

CHARTER

of the

City of Ely

MINNESOTA



Adopted September 17, 2011

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CHAPTER 1

Name, Boundaries, Powers and General Provisions

Section 1.01 Name and Boundaries.

The city of Ely, St. Louis County, Minnesota, shall continue to be a municipal corporation under that name and with the same boundaries as now are or hereafter may be established.

Section 1.02 Powers of the City.

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

CHAPTER 2

Form of Government

Section 2.01 Form of Government.

The municipal government provided by this charter shall be known as the weak mayor–strong council plan of government. Subject only to the limitations imposed by the constitution or statutes of the state of Minnesota and by this charter, all powers of the city except as otherwise provided in this charter shall be vested in a mayor and elective officials hereinafter referred to as THE COUNCIL, which shall enact local legislation, adopt budgets and determine policies. THE COUNCIL may create such departments, divisions, bureaus, commissions and boards for the administration of the city’s affairs as it may deem necessary for efficient government, and from time to time may alter the power and organization of, or abolish, such departments, divisions, bureaus, commissions and boards as THE COUNCIL may create.

This is a weak mayor – strong council form of government under home rule charter. Administrative and legislative authority is THE COUNCIL’S ultimate responsibility. The powers of the mayor are generally no greater than those of any other member of THE COUNCIL. No individual council member holds any specific administrative powers.

Section 2.02 Council Composition and Election.

THE COUNCIL shall be composed of a mayor and six councilors who shall be qualified electors and who shall be elected at large. Each councilor shall serve for a term of four years and until their successor is elected and qualified. Three councilors shall be elected every four years, and a mayor every two years.

Section 2.03 Incompatible Offices.

No member of THE COUNCIL shall be appointed to any paid appointive office of employment under the city which was created or the compensation for which was

increased during their term as council member until one year after the expiration of their term.

Section 2.04 Vacancies.

An elective office becomes vacant when the person elected or appointed thereto dies or fails to qualify before taking office, or the incumbent dies, resigns in writing filed with the city clerk-treasurer, is convicted of a felony, ceases to reside in the city, or is adjudged incompetent by a court of competent jurisdiction. In each such case THE COUNCIL shall forthwith, by resolution, declare the vacancy to exist. If the next municipal election is within one year of the date of declaring the vacancy, THE COUNCIL shall forthwith appoint an eligible person to fill the vacancy, until the next municipal election, when the office shall be filled by election for the unexpired term. If the vacancy is declared more than one year prior to the next municipal election, THE COUNCIL shall forthwith, by resolution, order a special election for the unexpired term and provide all means for holding said special election. The clerk-treasurer 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. The special election shall take place, as far as practical, within ninety (90) days of declaring the council seat vacant.

Section 2.05 The Mayor.

The mayor shall preside at meetings of THE COUNCIL and shall have a vote as a member. THE COUNCIL shall choose from its members an acting mayor, who shall serve in the mayor's absence and in case of the mayor's disability. 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.

Section 2.06 Salaries.

THE COUNCIL shall set their own salaries, which must be approved by a majority of the voters voting in the next general election. If approved by the voters, the new salary will take effect the following January 1st. No elected official shall receive any fringe benefit at the city's expense.

Section 2.07 Investigation of City Affairs.

THE COUNCIL may make investigation into the affairs of the city and the conduct of any city department, office, or agency and, for this purpose, may subpoena witnesses, administer oaths, take testimony, and require the production of evidence. THE COUNCIL shall provide for an audit of the city's accounts at least once a year by the state department in charge of such work or by a 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 2.08 Interferences with Administration

Except for the purpose of inquiry and investigation under Section 2.07, THE COUNCIL and its members shall deal with and control city administrative officers and employees under the jurisdiction of the administrative officers that report directly to the city council,

and neither THE COUNCIL nor any council member shall give orders to any subordinate of such administrative officers either publicly or privately.

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 they may designate by rule. Any four members of THE COUNCIL may call special meetings of THE COUNCIL upon at least 24 hours notice to each member and such reasonable public notice as may be prescribed by council rule in compliance with the laws of Minnesota.

