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CHARTER OF THE

CITY OF ORTONVILLE

PREAMBLE

We the people of the City of Ortonville, Minnesota, under the constitution and laws of the state of Minnesota, in order to secure the benefits of local self-government and to provide for an honest and accountable council/city clerk-administrator government do hereby adopt this charter and confer upon the city the following powers, subject to the following restrictions, and prescribed by the following procedures and governmental structure. By this action, we secure

the benefits of home rule and affirm the values of representative democracy, professional management, strong political leadership, citizen participation, and regional cooperation.

Chapter I

POWERS OF THE CITY

Section 1.01. Name and Boundaries

The City of Ortonville, Big Stone 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. The city clerk-administrator shall keep in the city office an official city map identifying the current boundaries of the city, and such map shall be available to the public during regular office hours. The existing boundaries shall be continued until changed as provided by law.

Section 1.02. Powers of the City

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

Chapter II

FORM OF GOVERNMENT

Section 2.01. General Powers and Duties. The form of government established by this charter is the “Weak Mayor—Strong Council Plan.” Except as otherwise provided by law or this charter, all powers of the city are vested in the council. The city clerk-administrator shall be the head of the administrative branch of the city government and shall be responsible to the council for the proper administration of all city affairs.

Section 2.02. Council Composition and Election. The council shall be composed of a mayor and six council members who shall be qualified electors and who shall be elected at-large. Each council member shall serve for a term of four years and until his/her successor is elected and qualifies. The mayor shall serve for a term of four years and until a successor is elected and qualifies.

Section 2.03. Mayor. The mayor shall preside at meetings of the council and shall have a vote as a member. The council shall, at its annual meeting, choose from its members a president pro

tem who shall hold office at the pleasure of the council. He/she shall serve as president in the mayor's absence and as mayor in case of the mayor's disability or absence from the city. 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, but he/she shall have no administrative duties.

Section 2.04 Salaries. The mayor and council members shall receive such compensation as is fixed by the council in accordance with law. The city clerk-administrator and all subordinate officers and employees of the city shall receive such salaries or wages as may be fixed by the council.

Section 2.05 Prohibitions

{a} No member of the council shall be appointed city clerk-administrator, nor shall any member hold any paid municipal office or employment under the city; and until one year after the expiration of his term as mayor or council member no former member shall be appointed to any paid appointive office or employment under the city which was created or the compensation for which was increased during his/her term as council member.

{b} Except for the purpose of inquiries, and investigations under Section 2.09, the council or its members shall deal with city officers and employees who are subject to the direction and supervision of the city clerk-administrator solely through the city clerk-administrator, and neither the council nor its members shall give orders to any such officer or employee, either publicly or privately.

Section 2.06. Vacancies. An elective office becomes vacant when the person elected or appointed thereto dies before taking office or fails to qualify, or the incumbent dies, resigns in writing filed with the city clerk-administrator, 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 by resolution declare the vacancy to exist and shall forthwith appoint an eligible person to fill the vacancy for the remainder of the unexpired term.

Section 2.07 Judge of Qualifications. The city council shall be the judge of the election and qualifications of its members, and of the grounds for forfeiture of their office. In order to exercise these powers, the council shall have power to subpoena witnesses, administer oaths and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in one or more newspapers of general circulation in the city at least one week in advance of the hearing.

Section 2.08. Secretary of the Council. The city clerk-administrator shall act as secretary of the council. He/she shall keep a journal of council proceedings and perform such other duties as

this charter or the council may require. The council may designate any other city official or employee, except a member of the council, to act as secretary of the council.

Section 2.09. Investigations. The city council may make investigations into the affairs of the city and the conduct of any city department, office, or agency and for this purpose may subpoena witnesses, administer oaths, take testimony, and require the production of evidence. Failure or refusal to obey a lawful order issued in the exercise of these powers by the council shall be a misdemeanor punishable by a fine or by imprisonment.

Section 2.10. Procedure

{a} Meetings. The council shall meet regularly at least once each month at such times and places as the council may designate by rule. The first meeting in January of each year shall be considered the council's Annual Meeting, at which time any newly elected members of the council shall assume their duties and appointments such as City Attorney, media outlets, etc. shall be made. The mayor or any three members of the council may call special meetings of the council upon at least twelve hours notice to each member and emergency meetings on less than twelve hours notice to each member and such reasonable public notice as may be prescribed by council rule in compliance with the laws of Minnesota. To the extent provided by law, all meetings of the council and its boards and committees shall be public and any citizen shall have access to the minutes and records of the council and its boards and committees at all reasonable times.

{b} Rules and Quorum. The council shall determine its own rules and order of business. Voting, except on procedural motions, shall be by either roll call or voice vote, and the ayes and nays shall be recorded in the journal. Four members of the council shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the council. No action of the council, except as otherwise provided in the preceding sentence, shall be valid or binding unless adopted by the affirmative vote of a majority of the members of the council in attendance, and unless more than a simple majority is required by other sections of this charter or statute.

Section 2.11. 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 by law or this charter, an affirmative vote of a majority of all the members of the council shall be required for the adoption of all ordinances and resolutions.

Section 2.12. 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 Ortonville ordains." No ordinance except an emergency ordinance shall be adopted at the meeting at which it is introduced and at least three days shall elapse between its introduction and final passage.

Section 2.13. Emergency Ordinances. An emergency ordinance is an ordinance necessary for the immediate preservation of the public peace, health, morals, safety, or welfare in which the emergency is defined and declared in a preamble and the ordinance is adopted by a vote of at least five members of the council.

Section 2.14. 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.

Section 2.15. Signing and Publication of Ordinances and Resolutions. Every ordinance or resolution passed by the council shall be signed by the mayor, attested by the city clerk-administrator, and filed and preserved by him/her. Every ordinance shall be published at least once in the official newspaper. To the extent and in the manner provided by law an ordinance may incorporate by reference a statute, state administrative rule, or regulation of Minnesota, a code, or ordinance or part thereof without publishing the material referred to in full.

