AND LEVY ASSESSMENTS. The city may make any type of public improvement not forbidden by law and may 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 8.04 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 benefited and collected in the same manner as special assessments.

Section 8.05 LOCAL IMPROVEMENT PROCEDURE. When the city undertakes any local improvements 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 therefore.

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

FRANCHISE

Section 10.01 FRANCHISE 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.

Section 10.02 TERM. 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.

Section 10.03 PUBLIC HEARING. Before any franchise ordinance is adopted or any rates, fares, or prices to be charged by a public utility are fixed by the council, the Council shall hold a public hearing on the matter. Notice of such hearing shall be published at least once in the official newspaper not less than ten days prior to the date of the hearing.

Section 10.04 POWER OF REGULATION RESERVED. Subject to any applicable law the council may by ordinance reasonably regulate and control the exercise of any franchise, including the maximum rates, fares, or prices to be charged by the grantee. No franchise value shall be included in the valuation of the grantee's property in regulating utility rates, fares, or prices under any applicable law, ordinance, or regulation or in proceedings for municipal acquisition of the grantee's property by purchase or eminent domain.

Section 10.05 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

Section 11.01 ACQUISITION AND OPERATION 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 or for supplying 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.

Section 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.

Section 11.03 LEASE OF UTILITIES. 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.

Section 11.04 SALE OF PUBLIC UTILITY. No public utility owned by the city shall be sold or otherwise disposed of by the city unless the full terms of the proposition of sale or other disposition are embodied in an ordinance approved by a majority of the voters voting thereon at a regular or special election. Any sale, lease, or abandonment of a water works or power plant shall be subject, in addition, to the requirements of state law.

CHAPTER 12

GENERAL PROVISIONS

Section 12.01 OFFICIAL PUBLICATION. The council shall annually at its first meeting on the year designate a legal 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 to be in the public interest.

Section 12.02 OATH OF OFFICE. Every elected or appointed officer of the city shall, before entering upon the duties of the office, take and subscribe an oath of office in substantially the following form: "I do solemnly swear (or affirm) to support the constitution of the United States and of this state and to discharge faithfully the duties devolving upon me as...(title of office) of the City of Bemidji to the best of my judgment and ability."

Section 12.03 OFFICIAL BONDS. The manager, and such other officers or employees as the council may by general ordinance require, shall give bond in such amount and with such surety as may be approved by the council. The premium on such bonds shall be paid by the city.

Section 12.04 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. A violation of any of the provisions of this section shall disqualify the offender from continuing in office or in the employment of the city and he/she shall be removed therefrom.

Section 12.05 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 the property shall be used to retire any outstanding indebtedness incurred by the city in the acquisition or improvement of the property. Any remaining net proceeds shall be used to finance other improvements in the capital improvement budget or to retire any other bonded indebtedness.

Section 12.06 VACATION OF STREETS. The council may by ordinance approved by at least five members of the council vacate any street or alley or other public grounds 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 such further terms and by such procedures 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.

Section 12.07 CITY TO SUCCEED TO RIGHTS AND OBLIGATIONS OF CITY UNDER FORMER CHARTER. 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 12.08 EXISTING ORDINANCES CONTINUED. 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 12.09 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 12.10 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 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. All elected officials shall complete

the terms to which they were elected under the previous Charter. Their successors shall be elected as provided in this Charter.

~~**Section 12.12 DAMAGE SUITS.** Said city shall be absolutely exempt from liability to any person for damages for injuries suffered or sustained by reason of defective streets or sidewalks within said city unless actual notice in writing of such defects in said streets or sidewalks shall have been filed with the city clerk at least ten days before the occurrence of such injury or damage. In the absence of such notice the city shall not be liable for any injury or damage on account of such defects, and in all cases such notice shall describe with particularity the place and nature of the defects of which complaint is made. Any tort liability action against the city, its officials or employees shall comply with Minn. Stat. 466.01-466.15, as may be amended from time to time.~~

Section 12.13 INTENT OF CHARTER, INTERPRETATION, SEPARABILITY CLAUSE. It is the intent and purpose of this Charter to confer upon the people of Bemidji full and complete municipal government, and to provide an economical, efficient and expeditious method of carrying the self-government into effect. Should this Charter require judicial construction or interpretation, the spirit hereof shall be held to prevail rather than the strict letter; all questions of doubt shall be resolved in favor of self-government; and no power or right by this Charter specifically granted shall be held to be a limitation upon or restriction of any other power or right inherent in or incidental to self-government not expressly limited or restricted herein or by the constitution or laws of the State of Minnesota. If any section or part of section of this Charter shall be held invalid by a Court of competent jurisdiction, such holding shall not affect the remainder of this Charter nor the context in which such section or part of section so held invalid may appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

Section 12.14 AMENDING CHARTER. This Charter may be amended or revised in any manner provided by law and Minnesota Statutes 410.12.

Section 12.15 EFFECTIVE DATE. This Charter shall take effect immediately upon the validation of the vote.

Section 12.16 ADMINISTRATIVE PENALTIES.

(a) The City Council may establish by ordinance a procedure for imposing an administrative penalty for any violation of the City Code or a City ordinance. The procedure must provide an opportunity for any person charged with an administrative penalty to notice of the penalty and an opportunity to respond to the charge. The procedure may authorize the City to use the services of a non-City employee to decide whether an administrative penalty should be imposed.

(b) The City Council may provide by ordinance that unpaid administrative penalties be collected as a special assessment against property which was the subject matter, or related to the subject matter, of the penalty or against property which was the location of an activity, proposed use, delivery of City service, or other circumstances that resulted in the penalty. The ordinance must provide that the City should first attempt to obtain voluntary payment of the penalty. The ordinance must also provide that notice and an opportunity to be heard will be given to the property owner listed on the official tax records before the penalty is assessed.