Section 3.02 Secretary of Council.

The city clerk-treasurer shall act as secretary of THE COUNCIL. He/she shall keep a journal of council proceedings and perform such other duties as the charter or THE COUNCIL may require. THE COUNCIL may designate any other city official or employee to act as secretary.

Section 3.03 Rules of Procedure and Quorum.

THE COUNCIL shall determine its own rules and order of business. A majority of all members shall constitute a quorum. THE COUNCIL may, by rule, provide a means by which a minority may compel the attendance of absent members.

Section 3.04 Ordinances, Resolutions, and Motions.

Except as otherwise provided in this charter, all legislation shall be by ordinance. The votes of council members on any action taken shall be recorded in accordance with statute. Except as otherwise provided in this charter, an affirmative vote of a majority of all members of THE COUNCIL shall be required for the adoption of all ordinances and resolutions.

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 Ely ordains. . ." To enact an ordinance, the proposed ordinance shall be read at two (2) regular sessions of THE COUNCIL. The first reading is a complete reading with no amendments allowed. The second reading shall be by sections, at this time amendments may be offered, but the reading of a section shall not preclude the offering of an amendment to a preceding one. Any proposed ordinance, or summary of that ordinance, after its first reading and before its second reading, shall be published in the official newspaper of the city.

Section 3.06 Procedure 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 3.07 Signing and Publication of Ordinances and Resolutions.

Every ordinance or resolution passed by THE COUNCIL shall be signed by the mayor, attested, filed and preserved by the city clerk-treasurer. Every ordinance, or a summary of that ordinance, shall be published at least once in the official newspaper.

Section 3.08 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 3.09 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 the matter to be omitted or added.

Section 3.10 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 must be published in book, pamphlet, or continuously revised loose-leaf form and copies shall be made available by THE COUNCIL at the office of the city clerk-treasurer for general distribution to the public free or for 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 clerk-treasurer is published in the official newspaper for at least two successive weeks.

**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 1998 at such place or places as THE COUNCIL may designate. The city clerk-treasurer shall give at least two weeks published notice of the time and place of holding such an election and of the officers to be elected, but failure to give such notice shall not invalidate the election.

Section 4.02 Special Elections.

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

Section 4.03 Filing for Office.

In nominating candidates for a municipal office, an affidavit of candidacy for a city office must be filed not more than 70 days nor less than 56 days before the first Tuesday after the second Monday in September preceding the municipal general election. Any voter of the city qualified under the state constitution for elective office may, by filing an affidavit and paying a filing fee of \$5.00 to the city clerk-treasurer, have their name placed on the municipal primary ballot or, if there is no primary election, on the municipal general 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 for 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 20 percent of those who voted for mayor in the last preceding city election. Each petition shall be sponsored by a committee of five voters whose names and addresses shall appear on the petition. A petition may consist of one or more papers, but each paper circulated separately shall contain, at its head or attached to it, the statement required by Section 5.05 or 5.06, herein, as the case may be. Each signer shall sign their name and give their 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 their name by a statement in writing filed with the city clerk-treasurer before the city clerk-treasurer advises THE COUNCIL of the sufficiency of the petition.

Section 5.03 Determination of Sufficiency.

Immediately upon receipt of the petition, the city clerk-treasurer 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 petitions are insufficient or irregular, the city clerk-treasurer shall deliver a copy of the petition, together with a written statement

of its defects, to the sponsoring committee. The committee shall have 30 days in which to file additional signature papers and to correct the petition in all other particulars. If, at the end of that period, THE COUNCIL finds that the petition is still insufficient or irregular, the city clerk-treasurer shall file the petition in their 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 the option of THE COUNCIL.

Section 5.05 Initiative.

An ordinance, except an ordinance relating to the budget or capital program, the appropriation of money, the levy of taxes or the salaries of the city officers or employees, may be proposed by a petition which shall state at the head of each page or attached thereto the exact text of the proposed ordinance. If THE COUNCIL passes the proposed ordinance with amendments and a majority of the sponsoring committee do not disapprove the amended form by a statement filed with the city clerk-treasurer 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 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 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 5.06 Referendum.