Section 2.16. 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 adopted by the voters of the city shall take effect immediately upon its adoption or at such later date as it specifies.

Section 2.17. 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 amending ordinance or resolution shall set forth in full each section or subdivision to be amended and shall indicate by appropriate type or symbols matter to be omitted or added.

Section 2.18. Revision and Codification of Ordinances. The city may revise, rearrange, and codify its ordinances with such additions and deletions as may be deemed necessary. The ordinance code may be published in book, pamphlet, or continuously revised loose-leaf form and copies shall be made available by the council at the office of the city clerk-administrator for general distribution to the public free or for a reasonable charge. Publication in such a code shall be a sufficient publication of any ordinance provision not previously published if a notice that copies of the codification are available at the office of the city clerk-administrator is published in the official newspaper for at least two successive weeks.

Section 2.19. Boards, Committees and Commissions. There shall be no separate administrative board of health, library board, or any other administrative board or commission except for the administration of a function jointly with another political subdivision. The council shall itself be and perform the duties and exercise the powers of such boards and commissions provided for by statute. The council may establish boards, committees or commissions to advise the council with respect to any municipal function or activity, to investigate any subject of interest to the city, or to perform quasi-judicial functions.

Chapter III

CITY CLERK-ADMINISTRATOR

Section 3.01 The City Clerk-Administrator. The city clerk-administrator shall be the chief administrative officer of the city. He/she shall be chosen by the council solely on the basis of training, experience, executive and administrative qualifications. He/she need not be a resident of the city at the time of appointment but may reside outside the city while in office only with the approval of the council. The city clerk-administrator shall be appointed for an indefinite term and may be removed at any time by an affirmative vote of a majority of the council, but after he/she has served as city clerk-administrator for one year, he/she may demand written charges and a public hearing on the charges before the council prior to the date when final removal takes effect. After the hearing, if one is demanded, the council shall have unlimited discretion either to reinstate the city clerk-administrator or make removal final. Pending the hearing and removal, the council may suspend the city clerk-administrator from office. With the approval of the council, the city clerk-administrator may designate some properly qualified person to perform the duties of the city clerk-administrator during his/her absence or disability or while the office is vacant.

Section 3.02 Powers and Duties of the City Clerk-Administrator

{a} The city clerk-administrator shall be responsible to the council for the administration of the city's affairs and shall have the powers and duties set forth in the following subparagraphs. He/she shall:

{1} See that this charter and the laws, ordinances, and resolutions of the city are enforced, shall keep the public records, have custody and disburse the public funds, and administer the city's affairs as the council may prescribe.

{2} Direct and supervise all departments, offices, and agencies of the city, except as otherwise provided by law or charter.

{3} Attend all meetings of the council and may take part in discussion but not vote; but the council may, at its discretion, exclude him/her from any meeting at which his/her removal is considered.

{4} Recommend to the council for adoption such measures as he/she deems necessary for the welfare of the people and the efficient administration of the city's affairs.

{5} Keep the council fully advised on the financial condition and needs of the city, and he/she shall, along with the Budget and Levy Committee, prepare and submit to the council the annual budget and capital program.

{6} Submit to the council and make available to the public a complete report on the finances and administrative activities of the city at the end of each fiscal year.

{7} Perform such other duties as are prescribed by charter or may be required by the council.

{b} He/she may be designated to act as secretary of the council and also as treasurer.

Section 3.03 Administrative Organization. The city council shall at all times have an Administrative Code providing for a complete plan of administrative organization and management of the city government and creating in conformity with the express provisions of this charter such departments, divisions, boards, and funds as the city may deem advisable. Except as established by the provisions of this charter, the city council may by ordinance adopted by five-sevenths vote of all council members amend the Administrative Code or adopt a new Administrative Code, but no such change in the Administrative Code shall be made in such manner as to affect any rights of the city or the time and manner of payment of any obligations due to or by the city with respect to any funds established by the Administrative Code. No power or duty conferred by this charter upon a particular office or agency shall be transferred to any other.

Section 3.04 Subordinate Officers. There shall be a deputy city clerk and such other officers subordinate to the city clerk-administrator as the council may establish by ordinance. The deputy city clerk shall be subject to the direction of the city clerk-administrator. The council may by ordinance abolish offices or departments which have been created by ordinance and it may combine the duties of various offices as it may see fit.

Section 3.05 Purchases and Contracts. The city clerk-administrator shall be the chief purchasing agent of the city. All city purchases and contracts shall be made or let by the city clerk-administrator when the amount involved does not exceed that amount as designated by ordinance. All other purchases shall be made and all other contracts let by the council after the recommendation of the city clerk-administrator has first been obtained. Contracts shall be made in compliance with the State of Minnesota municipal contracting law, and whenever competitive bids are so required, the contract shall be let to the lowest responsible bidder. All contracts, bonds, and instruments of any kind to which the city is a party shall be signed by the mayor and the city clerk-administrator on behalf of the city and shall be executed in the name of the city. The council may by ordinance adopt further regulations for the making of bids and letting of contracts.

Chapter IV

DEPARTMENTS, OFFICES, AND AGENCIES

Section 4.01. General Provisions

{a} Creation of Departments. The city council may establish city departments, offices, or agencies in addition to those created by this charter and may prescribe the functions of all departments, offices, and agencies. No function assigned by this charter to a particular department, office, or agency may be discontinued or, unless this charter specifically so provides, assigned to any other.

{b} Direction by city clerk-administrator. All departments, offices, and agencies under the direction and supervision of the city clerk-administrator shall be administered by an officer appointed by the city council and subject to the direction and supervision of the city clerk-administrator. With the consent of the council, the city clerk-administrator may serve as the head of one or more such departments, offices, or agencies or may appoint one person as the head of two or more of them.

