

CHAPTER I

NAME, BOUNDARIES, POWERS AND GENERAL PROVISIONS.

SECTION 1.01 NAME - The City of Blue Earth, in the County of Faribault, and State of Minnesota, upon the taking effect of this Charter shall continue to be a municipal corporation under the name and style of the City of Blue Earth with the same corporate boundaries as now are or may hereafter be established.

SECTION 1.02 POWERS - The City shall have all powers which it may now or hereafter be possible for a municipal corporation in this State to exercise in harmony with the constitution and laws of this State and of the United States. It is the intention of this Charter that every power which the people of the City of Blue Earth might lawfully confer upon themselves, as a municipal corporation, by specific enumeration in this Charter shall be deemed to have been so conferred by the provisions of this section. This Charter shall be construed liberally in favor of the City and the specific mention of particular powers in the Charter shall not be construed as limiting in any way the generality of the power herein sought to be conferred.

SECTION 1.03 WARD BOUNDARIES - The City of Blue Earth hereby is divided into three wards. Said wards are described as follows:

(a) First Ward: All that portion of the City of Blue Earth lying West of the center line of Main Street from the North corporate boundary to the center line of the Chicago and Northwestern Railway main line; South of the center line of the Chicago and Northwestern Railway main line to Gorman Street; West of the center line of Gorman Street to Eighth Street, North of the center line of Eighth Street to Holland Street, East of the center line of Holland Street to Seventh Street, North of the center line of Seventh Street to the West corporate boundary.

(b) Second Ward: All that portion of the City of Blue Earth lying South of the center line of Seventh Street from the West corporate boundary to the center line of Holland Street, West of the center line of Holland Street to the center line of Eighth Street, South of the center line of Eighth Street to Ramsey Street; and West of the center line of Ramsey Street to the South corporate boundary.

(c) Third Ward: All those portions of the City of Blue Earth not included in Wards One and Two.

The lines hereby established shall be construed as extended where the actual streets may terminate short of the corporate boundaries. The ward lines herein established may, by a five sevenths (5/7) vote of the members elect of the Council, be changed by ordinance as may be required in the public interest to secure equitable representation. Such lines shall be changed whenever a substantial deviation in the number of voters in any ward from that of the other wards shall occur.

In the event that the proper ward for any resident shall remain doubtful under the foregoing provisions, the Council shall by resolution declare the occupants of the property involved residents of the ward which in their judgment is proper. Any ward may be divided in election precincts as the Council may by resolution determine.

SECTION 1.04 CHARTER A PUBLIC ACT - This Charter shall be a public act and need not be pleaded or proved in any case. It shall take effect from and after its adoption.

CHAPTER II

FORM OF GOVERNMENT, OFFICERS AND ORGANIZATIONS.

SECTION 2.01 FORM OF GOVERNMENT - The form of government established by this Charter shall be known as the Mayor-Council Plan.

SECTION 2.02 ELECTIVE OFFICERS -The elective officers of the City of Blue Earth shall be seven (7) members of the Council including the Mayor, and five (5) members of the Board of Public Works. All shall be qualified voters of said City and in the case of Councilmembers, residents of the ward from which elected. Two Councilmembers shall be elected from each ward.

All elective officers of the City of Blue Earth will serve terms of four (4) years.

Terms of the Mayor, Councilmembers and the Board of Public Works shall continue as currently elected and elections shall be held for the vacancies created by the expiration of all terms in the same manner as previously elected. *(Section 2.02 amended per Ordinance 03-13 dated 10-6-03.)*

SECTION 2.03 THE MAYOR - The Mayor shall be the presiding officer of the Council. The Mayor shall choose from the Council a Vice Mayor who shall serve as Mayor in case of the Mayor's disability or absence from the City. Such appointment shall be for four (4) years and made at the initial Council meeting following each election. The Mayor shall have a vote as a member of the Council. The Mayor shall exercise all powers and perform all duties conferred and imposed upon him or her by this Charter, the ordinances of the City, and the laws or the State. The Mayor shall be recognized as the official head of the City for all ceremonial purposes, by the Courts for the purpose of serving civil process, and by the Governor for the purpose of martial law. The Mayor shall study the operations of the City Government and shall report to the Council any neglect, dereliction of duty, or waste on the part of any officer or department of the City. In time of public danger or emergency the Mayor shall take command of the police, maintain order and enforce the law. In case of a vacancy in the office of Mayor, the Vice Mayor shall act in such capacity. *(Section 2.03 amended per Ordinance 03-13 dated 10-6-03.)*

SECTION 2.04 SALARIES - The members of the Council, including the Mayor, shall be paid at a rate established by Resolution of the Council prior to July 1 of an election year to be effective for the Council members and the Mayor on January 1 of the year following such election. All other officers and employees of the City shall receive such salaries and benefits as may be determined by the Council.

SECTION 2.05 CLERK-ADMINISTRATOR - The Clerk-Administrator shall be hired by the City Council and shall serve at the will of the Council. The Clerk-Administrator shall serve as both the statutory City Clerk and as the City Administrator. He or she shall be professionally qualified to serve in both such capacities. The Clerk-Administrator may nominate a Deputy City Clerk who shall be confirmed by the Council.

The Clerk-Administrator shall be the Clerk of the City Council. The Clerk-Administrator

shall have the care and custody of the corporate seal of said City and of all papers, instruments, files and records of the City. The Clerk-Administrator shall prepare and sign all orders and warrants and keep such records and accounts as he or she shall be required to keep by this Charter or by the Council. The Clerk-Administrator shall keep in permanent form minutes of all Council meetings and shall have all powers, rights and privileges and perform all the duties imposed or granted by the City Council, or by the Statutes of the State of Minnesota so far as applicable and except as herein otherwise provided. All fees paid to the Clerk-Administrator shall be turned over by him or her to a depository designated by the Council. The Clerk-Administrator shall be the chief administrative officer of the City and all department heads shall report to him or her.

The Deputy City Clerk shall work as the agent of the Clerk-Administrator and shall perform any and all tasks that the Clerk-Administrator deems necessary and proper. The Deputy City Clerk shall serve at the will of the Council and shall have a salary as determined by the City Council.