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

**CHAPTER 6
Administration of City Affairs**

Section 6.01 Administrative, Officers & General Provisions.

THE COUNCIL may appoint, at its discretion, for a two (2) year term, the following administrative officers: city clerk-treasurer and city attorney. THE COUNCIL may also appoint, at its discretion, for a two (2) year term, a police chief, a fire chief and an operations director. THE COUNCIL shall fix such compensation for each administrative officer as will secure competent and faithful performance of the duties thereof. THE COUNCIL shall have the power to authorize the appointment or

employment of such deputies, assistants or other personnel as the proper management of each administrative office may require.

Section 6.02 City Clerk-Treasurer; Powers and Duties.

The city clerk-treasurer shall be a full time officer of the city and during this term shall hold no other regular employment or engage in any other business or profession during regular city office hours.

(a) Experience Required. The city clerk-treasurer shall have clerking and accounting experience or such other experience as the appointing council may deem equivalent.

(b) Duties.

- Administration
- Statutory Clerk Duties
- Statutory Treasurer Duties
- Supervision of Department Employees
- External Communications/Relations
- Coordination with Other Departments
- Community and Economic Development
- And all other job duties and responsibilities as reflected in the job description on file.

Section 6.03 City Attorney, Powers and Duties.

The city attorney shall be the chief legal officer of the city. It shall be their duty, when necessary, to appear in and conduct all suits and legal proceedings in which the city or any department or commission thereof shall be directly or indirectly interested; when necessary, to take charge of and conduct prosecutions for the violations of all ordinances, resolutions, or regulations of THE COUNCIL or any department or commission or officer of the city; to give written legal opinions or advice on any matters respecting their official duties or municipal affairs; to perform such duties consistent with their office as may be required by THE COUNCIL; and to perform such further duties as may be imposed by law on city attorneys. No special or assistant attorney shall be employed by any department or commission or officer of the city without the request of the city attorney and prior approval of THE COUNCIL. THE COUNCIL, in its discretion, may employ such special or assistant attorneys as it deems appropriate and may make such provisions for clerical assistance for such special or assistant attorneys and the city attorney as it may deem necessary.

Section 6.04 Purchases and Contracts.

(a) Subject to the requirements of Section 7.06 of this Charter, contracts shall be made in compliance with the Uniform Contracting Law and where applicable the Minnesota Statutes, Chapter 429. Whenever competitive bids are required, the contract shall be let to the lowest responsible bidder. In addition, the following requirements apply to city expenditures:

(1) Any city purchases or contracts involving a sum not exceeding \$3,000.00 may be made or let by the respective department or commission head without the approval of THE COUNCIL so long as an appropriation for such expenditure is included in the budget approved by THE COUNCIL, pursuant to Section 7.05 of this Charter and there are sufficient unexpended funds for payment of such expenditures.

(2) Expenditures of \$3,000.01 to \$10,000.00 requires the city clerk-treasurer and two councilpersons signatures on the purchase order.

(3) Expenditures of \$10,000.01 to \$50,000.00 require approval by THE COUNCIL, and two or more quotes which shall be kept on file in the city clerk-treasurer's office for a period of at least one year.

(4) Expenditures above \$50,000.00 will require sealed bids in accordance with Minn. Stat. § 471.345, subd. 3. and approval by THE COUNCIL.

(b) The signatures required by paragraph (a) of this Section do not abridge or otherwise affect the right of the city or any taxpayer to challenge the validity of any purchase or contract described herein.

(c) All contracts bonds and instruments of any kind which the city is a party shall be signed by the mayor and the city clerk-treasurer on behalf of the city and shall be executed in the name of the city. THE COUNCIL may, by ordinance or resolution, adopt further regulations or policies for the making of bids and the letting of contracts including delegation of its contracting powers to a commission or department of the city.

Section 6.05 Removal of Officers of the City.