Section 4.02. City Attorney

{a} Appointment. There shall be a city attorney of the city appointed by the city council annually at the first meeting in January.

{b} Role. The city attorney shall serve as chief legal advisor to the council, the city clerk-administrator, and all city departments, offices and agencies; shall represent the city in all legal proceedings; and shall perform any other duties prescribed by state law, by this charter or by ordinance.

Section 4.03. Land Use, Development, and Environmental Planning

{a} Consistent with all applicable federal and state laws with respect to land use, development, and environmental planning, the city council shall:

{1} Designate an agency or agencies to carry out the planning function and such decision-making responsibilities as may be specified by ordinance;

{2} Adopt a comprehensive plan and determine to what extent zoning and other land use control ordinances must be consistent with the plan;

{3} Determine to what extent the comprehensive plan and zoning and other land use ordinances must be consistent with regional plan{s}; and

{4} Adopt development regulations, to be specified by ordinance, to implement the plan.

{b} The designated agency, the city clerk-administrator, and the mayor and council shall seek to act in cooperation with other jurisdictions and organizations in their region to promote integrated approaches to regional issues.

Chapter V

TAXATION AND FINANCIAL MANAGEMENT

Section 5.01. Council to Control Finances. The council shall have full authority over the financial affairs of the city. It shall provide for the collection of all revenues and other assets, the auditing and settlement of accounts, and the safekeeping and disbursement of public monies.

Section 5.02. Fiscal Year. The fiscal year of the city shall begin on the first day of January and end on the last day of December.

Section 5.03. Budget. The budget shall provide a complete financial plan of all city funds and activities for the ensuing fiscal year and, except as required by law or this charter, shall be in such form as the city clerk-administrator deems desirable or the city council may require for effective management and an understanding of the relationship between the budget and the city's strategic goals. The budget shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year. It shall indicate in separate sections:

{a} The proposed income and expenditures for current operations during the ensuing fiscal year, detailed for each fund by department or by other organization unit, and program, purpose and activity, method of financing such expenditures, and methods to measure outcomes and performance related to the goals.

{b} The anticipated income and expense, profit and loss for the ensuing year for each utility or other enterprise fund or internal service fund operated by the city. For any fund, the total of proposed expenditures shall not exceed the total of estimated income plus carried forward fund balance exclusive of reserves.

5.04. Council Action on Budget

{a} 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. The council shall adopt the budget not later than September 15 by a resolution which shall set forth the total for each budgeted fund and each department with such segregation as to objects and purposes of expenditures as the council deems necessary for purposes of budget control. The council shall also adopt a resolution levying the amount of taxes provided in the budget and the city clerk-administrator shall certify the tax resolution to the county auditor in accordance with law not later than September 15. 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.

{b} The city council shall publish the general summary of the budget and a notice stating:

{1} The times and places where copies of the budget are available for inspection by the public.

{2} The time and place, not less than two weeks after such publication, for a public hearing on the budget if required by law.

{c} After the public hearing, the city council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for an estimated cash deficit, provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than total estimated income.

{d} As used in this Chapter, the term “publish” means to print in the contemporary means of information sharing, which includes but is not limited to, one or more newspapers of general circulation in the city, and, if available, in a web site.

Section 5.05. System of Taxation. Subject to 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 5.06. Amendments after Adoption

{a} Supplemental Appropriations. If during or before the fiscal year the city clerk-administrator certifies that there are available for appropriation revenues in excess of those estimated in the budget, the city council by ordinance may make supplemental appropriations for the year up to the amount of such excess.

{b} Emergency Appropriations. To address a public emergency affecting life, health, property or the public peace, the city council may make emergency appropriations. Such appropriations may be made by emergency ordinance in accordance with the provisions of Section 2.13. To the extent that there are no available unappropriated revenues or a sufficient fund balance to meet such appropriations, the council may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid or refinanced as long-term debt not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.

{c} Reduction of Appropriations. If at any time during the fiscal year it appears probable to the city clerk-administrator that the revenues or fund balances available will be insufficient to finance the expenditures for which appropriations have been authorized, the city clerk-administrator shall report to the city council without delay, indicating the estimated amount of the deficit, any remedial action taken by the city clerk-administrator and recommendations as to any other steps to be taken. The council shall then take such further action as it deems necessary to prevent or reduce any deficit and for that purpose it may by ordinance reduce or eliminate one or more appropriations.

{d} Transfer of Appropriations. At any time during or before the fiscal year, the city council may by resolution transfer part or all of the unencumbered appropriation balance from one department, fund, service, strategy or organizational unit to the appropriation for other departments or organizational units or a new appropriation. The city clerk-administrator may transfer funds among programs within a department, fund, service, strategy or organizational unit and shall report such transfers to the council in writing in a timely manner.

{e} Limitation; Effective Date. No appropriation for debt service may be reduced or transferred, except to the extent that the debt is refinanced and less debt service is required, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

Section 5.07. Administration and Fiduciary Oversight of the Budget. The city clerk-administrator 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 a sufficient unexpended balance left after the appropriation. No officer or employee of the city shall place any order or make any purchase except for a purpose and to the amount authorized in the budget resolution. Any obligation incurred by any person in the employ of the city for any purpose not authorized in the budget resolution or for any amount in excess of the amount authorized 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 5.08. Funds. There shall be maintained in the city treasury a general fund and such other funds as may be required by this charter, statute, ordinance, or resolution. Except as restricted by this charter, the council may, by ordinance or resolution, make inter-fund loans or transfers, except from trust and agency funds, as it may deem necessary and appropriate.

Section 5.09. City Indebtedness. Except as provided in this charter, 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 this charter. Except in the case of obligations for which an election is not required by this charter or 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.