In the absence of a Clerk-Administrator, the Council shall appoint an interim Clerk-Administrator, or committee to exercise such authority until a new Clerk-Administrator is appointed. Until a new Clerk-Administrator is appointed the Deputy City Clerk shall have all the statutory powers of a City Clerk.

SECTION 2.06 OATH OF OFFICE - Every officer of the City, before entering upon the duties of his or her office, shall 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 or the State of Minnesota and the Charter and ordinances of the City of Blue Earth, and to faithfully discharge the duties devolving upon me as _____ of the City of Blue Earth to the best of my Judgment and ability.”

SECTION 2.07 OFFICIAL BOND - The Clerk-Administrator and such other officers and employees of the City as designated by the Council, before entering upon the duties of their respective offices, shall have a corporate surety bond for the benefit of the City in such sum as may be fixed by the Council as additional security for the faithful performances or their respective official duties and safe-keeping of the public funds. Such bonds shall be paid for and approved by the City Council and shall be endorsed by the Mayor as having been so approved.

CHAPTER III
CITY COUNCIL
ITS GENERAL POWERS AND PROCEDURE.

SECTION 3.01 CITY COUNCIL - The Mayor and Councilmembers shall constitute the City Council all of whom are designated as The City Council. A majority of all the Councilmembers elected shall constitute a quorum, but a smaller number may meet at the time of any regular meeting and adjourn, and all business transacted at such later adjourned meeting shall have the same validity as if done at a regular meeting.

SECTION 3.02 MEETINGS - The City Council shall hold an organizational meeting on the same date as the first Monday of the month of January that is not a holiday each year in January at five (5) o'clock p.m., and all other regular meetings shall be held as prescribed by the rules and resolutions of the Council. The Mayor or any three (3) Councilmembers may call special meetings of the Council by a written notice of one day to each of the members, to be delivered personally or left at their usual place of abode or business, which notice shall contain a statement of the business for which the meeting is called; and no other business shall be transacted at such special meeting except such as is designated in such notice. All Council meetings shall be open to the public except as authorized by law. (*Section 3.02 amended per Ordinance 09-01 dated 2-17-09.*)

SECTION 3.03 QUALIFICATION - All members of the City Council shall be qualified voters of the City of Blue Earth. The City Council shall determine the rules and regulations of its own proceedings and have power to compel the attendance of absent members by fines or deduction of compensation for failure to comply with attendance orders.

SECTION 3.04 REMOVAL - The City Council shall have the power, by a five-sevenths (5/7) vote of all its members, to remove from office any officer of the City, whether appointed by the Council or elected by the people, but no officer elected by the people shall be removed except for cause, nor unless first furnished with a copy of the charge against him or her; nor until such person shall have had reasonable opportunity to be heard in his or her own defense. Continued absence from the meetings of the Council, in case of the Councilmembers, and neglect of duty in the case of the other officers, unless for good reason, shall be good cause for removal. The City Council shall fix a time and place for the trial of any officer against whom charges may be preferred, or which not less than ten (10) days notice shall be given to the accused, and the accused shall have power to send for persons and papers, and shall have power to compel the attendance or witnesses, and to hear and determine the case; and if such officer refuses or neglects to appear and defend himself or herself, the Council may declare the office vacant. Upon request of the accused, the Clerk-Administrator shall issue subpoenas and subpoenas duces tecum for service upon such persons as the accused may request.

SECTION 3.05 PENALTIES - The City may declare that the violation of any ordinances is a penal

offense and prescribe penalties therefore. No such penalty shall exceed the maximum penalties that state law allows a municipality to impose. The costs of prosecution may be added to any violation proceeding.

SECTION 3.06 RULES - The Council shall determine its own rules and order of business. All ordinances shall be enacted by roll call vote and any member of the Council may ask for a roll call on any resolution or motion. Any ordinance may be enacted by majority vote except as otherwise provided herein.

SECTION 3.07 PROCEDURE OF ORDINANCES - The style of all ordinances shall be: “The City Council of the City of Blue Earth do ordain as follows:”. Every ordinance shall be signed by the Mayor or two members of the Council and attested by the Clerk-Administrator. It shall be published at least once in the official newspaper.

SECTION 3.08 REVISION AND CODIFICATION OF ORDINANCES - The City may revise, rearrange and codify its ordinances with such additions and deletions as may be deemed necessary by the Council. Such ordinance code shall be published in electronic, book, pamphlet or continuously revised looseleaf form and written copies shall be made available by the Council at the office of the Clerk-Administrator for general distribution to the public free or at a reasonable charge. A current copy of the City Code shall also be kept at the County Law Library. Publication of such code shall be a sufficient publication of any ordinance provision not previously published. A notice that copies or the codification are available at the office of the Clerk-Administrator shall be published in the official newspaper for at least two successive weeks.

SECTION 3.09 EFFECTIVE DATE OF RESOLUTIONS AND ORDINANCES - A Resolution shall take effect upon its passage and adoption by the City Council of the City of Blue Earth unless a specific later date is provided in said resolution. All ordinances shall become effective after their passage and publication as provided in this Charter.

CHAPTER IV

ELECTIONS.

SECTION 4.01 QUALIFICATIONS - All elected officers shall be qualified voters of the district from which elected. All officers shall hold office until their successors are elected and qualified.

SECTION 4.02 MANNER OF HOLDING GENERAL OR SPECIAL ELECTIONS - All City elections shall be held and conducted in the same manner and under the same penalties as required by the general laws of the State regarding elections and the same notice shall be given.

SECTION 4.03 DATE OF ELECTIONS - All municipal elections shall be held on the first Tuesday following the first Monday in November in each even numbered year.

When any elections shall be closed, the Judges shall make returns thereof to the Clerk-Administrator within twenty-four (24) hours after such election in the same manner as provided by law for the return of State and County officers to the County Auditor; and within one (1) day thereafter the City Council shall meet and canvas the returns thereof and declare the result as it appears from such returns, and the Clerk-Administrator shall forthwith give notice to the persons elected of their respective elections.

SECTION 4.04 SPECIAL ELECTIONS - The City Council may at any time by resolution order a special election of the voters of the City and provide for holding the same. The purpose or purposes of such special election shall be clearly stated in such resolution and no other matter shall be submitted at such special election. Advisory elections may be held if the Council shall so determine.