Any administrative officer of the city, or any or all members of any commission of the city, may be removed from office by the affirmative vote of a majority of the members of THE COUNCIL. No such officer or member of any commission shall be so removed except for just cause, nor unless he/she has first been furnished with a written copy of the charges against him/her and has had reasonable opportunity to be heard, in person or by legal counsel, in their own defense.

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 disbursements of public monies as further set forth in Section 6.02 of this Charter.

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.

(a) Annually, the city clerk-treasurer shall submit their recommended budget, including the budget of the Ely Utilities Commission, to THE COUNCIL, by September 1st unless otherwise directed by state law. 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 COUNCIL deems desirable. 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 for 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.

(b) For each utility operated by the city, the Ely Utilities commission shall prepare a budget which shall show anticipated net surplus or deficit and the proposed method of its disposition. Subsidiary budgets for each utility giving income and expenditure information shall be included or attached as appendices. The total proposed operational 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. The budget prepared by the Ely Utilities Commission must be approved by the Commission and provided to the city clerk-treasurer no later than August 1st of each year for inclusion in the recommended budget submitted to THE COUNCIL in accordance with paragraph (a) of this Section.

Section 7.05 – Council Action on Budget.

The budget shall be considered at the first 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. Any changes to the portion of the budget prepared by the Ely Utilities Commission must be approved by the Commission at a regular or special meeting. THE COUNCIL shall adopt the budget not later than the first week of October by a resolution which shall set forth the total for each budgeted fund and each department with such segregation as to objectives 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 clerk-treasurer shall certify the tax resolution to the county auditor in accordance with law NOT LATER THAN OCTOBER 10. 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. All the provisions of this section are subject to the Truth in Taxation Law or the Department of Revenue Standards and, where inconsistent therewith, the State law shall govern.

Section 7.06 Enforcement of the Budget.

The city clerk-treasurer shall enforce strictly the provisions of the budget. He/she 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 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 and further pursuant to Section 6.05 herein. 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 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 its correctness and reasonableness.

Section 7.07 Alterations in the Budget.

(a) 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.

(b) The Ely Utilities Commission may request THE COUNCIL to approve changes to its budget in accordance with the provisions of paragraph (a) of this Section.

Section 7.08 Funds.

There shall be maintained in the city treasury a general fund, a utilities fund, and such other funds as may be required by statute, ordinance, or resolution. THE COUNCIL may, by ordinance or resolution, provided that nothing contained herein shall prevent them from transferring from the general fund, aid and help any other fund at such times as in its judgment serves the best interest of the city, but THE COUNCIL, shall not have the power to permanently transfer from any other fund except the general fund.

Section 7.09 Utilities Fund.

(a) The utilities fund shall provide for the support and maintenance of any plant or facility managed and operated by the Ely Utilities Commission, including those listed in Section 11.03 of this Charter and water distribution, gas, heat, wastewater collection and electricity lines or transmission facilities owned or operated by the city for furnishing to the city or its inhabitants, water distribution, water treatment, gas, heat, wastewater collection, wastewater treatment, and electricity and for paying the cost of the purchase, construction, extension, operation, maintenance, and repair of such water treatment, gas, heat, wastewater treatment, and electricity plants, including the cost of financing improvements thereto.

(b) Into said fund shall be put and credited: all monies derived from the sale of property acquired for or used in connection with any utility plant of the city; the proceeds of all special assessments levied on account of or in connection with such water, gas, heat, and wastewater and electricity lines or facilities; such amounts as may be from time to time realized from the sale of bonds or certificates of indebtedness issued on

account of said lines or facilities; all monies received from the sale of said plant and facilities and water distribution, water treatment, gas, heat, wastewater collection, wastewater treatment, and electricity rentals and penalties.

(c) Should THE COUNCIL deem it in the best interest of the city and its inhabitants for the city to bond for the purchase, construction, extension, operation, maintenance, and repair of the facilities referenced in this Section or Section 11.03 of this Charter. Upon approval by THE COUNCIL of said bonds, the city may issue said bonds in accordance with Section 7.10 of this Charter.

Section 7.10 City Indebtedness.

(a) Except as provided in Section 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 general or special election.