Section 5.10. Debt Limitation. No bonds of the city shall be issued whereby its bonded indebtedness would be made to exceed four per cent {4%} of the market value of the taxable property in the city or the maximum allowed by law, whichever is greater, including monies and credits; provided that certificates of indebtedness or bonds issued before or after the adoption of this charter shall not be included in or counted as a part of such bonded indebtedness if, {1} held in a sinking fund maintained by the city; or {2} issued for the acquisition, equipment, purchase, construction, maintenance, extension, enlargement or improvement of streets, telephone lines, water, lighting, heat and power plants, or any other public convenience from which a revenue is or may be derived, owned and operated by the city, or the acquisition of property needed in connection therewith, or the construction of public drainage ditches or the acquisition of lands for, or for the improvement of streets, parks or other public improvements, to the extent that they are payable from the proceeds of assessments levied upon property specially benefited by such ditches or improvements; or {3} issued for the creation or maintenance of a permanent improvement revolving fund; or {4} for the purpose of anticipating the collection of general taxes for the year in which they are issued. Bonds may be issued by ordinance adopted by five-sevenths vote of all council members within the limits prescribed above, and the city may issue certificates of indebtedness or bonds to any limit prescribed therein, without the approval of voters, if such issue be for either extending, enlarging or improving water, lighting, or heat and power plants owned and operated by the city, or of acquiring property needed in connection therewith, or for the purpose of funding floating indebtedness incurred by the city before the adoption of this charter, or for any municipal purposes or improvements in respect to which the city is authorized by any special or general law to incur indebtedness or issue certificates of indebtedness or bonds at the time of the adoption of this charter.

Section 5.11. Anticipation Certificates. At any time after January 1 the council may issue certificates of indebtedness in anticipation of state and federal aids and the collection of taxes

levied the previous year for any fund and not yet collected. The total amount of certificates issued against any fund for any year together with interest thereon until maturity shall not exceed the total of state and federal aids and current taxes due to the fund and uncollected at the time of issuance. Such certificates shall be issued on such terms and conditions as the council may determine, but they shall become due not later than April 1 of the year following their issuance. The proceeds of the tax levied and such state or federal aids as the city council 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 5.12. Emergency Debt Certificates. If in any year the receipts from taxes or other sources should from some unforeseen cause become insufficient for the ordinary expenses of the city, or if any calamity or other public emergency necessitates the making of extraordinary expenditures, the council may by ordinance issue, on such terms and in such manner as the council determines, emergency debt certificates to run not to exceed three years. As required by law a tax sufficient to pay principal and interest on such certificates with the margin required by law shall be levied. The ordinance authorizing an issue of such emergency debt certificate shall state the nature of the emergency and be approved by at least five members of the council. It may be passed as an emergency ordinance.

Section 5.13. Capital Program

{a} Submission to City Council. The city clerk-administrator shall prepare and submit to the city council a multi-year capital program no later than three months before the final date for submission of the budget.

{b} Contents. The capital program shall include:

{1} A list of all capital improvements and other capital expenditures which are proposed to be undertaken during the fiscal years next ensuing, with appropriate supporting information as to the necessity for each;

{2} Cost estimates and recommended time schedules for each improvement or other capital expenditure;

{3} Method of financing upon which each capital expenditure is to be reliant;

{4} The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

The above shall be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

Section 5.14. City Council Action on Capital Program

{a} Notice and Hearing. The city council shall publish a general summary of the capital program and a notice stating:

{1} The times and places where copies of the capital program are available for inspection by the public, and

{2} The time and place, not less than two weeks after such publication, for a public hearing on the capital program.

{b} Adoption. The city council by resolution shall adopt the capital program with or without amendment after the public hearing and on or before the 15th day of August, or earlier if required by state statute.

Section 5.15. Independent Audit. The city council shall provide for an independent audit of all city accounts and may provide for more frequent audits, as it deems necessary.

Section 5.16. Public Records. Copies of the budget, capital program, independent audits, and appropriation and revenue ordinances shall be public records.

Chapter VI
ELECTIONS

Section 6.01. City Elections

{a} Regular Elections. The regular city election shall be held on the first Tuesday after the first Monday in November of even-numbered years and every 2 years thereafter. The city clerk-administrator shall give at least two weeks published notice of the time and place of holding such election and of the officers to be elected, but failure to give such notice shall not invalidate the election.

{b} Special Elections. The council may by resolution order a special election and provide all means for holding it. The city clerk-administrator shall give at least two weeks published notice of a special election. The procedure at such election shall conform as nearly as possible to that prescribed for other city elections.

Section 6.02. Procedure at Elections. Subject to this charter and applicable state laws, the council may by ordinance further regulate the conduct of municipal elections. Except as otherwise provided by this charter and supplementary ordinances, general state laws on elections shall apply to municipal elections.

Section 6.03. Registered Voter Defined. All citizens legally registered under the constitution and laws of the state of Minnesota to vote in the city shall be registered voters in the city within the meaning of this charter.

Section 6.04. Filing for Office. No earlier than 10 weeks or later than 8 weeks before the municipal election, any voter of the city qualified under the state constitution for elective office may, by filing an affidavit and paying a filing fee of \$2.00 to the city clerk-administrator, have his/her name placed on the municipal primary ballot or, if there is no primary election, on the municipal election ballot.

Section 6.05. Methods of Electing Council Members. In order to align council member and mayoral terms of office with the even-year election feature of Section 6.01{a} of this charter, the following procedures will be followed:

{a} The November 2007 election for the 3 council member positions expiring in January 2008 shall be filled by the 3 candidates receiving the greatest number of votes, and they shall serve for a term of three years.

{b} The 3 council member and mayor positions expiring in January 2010 shall be filled by the 3 council member candidates and mayoral candidate receiving the greatest number of votes in the November 2009 election, and they shall serve for a term of three years.

{c} Commencing thereafter at the next regular election and at all subsequent elections all council members and the mayor shall be elected for four-year terms.