SECTION 4.05 VACANCY IN OFFICE OF MAYOR - Whenever a vacancy shall in any manner occur in the office of Mayor less than six (6) months before the expiration of the term for which he or she was elected, such vacancy shall be filled for the unexpired term by the Vice Mayor. Whenever a vacancy shall in any manner occur in the office of Mayor six (6) months or more before the expiration of his or her term of office, such vacancy shall be filled by special election which shall within ten (10) days following such vacancy be ordered by the City Council to be held at as early a date as possible.

SECTION 4.06 FAILURE TO ELECT - Should there be, in a case not otherwise provided for under this Charter, a failure to elect any elective officer except the Mayor for whose election provision is made under this Charter, the City Council shall appoint such officer as in case of a vacancy.

In the case of any elective office, except that of Mayor being vacant by reason of removal, disqualification under the provisions of this Charter, death or for any other reason, the City Council shall appoint a successor to fill such office until the next regular municipal election, at which time an election shall be held to fill the balance of said term.

CHAPTER V

INITIATIVE, REFERENDUM AND RECALL.

SECTION 5.01 POWERS RESERVED BY THE PEOPLE - The people of the City of Blue Earth reserve to themselves the power, in accordance with the provisions of this Charter, to initiate and adopt any ordinance except an ordinance appropriating money or authorizing the levy of taxes, to require such an ordinance when passed by the Council to be referred to the voters for approval or disapproval, and to recall elected public officials. These powers shall be called the initiative, the referendum and the recall, respectively.

SECTION 5.02 EXPENDITURES BY PETITIONERS - No member of any initiative, referendum, or recall committee, no circulator of signature paper, and no signer of any such paper, or any other person, shall accept or offer any reward, pecuniary or otherwise, for service rendered in connection with the circulation thereof, but this shall not prevent the committee from paying for legal advice and from incurring an expense not to exceed \$500.00 for stationery, copying, printing, and notaries' fees. Any violation of the provisions of this section is a misdemeanor.

SECTION 5.03 FURTHER REGULATIONS - The Council may provide by ordinance such further regulations for the initiative, referendum, and recall, not inconsistent with this Charter, as it deems necessary.

SECTION 5.04 INITIATION OF MEASURES - Any five (5) qualified voters may form themselves into a committee for the initiation of any ordinance except as provided in Sec.5.01. Before circulating any petition they shall file a verified copy of their proposed ordinance with the Clerk-Administrator together with their names and addresses as members of such committee. They shall also attach a verified copy of the proposed ordinance to each of the signature papers herein described, together with their names and addresses as sponsors therefore.

SECTION 5.05 FORM OF PETITION AND OF SIGNATURE PAPERS - The petition for the adoption of any ordinance shall consist of the ordinance, together with all the signature papers and affidavits thereto attached. Such petition shall not be complete unless signed by a number of qualified voters equal to at least the greater of two hundred fifty (250) qualified voters or ten percent (10%) of the total number of votes cast at the last preceding regular municipal election. All the signatures need not be on one signature paper, but the circulator of every such paper shall make an affidavit that each signature appended to the paper is the genuine signature of the person whose name it purports to be. Each signature paper shall be in substantially the following form:

Initiative Petition

Proposing an ordinance to _____ (stating the purpose of ordinance), a copy of which ordinance is hereto attached. This ordinance is sponsored by the following committee of

qualified voters:

	<u>Name</u>	<u>Address</u>
1.	_____	
2.	_____	
3.	_____	
4.	_____	
5.	_____	

The undersigned qualified voters, understanding the terms and the nature of the ordinance hereto attached, petition the Council for its submission to the qualified voters for their approval.

	<u>Name</u>	<u>Address</u>
1.	_____	
2.	_____	
3.	_____	

At the end of the list of signatures shall be appended the affidavit of the circulator mentioned above.

SECTION 5.06 FILING OF PETITIONS AND ACTION THEREON - All the signature papers shall be filed in the office of the Clerk-Administrator as one instrument. Within five (5) days after the filing of the petition, the Clerk-Administrator shall ascertain by examination the number of qualified voters whose signatures are appended thereto and whether this number is at least the requisite number of qualified voters who cast their votes at the last preceding regular municipal election. If the Clerk-Administrator finds the petition insufficient or irregular, he or she shall at once notify one or more of the committee of sponsors of that fact, certifying the reasons for his or her finding. The committee shall then be given ten (10) days in which to file additional signature papers and to correct the petition in any other particulars. If at the end of that period the petition is found to be still insufficient or irregular, the Clerk-Administrator shall file it in his or her office and shall notify each member of the committee of that fact. The final finding of the insufficiency or irregularity of a petition shall not prejudice the filing of a new petition for the same purpose, not shall it prevent the Council from referring the ordinance to the voters at the next regular or any special election at its option.

SECTION 5.07 ACTION OF COUNCIL ON PETITION - When the petition is found to be sufficient, the Clerk-Administrator shall so certify to the Council at its next meeting, stating the number of petitioners and the percentage of the total number of qualified voters which they constitute, and the Council shall at once read the ordinance and refer it to an appropriate committee, which may be a committee of the whole. The committee or Council shall thereupon provide for public hearings upon the ordinance, after the holding of which the ordinance shall be finally acted upon by the Council not later than sixty-five (65) days after the date upon which it was submitted to

the Council by the Clerk-Administrator. If the Council fails to pass the proposed ordinance, or passes it in a form different from that set forth in the petition and unsatisfactory to the petitioners, the proposed ordinance shall be submitted by the Council to the vote of the qualified voters at the next regular municipal election; but if the number of signers of the petition is equal to the greater of three hundred seventy five (375) qualified voters or fifteen percent (15%) of the total number of qualified voters voting at the last regular municipal election, the Council shall call a special election upon the measure. Such special election shall be held not less than thirty (30) nor more than forty-five (45) days from date of final action on the ordinance by the Council or after the expiration of sixty-five (65) days from the date of submission to the Council when there has been no final action; but if a regular election is to occur within three (3) months, the Council may submit the ordinance at that election. If the Council passes the proposed ordinance with amendments and at least four/fifths (4/5) of the Committee of Petitioners do not express their dissatisfaction with such amended form by a statement filed with the Clerk-Administrator within ten (10) days of the passage thereof by the Council, the ordinance need not be submitted to the voters.