(b) The Ely Utilities Commission shall have authority to provide for the financing for the cost of improvements by any other means available by law provided neither the general fund nor the full faith and credit of the city shall be obligated by any such borrowing and further provided that any such borrowing must be approved by THE COUNCIL.

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 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 no later than December 31 of the year following their issuance. The proceeds of the taxes 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 payment of the ordinary expenses of the city, or if any calamity or other public emergency necessitates the making of extraordinary nonbudgeted expenditures, THE COUNCIL may by ordinance issue, on such terms and in such manner as THE COUNCIL determines, emergency debt certificates with a term of not more than 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 and issuing such emergency debt certificates 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 Power to Make Improvements & Levy Assessments.

The city may make any type of public improvement not forbidden by law and levy special assessments to pay all costs incurred by the city for such improvements incurred by the city as are of a local character. The total assessment 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 benefit to the property.

Section 8.02 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 the property benefitted and may be collected in the same manner as special assessments.

Section 8.03 Local Improvements Procedure.

When the city undertakes any local improvements to which the state local improvements code applies, it shall comply with the provisions of that law and Section 6.05 of this Charter. THE COUNCIL may, by ordinance, prescribe the procedure to be followed in making any other local improvements 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 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 , City Rates, and Charges

Section 10.01 Franchises Required.

Except as otherwise provided by law, no person, firm, or corporation shall place or maintain any permanent or semipermanent 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 city clerk-treasurer to guarantee publication before the ordinance is passed.

Section 10.02 Term.

In accordance to federal and state law 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 the regulating of 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
Boards and Commissions**

Section 11.01 Boards and Commissions, Appointments and Terms.

(a) Performance of certain activities may, at the discretion of THE COUNCIL, be delegated to, or vested in, boards or commissions, either advisory or administrative. Such boards or commissions may be created or abolished by ordinance which shall state the number of members and fix the terms, except where otherwise provided for by this charter. Generally, positions on such boards and commissions shall be filled by qualified electors of the city; however, nonresident members may be appointed thereto in a voting capacity not to comprise a majority of the members of any such board or commission.

(b) Commissioners shall be nominated by THE COUNCIL and approved by a majority of THE COUNCIL. Should any office of any commissioner become vacant before the expiration of their term, THE COUNCIL, as herein provided, shall appoint a person to serve the balance of the unexpired term, which shall not be considered in determining the term limits set forth in paragraph (c), below. Appointments of commissioners shall be made in January of each year or such other time as THE COUNCIL may deem necessary.

(c) Commissioners' terms of office shall be staggered and shall begin in February following their appointment or such other time as THE COUNCIL may determine. Commission members have a term limit of three (3) three (3) year terms not including an appointment for a partial term in the event of a vacancy as described in

paragraph (b), above, and shall serve until the respective successors are appointed and shall have qualified. After a commissioner has served three (3) three (3) year terms, said commissioner shall not be eligible for appointment for three-years after expiration of the last term.

(d) Commissioners (with the exception of the Ely Utilities Commission) shall serve without a salary. Ely Utilities Commissioners may be compensated by THE COUNCIL.

Section 11.02 Organization, General Powers and Duties of Boards and Commissions.

(a) The annual meeting of each commission/board shall be held during February, subsequent meetings shall be held at such times and places as the boards/commissions shall decide.

(b) Each board/commission shall, at its annual meeting, elect from its members a president and a secretary. The city clerk-treasurer shall serve as the treasurer of each board or commission.

(c) The appointed secretary of each commission/board shall keep minutes of each regular and special meeting and forward copies of said minutes to the office of the city clerk-treasurer within five days after correction and approval. Said copies shall be kept on file in the office of the city clerk-treasurer in books kept for said purpose and no other publication of said minutes shall be required.

(d) It shall be the duty of THE COUNCIL and any appointed officer of the city, upon invitation of any commission, to advise and consult with any such commission. It shall be the duty of any commission, upon invitation of THE COUNCIL, to meet with THE COUNCIL in executive session to advise and consult with THE COUNCIL.

Section 11.03 Utilities Commission: Powers and Duties.