Chapter VII

REFERENDUM

Section 7.01 General Voter Authority. The voters of the city shall have the right, in accordance with this charter, to require ordinances to be submitted to a vote by the process known as referendum.

Section 7.02 Petitions. A referendum shall be initiated by a petition signed by registered voters of the city equal in number to 15 percent of the registered voters 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. Each petition shall be substantially in the following form:

REFERENDUM PETITION

Proposing the repeal of an Ordinance entitled “ _____ ” {or part of an Ordinance entitled “ _____ ” which part reads as follows: { _____ .}}

A copy of said Ordinance is hereto attached.

The proposed repeal is sponsored by the following committee of voters:

Name

Address

- 1.
- 2.
- 3.
- 4.
- 5.

The undersigned qualified voters of the City of Ortonville, understanding the nature of the measure hereto attached and believing it to be detrimental to the welfare of the city, petition the council for its repeal or submission to the voters for approval or rejection.

Name/Signature of Voter

Address

Each signer shall sign his/her name and give his/her street address. Each separate page of the petition shall have appended to it a certificate, verified by oath, that each signature is the genuine signature of the person whose name it purports to be. The person making the certificate shall be a resident of the city. Any person whose name appears on a petition may withdraw his/her name by a statement in writing filed with the city clerk-administrator before the city clerk-administrator advises the council of the sufficiency of the petition.

Section 7.03 Determination of Sufficiency. Immediately upon receipt of the petition, the city clerk-administrator shall examine the petition as to its sufficiency and report to the council within 20 days. Upon receiving the report the council shall determine by resolution the sufficiency of the petition.

Section 7.04 Disposition of Insufficient Petition. If the council determines that the petition is insufficient or irregular, the city clerk-administrator 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-administrator shall file the petition in his/her office and notify the sponsoring committee. The final finding that the petition is insufficient or irregular shall not prejudice the filing of a new petition for the same purpose nor shall it prevent the council from referring the ordinance to the voters at the next regular or special election at its option.

Section 7.05 Suspension of Ordinance and Election. 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 by the council, 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 VIII

PUBLIC IMPROVEMENTS AND SPECIAL ASSESSMENTS

Section 8.01 Power to Make Improvements and Levy Assessments. The city may make any type of public improvement not forbidden by law and levy special assessments to pay all or any part of the cost of such improvements as are of a local character. The total assessments for any local improvement may not exceed the cost of the improvement, including all costs and expenses connected therewith, with interest. No assessment shall exceed the benefits to the property.

Section 8.02 Assessments for Services. The Council may provide by ordinance that the cost of city services to streets, sidewalks, or other public or private property may be assessed against property benefited and collected in the same manner as special assessments.

Section 8.03 Local Improvement Procedures. When the city undertakes any local improvement to which the state local improvement code applies, it shall comply with the provisions of that law. The council may by ordinance prescribe the procedure to be followed in making any other local improvement and levying assessments therefor.

Chapter IX

EMINENT DOMAIN

Section 9.01 Acquisition of Property. The city may acquire, by purchase, gift, condemnation, or otherwise, any property, either within or without its boundaries, that may be needed by the city for any public purpose. In acquiring property by exercising the power of eminent domain, the city shall proceed according to Minnesota Statutes, Chapter 117 or other applicable law.

Chapter X

FRANCHISES

Section 10.01 Franchises Required. Except as otherwise provided by law, no person, firm, or corporation shall place or maintain any permanent or semi-permanent fixtures in, over, upon, or under any street or public place for the purpose of operating a public utility or for any other purpose, without a franchise therefor from the city. A franchise shall be granted only by

ordinance, which shall not be an emergency ordinance. Every ordinance granting a franchise shall contain all the terms and conditions of the franchise. The grantee shall bear the costs of publication of the franchise ordinance and shall make a sufficient deposit with the city clerk-administrator to guarantee publication before the ordinance is passed.

Section 10.02 Term. No exclusive or perpetual franchise shall ever be granted. No franchise for a term exceeding twenty years shall be effective until approved by a majority of the electors voting thereon.

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

Section 10.04 Power of Regulation Reserved. Subject to any applicable law the council may by ordinance reasonably regulate and control the exercise of any franchise, including the maximum rates, fares, or prices to be charged by the grantee. No franchise value shall be included in the valuation of the grantee's property in regulating utility rates, fares, or prices under any applicable law, ordinance, or regulation or in the 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 XI

PUBLIC OWNERSHIP AND OPERATION OF UTILITIES

Section 11.01 Public Utility Department. The public water works; electric light and power system; sanitary sewer system; health services system, including the municipal hospital, municipal nursing home, and municipal medical clinic building; municipal airport; municipal golf course, including golf clubhouse and golf cart sheds; municipal swimming pool; municipal library; and any other public utility or public convenience {MS 475.52} from which a revenue is or may be derived, whether now or hereafter owned and operated by the city, shall constitute one department of the city, known as the "Public Utility Department," and the city council shall have general management and control thereof with full power to do all things necessary for the proper construction, operation, maintenance, improvement, acquisition, extension, and repair of such utilities.

Section 11.02 Regulations and Rates. Rates to be charged for all services, materials, labor or benefits furnished by any such public utility, including charges to be made for service or benefits furnished to the city as a whole or any of its departments; rules and regulations necessary to properly regulate furnishing such service and secure prompt payment of bills; the method by which the city may acquire and collect liens upon property for unpaid bills; such other rules and regulations as may be necessary and penalties for violation of any rules and

regulations; and the manner and extent to which the city shall operate such public utilities and furnish service outside the corporate limits of the city shall be established or changed by resolution.