SECTION 5.08 INITIATIVE BALLOTS - The ballots used when voting upon any such proposed ordinance shall state the substance of the ordinance and shall give the qualified voters the opportunity to vote either "yes" or "no" on the question of adoption. If a majority of the qualified voters voting on any such ordinance vote in favor of it, it shall thereupon become an ordinance of the City. Any number of proposed ordinances may be voted upon at the same election but the voter shall be allowed to vote for or against each separately. In case of inconsistency between two initiated ordinances approved at one election, the one approved by the higher percentage of qualified voters voting on the question shall prevail to the extent of the inconsistency.

SECTION 5.09 INITIATION OF CHARTER AMENDMENTS - Nothing in this Charter shall be construed as in any way affecting the right of the voters under the constitution and statutes of Minnesota to propose amendments to this Charter.

SECTION 5.10 THE REFERENDUM - If prior to the date when an ordinance takes effect a petition signed by qualified voters of the City equal in number to the greater of two hundred fifty (250) qualified voters or ten percent (10%) of the total vote at the last regular municipal election is filed with the Clerk-Administrator, requesting that any such ordinance be repealed or be submitted to a vote of the qualified voters, the ordinance shall thereby be prevented from going into operation. The Council shall thereupon reconsider the ordinance at its next regular meeting, and either repeal it or by aye and no vote re-affirm its adherence to the ordinance as passed. In the latter case the Council shall immediately order a special election to be held thereon, or submit the ordinance at the next regular municipal election, pending which the ordinance shall remain suspended. If a majority of the qualified voters voting thereon is opposed to the ordinance, it shall not become effective; but if a majority of the qualified voters voting thereon favors the ordinance, it shall go into effect immediately or on the date therein specified.

SECTION 5.11 REFERENDUM PETITIONS - The requirements laid down in Sections 5.04 and 5.05 above as to the formation of committees for the initiation of ordinances and as to the form of

petitions and signature papers shall apply to the referendum as far as possible, but with such verbal changes as may be necessary. A referendum shall read as follows:

Referendum Petition:

Proposing the repeal of an ordinance to _____ (stating the purpose of the ordinance), a copy of which ordinance is hereto attached. the proposed repeal is sponsored by the following committee of qualified voters:

	<u>Name</u>	<u>Address</u>
1.	_____	
2.	_____	
3.	_____	
4.	_____	
5.	_____	_____

The undersigned petitioners, understanding the nature of the ordinance hereto attached and believing it to be detrimental to the welfare of the City, petition the Council for its submission to a vote of the qualified voters for their approval or disapproval.

	<u>Name</u>	<u>Address</u>
1.	_____	
2.	_____	
3.	_____	_____

SECTION 5.12 REFERENDUM BALLOTS - The ballots used in any referendum election shall conform to the rules laid down in Section 5.08 of this Charter for initiative ballots.

SECTION 5.13 THE RECALL - Any five (5) qualified voters may form themselves into committee for the purpose of bringing about the recall of any elected official including City Councilmembers and Board of Public Works members of the City. The committee shall certify to the Clerk-Administrator the name of the official whose removal is sought, a statement of the grounds for removal in not more than two hundred fifty (250) words, and their intention to bring about this recall. A copy of this certificate shall be attached to each signature paper and no signature paper shall be put into circulation previous to such certification. The Petition shall require the greater of two hundred fifty (250) signatures of qualified voters or ten percent (10%) of the total number of qualified voters who cast their votes at the last election.

SECTION 5.14 RECALL PETITION - The petition for the recall of any official shall consist of a certificate identical with that filed with the Clerk-Administrator together with all the signature papers and affidavits thereto attached. All the signatures need not be on one signature paper, but the circulator of every paper shall make an affidavit that each signature appended to the paper is the

genuine signature of the person whose name it purports to be. Each signature paper shall be in substantially the following form:

Recall Petition:

Proposing the recall of _____ from his office as _____ which recall is sought for the reasons set forth in the attached certificate. This movement is sponsored by the following committee of qualified voters:

	<u>Name</u>	<u>Address</u>
1.	_____	_____
2.	_____	_____
3.	_____	_____
4.	_____	_____
5.	_____	_____

The undersigned qualified voters, understanding the nature of the charges against the official herein sought to be recalled, desire the holding of a recall election for that purpose.

	<u>Name</u>	<u>Address</u>
1.	_____	_____
2.	_____	_____
3.	_____	_____

At the end of the list of signatures shall be appended the affidavit of the circulator.

SECTION 5.15 FILING OF PETITION - Within thirty (30) days after the filing of the original certificate, the committee shall file the completed petition in the office of the Clerk-Administrator. The Clerk-Administrator shall examine the petition within the next five (5) days, and if he or she finds it irregular in any way, or finds that the number of signers is less than greater of two hundred fifty (250) qualified voters or ten percent (10%) of the total number of qualified voters who cast their votes at the last preceding regular municipal election, he or she shall so notify one or more members of the committee. The committee shall then be given ten (10) days in which to file additional signature papers and to correct the petition in all other respects, but they may not change the statement of the grounds upon which the recall is sought. If at the end of that time the Clerk-Administrator finds the petition still insufficient or irregular, he or she shall notify all the members of the committee to that effect and shall file the petition in his or her office. No further action shall be taken thereon.

SECTION 5.16 RECALL ELECTION - If the petition or amended petition is found sufficient, the Clerk-Administrator shall transmit it to the Council without delay, and shall also officially notify the person sought to be recalled of the sufficiency of the petition and of the pending action. The Council shall, at its next meeting, by resolution, provide for the holding of a special recall election not less

than thirty (30) nor more than forty-five (45) days after such meeting, but if any other election is to occur within sixty (60) days after such meeting, the Council may in its discretion provide for the holding of the recall election at that time.

SECTION 5.17 PROCEDURE AT RECALL ELECTION - The Clerk-Administrator shall include with the published notice of the election the statement of the grounds for the recall and also, in not more than five hundred (500) words the answer of the official concerned in justification of his or her course in office. Candidates to succeed the official to be recalled shall be nominated in the usual way, and the election shall be conducted as far as possible, in accordance with the usual procedure in municipal elections.