(a) The Department of Utilities shall be governed by the Ely Utilities Commission. Members of the Ely Utilities Commission will be appointed in accordance with Section 11.01 of this Charter.

(b) The commission shall manage and operate such water distribution, water treatment, gas, heat, wastewater collection and wastewater treatment and electricity facilities (excluding the storm sewer system and hydrants) as the city may own or acquire, and shall have authority to appoint all supervisory personnel they deem necessary with the approval of THE COUNCIL.

(c) Subject to the requirements of Section 10.03 of this Charter, the commission shall set charges against each class of consumer, public or private, for water distribution, water treatment, gas, heat, wastewater collection, wastewater treatment and electricity facilities, as will meet all costs of production and transmission of such utilities consumed by such class of consumer and as will, in the judgement of the commission, yield appropriate sums for depreciation and reserve accounts, and for the retirement of any bonded indebtedness incurred by the city for capital expenditures of the department (except that water drawn from the mains through hydrants for city use and electrical current used for lighting the streets of the city shall be provided by the department, and with the approval of THE COUNCIL, free of charge).

(d) From the various funds of the department, and the proceeds of such bonds of the city as may be sold to provide funds for capital expenditures, the commission shall have the power, subject to the requirements of Section 6.05 of this Charter, to purchase or otherwise acquire such equipment, materials and facilities as

operation of the department may require, and to sell or otherwise dispose of such materials, equipment, or facilities as may be desirable to sell or dispose of, except that only THE COUNCIL shall have the power to recommend the sale of a particular utility as a whole or any real estate including the structure or facility located thereon in accordance with state law.

(e) The commission, with approval of THE COUNCIL, shall have power to sell water, gas, heat, wastewater treatment, and electric service to any such person or corporate body outside the territorial limits of the city, and to buy such utilities from any such person or corporate body.

(f) Subject to the requirements of Sections 6.02, 7.01, 7.05, and 7.06 of this Charter, the commission shall manage funds derived from the operation of the department and the proceeds of such bonds of the city as may be sold to provide funds for its capital expenditures. Subject to Section 7.04 of this Charter, the commission may make transfers between the funds, except funds established for the payment of bonds and bonds interest.

CHAPTER 12

General Provisions

Section 12.01 Official Publication.

THE COUNCIL shall annually, at its first meeting of the year, ask for sealed bids to 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 it in the public interest to have published. Printing contracts shall be awarded to the lowest responsible bidder.

Section 12.02 Oath of Office.

Every elected or appointed officer of the city shall, before entering upon the duties of their 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 Ely, to the best of my judgment and ability."

Section 12.03 Official Bonds.

The city clerk-treasurer, and such other officers or employees of the city as may be specified by ordinance, shall each, before entering upon the duties of the respective office or employment, give a corporate surety bond to the city as security for the faithful performance of official duties and the safekeeping of the public funds. Such bonds shall be in such form and amount as THE COUNCIL determines and may be either individual or blanket bonds at the discretion of THE COUNCIL. They shall be approved by THE COUNCIL and filed with the city clerk-treasurer. 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 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.

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 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 within the city. Such vacating 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 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 Former City.

The city shall succeed to all the property, rights, and privileges, and shall be subject to all 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, improvements, 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 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 under the laws and charter previously in effect until the officers provided for by this charter have been elected and qualified. They shall make such financial and other provisions for the current fiscal year as will serve to

carry on the government until a government has been set up under this charter, and they shall make provision for the election of the first city council as provided in Chapter 4 of this charter.

Section 12.12 Violation: Fines and Penalties.

THE COUNCIL may establish by ordinance that a violation of a city ordinance is either a misdemeanor or a petty misdemeanor, punishable in accordance with state law. In addition, THE COUNCIL may establish by ordinance a procedure for imposing a civil penalty not exceeding Two Thousand Dollars NO/100 (\$2,000.00) for each violation of a city ordinance. This procedure must provide an opportunity for the accused to be heard by a neutral party, which may be the city council.

Section 12.13 This charter effective December 17, 2011; amended September 17, 2011