Section 11.03 Revenue Warrants. It shall be the duty of the council to see that rates are adequate to provide funds to properly operate and maintain and to pay interest and principal on any indebtedness which may be incurred for capital expenditures for the construction, improvement, acquisition, extension and repair of such public utilities. To provide funds necessary for capital expenditures the council shall have power by resolution to authorize the issuance of Revenue Warrants, which shall be payable solely from the net revenues of the Public Utility Department, and the city shall be expressly relieved by the terms thereof from any obligation to levy, collect, use or apply any taxes or monies received from taxation to the payment of either principal or interest on such Revenue Warrants, except for the payment of service rendered to or benefits received by the city or any of its departments. Such resolution shall fix the maximum amount of Revenue Warrants thereby authorized; describe in general terms the nature of the capital expenditures for which they are to be issued; and may contain covenants determining what shall constitute net revenues of the Public Utility Department, whether all or part of the net revenues shall be pledged, and such other provisions as the council may deem necessary. Such Revenue Warrants shall bear interest at a rate not to exceed the maximum rate allowed by law, payable annually or semi-annually, and shall mature at such time or times, be in such form and be sold under such terms as the council may by resolution deem in the best interest of the city. The council shall have power by resolution to issue Refunding Revenue Warrants to refund outstanding Revenue Warrants whenever monies from the net revenues pledged are insufficient to meet any maturing Revenue Warrants or interest or at the optional or callable dates of such Revenue Warrants and each issue of Refunding Revenue Warrants shall constitute the same charge or lien on the net revenues of the Public Utility Department as do the warrants refunded.

Section 11.04 Lease of Public Utilities. The council may by ordinance lease to any person, firm, or corporation upon terms deemed advantageous to the city, any of the utilities of the city except the public water works, electric light and power system, and the sanitary sewer system, for a term not to exceed ten years and may renew such lease for additional periods not to exceed ten years.

Section 11.05 Sale of Public Utility. No public utility now or hereafter owned by the city shall be sold or otherwise disposed of by the city unless the full terms of the proposed sale or other disposition are embodied in an ordinance passed by the council and approved by two-thirds of the voters voting thereon at a general or special election. Any sale, lease or abandonment of a water works or light plant shall be subject, in addition, to the requirements of state law.

Section 11.06 Water and Light Reserve Fund. A separate fund, to be known as "Water and Light Reserve Fund," shall be maintained. It shall be the duty of the council to make provision for

such fund in the Administrative Code in accordance with this section of the charter. No transfer shall ever be made from the Water and Light Reserve Fund to any other fund whereby monies on hand in said fund shall be reduced below \$250,000, and no transfer shall ever be made from such fund to any other fund except by ordinance. The council shall have power to use any of the monies in the Water and Light Reserve Fund for the purpose of making repairs or improvements to the public waterworks and the electric light and power system, or either of them; provided, however, that should the money on hand in said Water and Light Reserve Fund at any time aggregate less than \$250,000, it shall be the duty of the council to annually transfer 25% of the net earnings of the Public Utility Department to this fund until the monies on hand in said fund shall again be not less than \$250,000.

Chapter XII

GENERAL PROVISIONS

Section 12.01 Official Publication. The council shall annually at its first meeting of the year designate a legal newspaper of general circulation in the city as its official newspaper in which shall be published ordinances and other matters required by law to be so published as well as such other matters as the council may deem it in the public interest to have published in this manner.

Section 12.02 Oath of Office. Every elected or appointed officer of the city shall, before entering upon the duties of his/her 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 Ortonville to the best of my judgment and ability."

Section 12.03 Official Bonds. The city clerk-administrator, city treasurer, and such other officers or employees of the city as may be specified by ordinance shall each, before entering upon the duties of his/her respective office or employment, give a corporate surety bond to the city as security for the faithful performance of his/her 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 in the discretion of the council. They shall be approved by the city council and filed with the city clerk-administrator. The provisions of state laws relating to official bonds not inconsistent with this charter shall be complied with. The premiums on such bonds shall be paid by the city.

Section 12.04 Conflicts of Interest. Except as otherwise permitted by law, no officer of the city who is authorized to take part in any manner in any contract or other financial matter concerning the city shall voluntarily have a personal financial interest in or personally benefit from such contract. Any city officer or employee who has a direct or indirect financial interest in {1} any contract with the city not prohibited by the foregoing provision or any law or {2} any other matter with the city, shall make known that interest and shall, except as permitted by MS471.88, refrain from voting upon or otherwise participating in his/her capacity as a city

officer or employee in the making or performance of such contract or in taking official action on such matter. Any city officer or employee who willfully conceals such a financial interest or willfully violates the requirements of this section shall be guilty of malfeasance in office or position and shall forfeit his/her office or position. Violation of this section with the express or implied knowledge of the person or corporation contracting with the city shall render the contract voidable by the city council or by a court of competent jurisdiction.

Section 12.05 Sale of Real Property. No real property of the city shall be disposed of except by ordinance. The net cash proceeds of any sale of the property shall be used to retire any outstanding indebtedness incurred by the city in the acquisition of or improvement to the property. Any remaining net proceeds shall be used to finance other improvements in the capital improvement budget or to retire any other bonded indebtedness.

Section 12.06 Vacation of Streets. The council may by ordinance approved by at least five members of the council vacate any street or alley or other public grounds thereof within the city. Such vacation may be made only after published notice and an opportunity for affected property owners and public to be heard, and upon such further terms and by such procedures as the council by ordinance may prescribe. A notice of completion of such proceedings shall be filed with the proper county officers in accordance with law.

Section 12.07 Prohibitions

{a} Activities Prohibited

{1} No person shall be appointed to or removed from, or in any way favored or discriminated against with respect to any city position or appointive city administrative office because of race, gender, age, sexual orientation, disability, religion, country of origin, or political affiliation.

{2} No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment under the provisions of this charter or the rules and regulations made there under, or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provisions, rules and regulations.

{3} No person who seeks appointment or promotion with respect to any city position or appointive city administrative office shall directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with his/her test, appointment, proposed appointment, promotion or proposed promotion.