SECTION 5.18 FORM OF RECALL BALLOT - Unless the official whose removal is sought resigns within ten (10) days after the receipt by the Council of the completed recall petition, the form of the ballot at such election shall be as near as may be: "Shall _____ be recalled?", the name of the officer whose recall is sought being inserted in the blank, and the qualified voters shall be permitted to vote separately "Yes" or "No" upon this question. The ballot shall also contain the names of the candidates to be voted upon to fill the vacancy, in case the recall is successful, under the caption: "Candidates to fill the place of _____ if recalled"; but the official whose recall is sought shall not himself be a candidate upon such ballot. If a majority of those voting on the question of recall vote in favor of recall, the official shall be thereby removed from office, and the candidate who receives the highest number of votes for his or her place shall be elected thereto for the remainder of the unexpired term. If the official sought to be recalled resigns within ten (10) days after the receipt by the Council of the completed recall petition, the form of ballot at the election shall be the same, as nearly as possible, as the form in use at a regular municipal election.

CHAPTER VI

ADMINISTRATION OF CITY AFFAIRS.

SECTION 6.01 SUBORDINATE OFFICERS - There shall be a Clerk-Administrator, a City Attorney, a City Engineer and other subordinate officers as are designated in this Charter or as the Council may create, each of whom shall be appointed by the Mayor and whose appointment shall be confirmed by the Council and shall perform such duties as are required of them by the Council. The duties of the various officers may be altered or combined as the Council may see fit. Each of said officers shall serve at the pleasure of the Council. If an appointed officer is also an employee of the City, he or she shall remain subject to the City Personnel policy.

SECTION 6.02 DEPARTMENTS - The Council may create such departments, boards, commissions or bureaus for the administration of the City's affairs as may seem necessary.

SECTION 6.03 CONTRACTS AND PURCHASES - Whenever the amount of a contract for the purchase of merchandise, materials, or equipment or for any kind of construction work undertaken by the City is estimated to exceed the amount required for bidding by state law, the contract shall be let to the lowest responsible bidder, after notice has been published in the official newspaper in advance of the last day for the submission of bids as required by law. All contracts shall be entered into only after compliance with state law.

CHAPTER VII

BOARD OF PUBLIC WORKS.

SECTION 7.01 MEMBERSHIP - There shall be in the City of Blue Earth, a Board of Public Works consisting of five (5) members who shall serve for a period of four (4) years subject to the terms provided for in this Chapter.

SECTION 7.02 ORGANIZATION - The Board shall organize by the 10th of January following each municipal election and elect a President and President Pro Tem. Any three shall constitute a quorum.

The Board may designate such person as they may desire either a member or otherwise, as the clerk thereof and he shall be responsible for the preparation and keeping of minutes of the meeting of said board.

SECTION 7.03 RESPONSIBILITIES - The Board shall be responsible for the development, production, purchase and distribution of electricity, gas, water, heat and such other utility services as the City Council may direct except that the Board shall not be responsible for the sanitary sewer collection and treatment system of the City of Blue Earth.

SECTION 7.04 GENERAL PROVISIONS -

(a) **POWERS** - The Board, subject to the conditions hereinafter expressed, shall have the general supervision of the utilities now and hereafter owned by the City and shall be charged with the operation thereof and with power to do any or all acts and things that shall be necessary, convenient or desirable in order to operate, maintain, enlarge, extend, preserve and promote an orderly and economic administration of the utility systems.

(b) **REAL ESTATE AND CONTRACTS** - Except as hereinafter provided, the Board, in the efficient and economical operation of the utilities, both inside and outside the city limits, may (1) sell its products, (2) construct plants, transmission lines, and other facilities, (3) purchase real estate and grant franchises in the name of the City with the approval of the Council, and (4) enter into all contracts, leases, and agreements in furtherance of the powers granted herein.

(c) **EXTENSION OF SERVICES** - The Board may adopt regulations governing extensions of services of the Department both inside and outside the City Limits. The regulations shall provide the conditions under which the extensions shall be made to render them compensatory and shall provide that each extension project shall, when completed, become the property of the City whether on public or private property. The Board may provide for the form of refunds where advances by the persons benefited are necessary to make extensions compensatory. No extension of service beyond the corporate limits of the City of Blue Earth shall be made except with the approval of the City Council of the City of Blue Earth.

(d) **JOINT OPERATION WITH OTHERS** - The Board may contract with any public or private corporation or any individual, both inside and outside the City Limits, (1) for the joint use of poles and other property belonging either to the Department or to the other contracting party or

jointly to both parties; and (2) with the Council, finance construct, and operate plants, transmission lines, and other facilities, whereby any property acquired becomes the property of both the City and the other contracting party.

(e) EMINENT DOMAIN - The Board, subject to express consent of the City Council, may enter upon any land or water within the corporate limits of said City of Blue Earth for the purpose of making surveys but the exercise of the right of Eminent Domain shall be in the sole jurisdiction of the City Council.

(f) USE OF THOROUGHFARES FOR UTILITY INSTALLATIONS - The Board may use the ground over, under, or along any road, railroad, highway, street, sidewalk, thoroughfare, alley or waterway in the operation of the Department but shall in all cases and subject to the general regulations of the City, cause the surface of the public way to be restored to its usual condition.

(g) RATES - The Board shall fix rates to be charged for gas, electricity, water and other utilities sold and services rendered by the Department. Rates shall be sufficient to pay for all operating and maintenance expenses of each respective utility operation and, all bond interest and redemption costs of the respective utility operations. The Board may require reasonable deposits as security for the payment of charges for utility services and may provide for the return of the deposits when satisfactory credit has been established.

(h) AUTHORITY FOR EXPENDITURES - No money shall be drawn from the funds of the Department nor shall any obligation for the expenditure of money be incurred except as authorized by the Board. No claim against the Department shall be paid unless evidenced by a voucher approved by the General Manager or by some other employee to be designated by him or her. All warrants, orders and checks shall be signed by a member of the Board and a designated employee.

(i) BOND AND SECURITY ISSUE - No issuance of securities shall be made except upon the approval of the City Council of the City of Blue Earth and the issuance of all securities shall be made by the City in its corporate capacity.

(j) SHORT TERM LOANS - The Board, subject to the express consent of the City Council, may borrow money for periods not to exceed five (5) years and may issue negotiable notes and warrants of the Department except the Board does not need consent of the City Council to borrow funds up to ninety (90) days provided that such borrowing shall not exceed the total value of the Board of Public Works certificates of deposit and securities at any time.

(k) PROMOTION EXPENDITURES - The Board may authorize reasonable expenditures to advertise and otherwise promote the use of the services of the Department and to acquaint the public with the operations, programs, and planned expansion of the Department.

(l) INVESTMENT OF SURPLUS FUNDS - The Board may invest funds of the Department only in securities which are legal for investments by savings banks and sinking funds of municipalities in the State of Minnesota.

In addition to other investments authorized by law, the Board shall have the right to invest any surplus funds of the Department in securities issued by any bank which is recurred by a pledge of collateral approved by the Board.

(m) ACCOUNTING AND BUDGET REPORT - The Board, in addition to the reports and accounting it may otherwise be required by law to make, shall not later than the first day of June in each year, furnish the Council its annual report which shall include the following statements as of the end of the preceding fiscal year: (1) a balance sheet showing the financial condition of the Department and each separate division, prepared according to generally accepted public utility

accounting principles; (2) a statement of operations for each division of the Department, and (3) any additional supporting statements or schedules deemed necessary and desirable by the Council to make a clear and informative presentation of the financial position of the Department. The reports shall be kept on file in the Clerk-Administrator's office and shall be open to public inspection. The funds and accounts of the Department shall be audited annually by a competent public accountant. The Board shall annually, on or before the first day of January in the budget year, prepare a budget for the year and furnish a copy thereof to the City Council.

(n) **PAYMENTS TO GENERAL REVENUE** - The Board shall cause to be paid into the general funds of the City annually, a franchise fee for the sale of electricity. The franchise fee shall be based on a factor of .0035 per kilowatt hours sold of all retail sales of kilowatt hours sold within the utility service territory rounded to the nearest 1,000 kilowatt hours. An annual joint meeting shall be held of the Board of Public Works and the City Council not later than the first day of June of each year at the call of the Council to review the financial conditions. Limitations of such payments herein established may be changed by five-sevenths (5/7) vote of the City Council directing the payment of such other fee as it may determine. In no event shall payments jeopardize the payment of bonded indebtedness and interest obligations of the Department. (*City Charter amended per Ordinance 04-11 dated 8-16-04.*)

SECTION 7.05 VACANCIES - Vacancies shall be filled by the Mayor, with the approval of the Council, for the unexpired term. No vacancy in the Board shall impair the right of the remaining Board Members to exercise all the powers of the Board members, but in any event, there shall be a minimum of three Board members.

SECTION 7.06 QUALIFICATIONS - All members of the Board of Public Works shall be a qualified voter of the City of Blue Earth. No person who holds any other public office, or is a full-time employee of the City, or any employee of the Department shall be a Board Member.

SECTION 7.07 COMPENSATION - The members of the Board of Public Works shall be paid at a rate established by Resolution of the Board of Public Works prior to July 1 of an election year to be effective for the board members January 1 of the year following such election.

SECTION 7.08 ORGANIZATION OF DEPARTMENTS -

(a) **DIVISIONS OF DEPARTMENT** - Within the Department there shall be separate divisions for the gas, electric, water, heat and other utility operations respectively. Each division shall be operated independently of the others, except insofar as the Board determines Joint operations to be advisable and economical. Expenses incurred in Joint operations shall be equitably prorated among the divisions by the Board.

(b) **GENERAL MANAGER** - The Board shall appoint a General Manager of the Department to be responsible to the Board and to serve at its pleasure.

(c) **OTHER EMPLOYEES** - There shall be such other officers and employees of the Department as may be provided by the Board. The officers and employees shall be appointed and removed by the General Manager subject to Board approval.

(d) **SALARIES** - The Board shall set the salary and benefits of the General Manager, and of

all other officers and employees of the Department.

(e) SURETY BONDS - The Board may require surety bonds for any of the officers and employees of the Department in such amounts as the Board deems necessary. The premiums for the bonds shall be paid by the Department in the same manner as any other operating expense.

(f) EMPLOYEE BENEFITS - The Board may contribute to the cost of pension, retirement, life and accident and health insurance programs for the officers and employees of the Department.

SECTION 7.09 MISCELLANEOUS PROVISIONS -

(a) DISPOSITION OF PUBLIC UTILITIES - The City shall have no authority to cease to operate, sell, lease, abandon, or in any other way dispose of any public utility owned by it without the approval of a majority of the qualified voters of the City voting upon said question at a regular municipal election or at a special election held for that purpose.

(b) EXISTING OBLIGATIONS - Contracts and obligations relating to the utility systems of the City incurred prior to the taking effect of this Charter shall not be impaired and shall be binding upon the Board insofar as they apply to the Department.

(c) CONTRACT RIGHTS - To the full extent now or hereafter permitted by law, the Board, shall have the power to contract for gas, fuel, power or services with other corporations, public or private, including the execution of stand by agreements and buying or selling agreements. Such arrangements shall include the right to enter into an electric agency or gas agency agreement as provided by Minnesota Statutes or any other buying or selling agreements authorized by law.

CHAPTER VIII

TAXES AND FINANCES.

SECTION 8.01 COUNCIL TO CONTROL FINANCES - The Council shall have full authority over the financial affairs of the City, and shall provide for the collection of all revenues and other assets, and auditing and settlement of accounts, and the safe keeping and disbursement of public moneys; and in the exercise of a sound discretion shall make appropriations for the payment of all liabilities and expenses.

SECTION 8.02 FISCAL YEAR -The fiscal year of the City shall end each year on the last day of December.

SECTION 8.03 BOARD OF EQUALIZATION - The Mayor and Councilmembers shall constitute a board of equalization for the City. They shall meet and perform their duties as provided by law.

SECTION 8.04 LEVY AND COLLECTION OF TAXES - On or before the date required by state law each year, the Council by resolution, shall levy the taxes necessary to meet the requirements of the budget for the ensuing fiscal year, subject to the limitations of this Chapter. The Clerk-Administrator shall transmit to the County Auditor annually a statement of all taxes levied, and such taxes shall be collected and the payment thereof be enforced, as provided by the Statutes of the State of Minnesota. No tax shall be invalid by reason of any informality in the manner of levying the same, nor because the amount levied exceeds the amount required to be raised for the specific purpose for which the same was levied; but in such case, the surplus shall remain in the fund to which such tax belongs.