{4} No person shall knowingly or willfully solicit or assist in soliciting any assessment, subscription or contribution for any political party or political purpose to be used in conjunction with any city election from any city officer or city employee.

{5} No city officer or city employee shall knowingly or willfully make, solicit or receive any contribution to the campaign funds of any political party or committee to be used in a city election or to campaign funds to be used in support of or opposition to any candidate for election to city office or city ballot issue. Further, no city employee shall knowingly or willfully participate in any aspect of any political campaign on behalf of or opposition to any candidate for city office. This section shall not be construed to limit any person's right to exercise rights as a citizen to express opinions or to cast a vote nor shall it be construed to prohibit any person from active participation in political campaigns at any other level of government.

{b} Penalties. Any person convicted of a violation of this section shall be ineligible for a period of five years following such conviction to hold any city office or position and, if an officer or employee of the city, shall immediately forfeit his/her office or position. The city council shall establish by ordinance such further penalties as it may deem appropriate.

Section 12.08 City to Succeed to Rights and Obligations. The city shall succeed to all the property, rights, and privileges, and shall be subject to all legal obligations of the city under the former charter.

Section 12.09 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 12.10 Pending Condemnations, Improvements, and Assessments. Any condemnation, improvement, or assessment proceeding in progress when this charter takes effect shall be continued and completed under the laws under which such proceedings were begun. All assessments made by the city prior to the time when this charter takes effect shall be collected as if this charter had not been adopted.

Section 12.11 Ordinances to Make Charter Effective. The council shall by ordinance, resolution, or other appropriate action take such steps as may be necessary to make effective the provisions of this charter.

Section 12.12 Present Officers Continued. The present officers of the city shall continue in their respective offices and functions and shall continue to govern the city under the laws and charter previously in effect until the officers provided for by this charter have been elected and qualify. They shall make such financial and other provisions for the fiscal year 2006 as will serve to carry on the government until a government has been set up under this charter, and they shall make provisions for the election of the first city council as provided in Chapter VI of this charter.

Section 12.13 Severability. If any provision of this charter is held invalid, the other provisions of the charter shall not be affected. If the application of the charter or any of its provisions to any person or circumstance is held invalid, the application of the charter and its provisions to other persons or circumstances shall not be affected.

Section 12.14 This charter becomes effective December 10, 2005.

CHARTER OF THE
CITY OF ORTONVILLE

PREAMBLE

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

Chapter I

POWERS OF THE CITY

Section 1.01. Name and Boundaries

The City of Ortonville, Big Stone 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. The city clerk-administrator shall keep in the city office an official city map identifying the current boundaries of the city, and such map shall be available to the public during regular office hours. The existing boundaries shall be continued until changed as provided by law.

Section 1.02. Powers of the City

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

Chapter II

FORM OF GOVERNMENT

Section 2.01. General Powers and Duties. The form of government established by this charter is the “Weak Mayor—Strong Council Plan.” Except as otherwise provided by law or this charter, all powers of the city are vested in the council. The city clerk-administrator shall be the head of the administrative branch of the city government and shall be responsible to the council for the proper administration of all city affairs.

Section 2.02. Council Composition and Election. The council shall be composed of a mayor and six council members who shall be qualified electors and who shall be elected at-large. Each council member shall serve for a term of four years and until his/her successor is elected and qualifies. The mayor shall serve for a term of four years and until a successor is elected and qualifies.

Section 2.03. Mayor. The mayor shall preside at meetings of the council and shall have a vote as a member. The council shall, at its annual meeting, choose from its members a president pro tem who shall hold office at the pleasure of the council. He/she shall serve as president in the mayor’s absence and as mayor in case of the mayor’s disability or absence from the city. 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, but he/she shall have no administrative duties.

Section 2.04. Salaries. The mayor and council members shall receive such compensation as is fixed by the council in accordance with law. The city clerk-administrator and all subordinate officers and employees of the city shall receive such salaries or wages as may be fixed by the council.

Section 2.05 Prohibitions

{a} No member of the council shall be appointed city clerk-administrator, nor shall any member hold any paid municipal office or employment under the city; and until one year after the expiration of his term as mayor or council member no former member shall be appointed to any paid appointive office or employment under the city which was created or the compensation for which was increased during his/her term as council member.

{b} Except for the purpose of inquiries, and investigations under Section 2.09, the council or its members shall deal with city officers and employees who are subject to the direction and supervision of the city clerk-administrator solely through the city clerk-administrator, and neither the council nor its members shall give orders to any such officer or employee, either publicly or privately.

Section 2.06. Vacancies. An elective office becomes vacant when the person elected or appointed thereto dies before taking office or fails to qualify, or the incumbent dies, resigns in writing filed with the city clerk-administrator, 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 by resolution declare the vacancy to exist and shall forthwith appoint an eligible person to fill the vacancy for the remainder of the unexpired term.

Section 2.07. Judge of Qualifications. The city council shall be the judge of the election and qualifications of its members, and of the grounds for forfeiture of their office. In order to exercise these powers, the council shall have power to subpoena witnesses, administer oaths and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in one or more newspapers of general circulation in the city at least one week in advance of the hearing.

Section 2.08. Secretary of the Council. The city clerk-administrator shall act as secretary of the council. He/she shall keep a journal of council proceedings and perform such other duties as this charter or the council may require. The council may designate any other city official or employee, except a member of the council, to act as secretary of the council.

Section 2.09. Investigations. The city council may make investigations into the affairs of the city and the conduct of any city department, office, or agency and for this purpose may subpoena witnesses, administer oaths, take testimony, and require the production of evidence. Failure or refusal to obey a lawful order issued in the exercise of these powers by the council shall be a misdemeanor punishable by a fine or by imprisonment.