SECTION 8.05 BONDED INDEBTEDNESS - All provisions of the Statutes of the State of Minnesota, now or hereafter existing, authorizing the incurring of indebtedness and the issuance of bonds, revenue certificates, or other evidences of indebtedness and prescribing the procedures therefore, by cities of like power and degree or otherwise, are hereby granted, referred to and made a part of this Charter.

SECTION 8.06 DEBT LIMIT - The Council may issue and sell obligations for any municipal purpose in accordance with law and within the limitations prescribed by law.

SECTION 8.07 ANNUAL CITY BUDGET - Not later than September 15th of each year, the Clerk-Administrator shall prepare and submit to the Council a budget for the ensuing fiscal year. The City budget shall be based upon detailed estimates and shall present the following information:

An itemized statement of the appropriations recommended by the Clerk-Administrator and City department managers for current expenses and for permanent improvements for the ensuing fiscal year, with comparative statement of the appropriations and expenditures for the current and

next preceding fiscal year and such other information as may be required by the Council.

SECTION 8.08 PASSAGE OF CITY BUDGET - The budget shall be the principal item of business at all regular meetings on or after September 15th until passed and adopted. All interested citizens shall have reasonable opportunity to be heard at said meetings.

SECTION 8.09 DISBURSEMENTS, HOW MADE - All disbursements except those made from public utility funds shall be made only upon regular vouchers issued by the Clerk-Administrator, duly authorized by the Council, countersigned by the Mayor which shall indicate the fund out of which the disbursements shall be made. Each order, when signed by the Clerk-Administrator, and countersigned by the Mayor, shall become a check or warrant payable to the payee at the bank indicated thereon. The Clerk-Administrator shall issue no checks upon any fund except where the City Council has given the power to do so. No claim against the City shall be allowed unless accompanied by an itemized statement, signed by the Officer who has personal knowledge of the facts in the case and vouches for the correctness and reasonableness of the claim. The Council, by resolution, may make further regulations for the safe keeping and disbursement of the City's funds.

SECTION 8.10 FUNDS TO BE KEPT - The City shall keep a general fund, and such other funds as are required by law and the Charter or Ordinances of the City. Funds raised through charitable donations designed for a specific purpose shall be used only for the intended purpose(s) of the donor(s). *(Section 8.10 amended per Ordinance 03-13 dated 10-6-03.)*

SECTION 8.11 ACCOUNTS AND REPORTS - The Council may prescribe and enforce proper accounting methods, forms, blanks and other devices consistent with the law, this Charter and the ordinances in accord with it. The Clerk-Administrator shall submit to the Council a statement quarterly showing the amount of money in the City Treasury, the status of all funds, the amount spent or chargeable against each of the annual budget allowances and the balance left in each and such other information relative to the finances of the City as the Council may require. Once in each year and on or before the date on which state law requires the City to submit an annual audit report, the Clerk-Administrator shall submit a report to the Council covering the entire financial operations of the City for the past fiscal year. Such report shall be as complete in detail as said quarterly reports and as complete as required by the City Council. It also shall show the total outstanding bonds and debts of the City, the maturity of the same, the amount of bonds and other evidences or indebtedness issued during the past fiscal year and the amount redeemed during the same period. It also shall show the rate of interest of said bonds, or other evidences or indebtedness. It shall show the condition of all the annual budget allowances and contain an inventory of all of the property owned by the City, and such other information as the Council may require. A condensed form of said Clerk-Administrator's annual report shall be published once in the official newspaper during the month following its submission. Such report shall conform to regulations adopted by the Council.

SECTION 8.12 ANNUAL AUDIT - The books of the City shall be audited regularly at least once each year by competent independent accountant or accounting firm employed by the City Council.

SECTION 8.13 EMERGENCY DEBT CERTIFICATES - If in any year any calamity or other public emergency or unforeseen circumstances should subject the City to the necessity of making expenditures not provided for in the budget, then the Council may authorize the issuance and sale of emergency debt certificates which term shall not to exceed three (3) years and to bear interest at a rate set by Council action. The full amount of such certificates with interest to maturity shall be included in the budget and a tax levied therefor to pay the same in due course. This shall require a five-sevenths (5/7) vote of the City Council.

SECTION 8.14 SYSTEM OF TAXATION - Subject to the State Constitution, and except as forbidden by it or by State Legislation, the Council shall have full power to provide by ordinance for a system of local taxation. In the taxation of real property, the City shall conform as fully as possible to the general State Law as to the assessment of such property and the collection of such taxes.

CHAPTER IX

PUBLIC IMPROVEMENTS AND SPECIAL ASSESSMENTS.

SECTION 9.01 POWER TO MAKE IMPROVEMENTS AND ASSESSMENTS - The City of Blue Earth shall have the power to make any and every type of public improvement not forbidden by the laws of this State, and to levy special assessments for all such as are of a local character.

SECTION 9.02 STATE LAWS MADE APPLICABLE - Except as herein otherwise provided, the Statutes of the State of Minnesota governing, controlling and regulating the making of public improvements of every type and character, and of special assessments therefore, and all provisions for certificates of indebtedness in connection therewith, and all future amendments thereof and supplements thereto, shall apply, govern, control and regulate in the City of Blue Earth.

CHAPTER X

EMINENT DOMAIN.

SECTION 10.01 STATE LAWS MADE APPLICABLE - The City of Blue Earth shall have and possess all the powers of eminent domain conferred upon it by the Statutes of the State of Minnesota, and shall exercise said powers in the form and manner prescribed and provided by said Statutes.

CHAPTER XI

FRANCHISES.

SECTION 11.01 FRANCHISE DEFINED - Except as otherwise provided by law, the word franchise as used in this Charter shall mean any special privilege granted to any person, co-partnership, or corporation, in, over, upon, or under any of the highways or public places of the City, whether such privilege heretofore has been granted by it, or hereafter shall be granted by the City.

SECTION 11.02 FRANCHISES REQUIRED - Except as otherwise provided, by law, no person, firm or corporation shall place or maintain any permanent or semi-permanent fixtures in, over, or under any street or public place for the purpose of operating a public utility or for any other purpose, without a franchise therefore 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-Administrator to guarantee publication before the ordinance is passed.

SECTION 11.03 TERM OF FRANCHISE LIMITED - No franchise shall be granted for a longer period than twenty-five (25) years. No exclusive or perpetual franchise shall ever be granted.

SECTION 11.04 - FRANCHISE - HOW GRANTED - The City Council may grant franchises by ordinances adopted by five sevenths (5/7) vote and published as required by this Charter for the publication of ordinances. Such ordinances shall be in full force and effect sixty (60) days after publication unless within said period there shall be filed with the Clerk-Administrator a petition for a special election signed by the greater of two hundred fifty (250) qualified voters or ten percent (10%) of the qualified voters of said City as determined by the number voting in the last regular municipal election. The ballots used at such election shall contain the words "For the Ordinance" (stating the nature of the proposed ordinance) and "Against the Ordinance" (stating the same.)

SECTION 11.05 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 11.06 FURTHER PROVISIONS OF FRANCHISES - The enumeration and specification of particular matters which must be included in every franchise or renewal or extension thereof, shall not be construed as impairing the right of the City to insert in any such franchise or renewal or extension thereof, such other and further conditions and restrictions as the Council may deem proper to protect the City's interest, nor shall anything contained in this Charter limit any right

or power possessed by the City over existing franchises.

CHAPTER XII

MISCELLANEOUS.

SECTION 12.01 OFFICIAL PUBLICATIONS - The Council, at the organizational meeting pursuant to Section 3.02 after each biennial election, shall designate a newspaper or newspapers serving said City, in which shall be published such measures and matters as by the laws of the State, or by this Charter, are required to be published, or which the Council deems it wise to publish. The Council shall fix the manner and length of time of such publication, except where the manner and length of time is prescribed by this Charter, or by the laws of this State.

SECTION 12.02 REAL PROPERTY – Fee title to real property of the City may be conveyed by the Mayor and Clerk-Administrator by authority of an ordinance duly adopted. The proceeds of any sale of such property shall be used as far as possible to retire any outstanding indebtedness incurred by the City in the purchase, construction, or improvement of this or other property used for the same public purpose. If there is no such outstanding indebtedness, the Council may by resolution designate some other public use for the proceeds.

Such ordinances shall not be effective until thirty (30) days after its publication. If during said period a petition shall be filed signed by the greater of two hundred fifty (250) qualified voters or ten percent (10%) of the qualified voters voting at the last regular municipal election, a special election shall be called upon the question of approval of said ordinance. If approved, such ordinance shall be of full force and effect. If not, it shall fail.

Such ordinance may provide for the conveyance of real estate to other public corporations upon such terms as the Council may deem appropriate.

All other real property interests which convey less than fee title may be conveyed by the Mayor and Clerk-Administrator by authority of a resolution of the City Council without need for further publication or notice. (*Section 12.02 amended per Ordinance 05-23 dated 11-21-05.*)

SECTION 12.03 PRESENT OFFICERS TO HOLD OFFICE - The present officers of the City shall continue in their respective offices and functions and shall continue to govern the City in the usual manner until the officers, provided for in this Charter, are elected and qualified. They shall make financial and other provisions on the government until a government has been set up under this Charter, and they shall make provisions for the election of the City Council as provided for in Chapter IV of this Charter.

SECTION 12.04 PETITION FOR VACATION -

(a) The City Council of such City shall have power to vacate or discontinue streets, avenues, alleys and highways within said City. No such vacation or discontinuance shall be granted or ordered by the City Council except upon the petition of the sole owner or a majority of the resident owners of the property on the line of such street, avenue, alley or highway, accompanied by a plat of such street, avenue, alley or highway proposed to be vacated, and shall be verified by the oath of at least one (1) of the petitioners. The City Council shall thereunder order the petition to be filed of record

with the Clerk-Administrator, who shall thereupon give notice, by publication in the official paper of the City, for three (3) weeks, at least once a week, to the effect that such petition has been filed as aforesaid and stating in brief its object, and that said petition will be heard and considered by the City Council, or a committee appointed by them, at a certain time and place therein specified not less than ten (10) days from the date of last publication. The City Council, or such committee as may be appointed by them for the purpose, at the time and place appointed, shall investigate and consider the said matter and shall hear the testimony and evidence on the part of the parties interested.

(b) The City Council, after hearing the same, may adopt by ordinance such vacation as it may deem advised. It may place such conditions and limitations thereon as appear in the public interest. A transcript of such ordinance, duly certified by the Clerk-Administrator, shall be filed for record and recorded in the office of the Register of Deeds of Faribault County, Minnesota.

SECTION 12.05 STATUTES NOT AFFECTED BY CHARTER - All general and special laws and statutes of the State applicable to all cities operating under home rule Charters, or applicable to cities of the same class as the City of Blue Earth operating under home rule Charters, and not inconsistent with the provisions of this Charter, shall apply to the City of Blue Earth, and shall be construed as supplementary to the provisions of this Charter.

SECTION 12.06 EXISTING ORDINANCES CONTINUED - All ordinances and regulations of the City in force, when this Charter takes effect, and not inconsistent with the provisions thereof, are hereby continued in full force and effect until amended or repealed.

SECTION 12.07 PENDING CONDEMNATIONS AND ASSESSMENTS - Any condemnation or assessment proceeding in progress when this Charter takes effect shall be continued and completed under the laws under which such proceedings were begun. All assessments made by the City prior to the time when this Charter takes effect shall be collected and the lien thereof enforced in the same manner as if this Charter had not been adopted.

SECTION 12.08 FORMER CHARTER REPEALED - The existing Charter of the City of Blue Earth as amended is hereby amended by striking all the provisions thereof and substituting therefor the foregoing Charter of the City of Blue Earth.

SECTION 12.09 CITY POWER OF LIBRARY PERSONNEL - The City Council of the City of Blue Earth specifically retains authority over the employees of the Blue Earth Community Library. The City Authority includes, but is not limited to, the authority to hire and fire library employees, to set employee compensation, to determine employee benefits and to otherwise either directly or by delegation to City officials to control all aspects of library employees employment.

There shall be no term limits for members of the Library Board of the Blue Earth Community Library.