Section 2.10. Procedure

{a} Meetings. The council shall meet regularly at least once each month at such times and places as the council may designate by rule. The first meeting in January of each year shall be considered the council’s Annual Meeting, at which time any newly elected members of the council shall assume their duties and appointments such as City Attorney, media outlets, etc. shall be made. The mayor or any three members of the council may call special meetings of the council upon at least twelve hours notice to each member and emergency meetings on less than twelve hours notice to each member and such reasonable public notice as may be prescribed by council rule in compliance with the laws of Minnesota. To the extent provided by law, all meetings of the council and its boards and committees shall be public and any citizen shall have access to the minutes and records of the council and its boards and committees at all reasonable times.

{b} Rules and Quorum. The council shall determine its own rules and order of business. Voting, except on procedural motions, shall be by either roll call or voice vote, and the ayes and nays shall be recorded in the

journal. Four members of the council shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the council. No action of the council, except as otherwise provided in the preceding sentence, shall be valid or binding unless adopted by the affirmative vote of a majority of the members of the council in attendance, and unless more than a simple majority is required by other sections of this charter or statute.

Section 2.11. 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 by law or this charter, an affirmative vote of a majority of all the members of the council shall be required for the adoption of all ordinances and resolutions.

Section 2.12. 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 Ortonville ordains." No ordinance except an emergency ordinance shall be adopted at the meeting at which it is introduced and at least three days shall elapse between its introduction and final passage.

Section 2.13. Emergency Ordinances. An emergency ordinance is an ordinance necessary for the immediate preservation of the public peace, health, morals, safety, or welfare in which the emergency is defined and declared in a preamble and the ordinance is adopted by a vote of at least five members of the council.

Section 2.14. 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.

Section 2.15. Signing and Publication of Ordinances and Resolutions. Every ordinance or resolution passed by the council shall be signed by the mayor, attested by the city clerk-administrator, and filed and preserved by him/her. Every ordinance shall be published at least once in the official newspaper. To the extent and in the manner provided by law an ordinance may incorporate by reference a statute, state administrative rule, or regulation of Minnesota, a code, or ordinance or part thereof without publishing the material referred to in full.

Section 2.16. 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 adopted by the voters of the city shall take effect immediately upon its adoption or at such later date as it specifies.

Section 2.17. 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 amending ordinance or resolution shall set forth in full each section or subdivision to be amended and shall indicate by appropriate type or symbols matter to be omitted or added.

Section 2.18. Revision and Codification of Ordinances. The city may revise, rearrange, and codify its ordinances with such additions and deletions as may be deemed necessary. The ordinance code may be published in book, pamphlet, or continuously revised loose-leaf form and copies shall be made available by the council at the office of the city clerk-administrator for general distribution to the public free or for a reasonable charge. Publication in such a code shall be a sufficient publication of any ordinance provision not previously published if a notice that copies of the codification are available at the office of the city clerk-administrator is published in the official newspaper for at least two successive weeks.

Section 2.19. Boards, Committees and Commissions. There shall be no separate administrative board of health, library board, or any other administrative board or commission except for the administration of a function jointly with another political subdivision. The council shall itself be and perform the duties and exercise the powers of such boards and commissions provided for by statute. The council may establish boards, committees or commissions to advise the council with respect to any municipal function or activity, to investigate any subject of interest to the city, or to perform quasi-judicial functions.

Chapter III

CITY CLERK-ADMINISTRATOR

Section 3.01 The City Clerk-Administrator. The city clerk-administrator shall be the chief administrative officer of the city. He/she shall be chosen by the council solely on the basis of training, experience, executive and administrative qualifications. He/she need not be a resident of the city at the time of appointment but may reside outside the city while in office only with the approval of the council. The city clerk-administrator shall be appointed for an indefinite term and may be removed at any time by an affirmative vote of a majority of the council, but after he/she has served as city clerk-administrator for one year, he/she may demand written charges and a public hearing on the charges before the council prior to the date when final removal takes effect. After the hearing, if one is demanded, the council shall have unlimited discretion either to reinstate the city clerk-administrator or make removal final. Pending the hearing and removal, the council may suspend the city clerk-administrator from office. With the approval of the council, the city clerk-administrator may designate some properly qualified person to perform the duties of the city clerk-administrator during his/her absence or disability or while the office is vacant.

Section 3.02 Powers and Duties of the City Clerk-Administrator

{a} The city clerk-administrator shall be responsible to the council for the administration of the city's affairs and shall have the powers and duties set forth in the following subparagraphs. He/she shall:

- {1} See that this charter and the laws, ordinances, and resolutions of the city are enforced, shall keep the public records, have custody and disburse the public funds, and administer the city's affairs as the council may prescribe.
- {2} Direct and supervise all departments, offices, and agencies of the city, except as otherwise provided by law or charter.
- {3} Attend all meetings of the council and may take part in discussion but not vote; but the council may, at its discretion, exclude him/her from any meeting at which his/her removal is considered.
- {4} Recommend to the council for adoption such measures as he/she deems necessary for the welfare of the people and the efficient administration of the city's affairs.
- {5} Keep the council fully advised on the financial condition and needs of the city, and he/she shall, along with the Budget and Levy Committee, prepare and submit to the council the annual budget and capital program.
- {6} Submit to the council and make available to the public a complete report on the finances and administrative activities of the city at the end of each fiscal year.
- {7} Perform such other duties as are prescribed by charter or may be required by the council.

{b} He/she may be designated to act as secretary of the council and also as treasurer.

Section 3.03 Administrative Organization. The city council shall at all times have an Administrative Code providing for a complete plan of administrative organization and management of the city government and creating in conformity with the express provisions of this charter such departments, divisions, boards, and funds as the city may deem advisable. Except as established by the provisions of this charter, the city council may by ordinance adopted by five-sevenths vote of all council members amend the Administrative Code or adopt a new Administrative Code, but no such change in the Administrative Code shall be made in such manner as to affect any rights of the city or the time and manner of payment of any obligations due to or by the city with respect to any funds established by the Administrative Code. No power or duty conferred by this charter upon a particular office or agency shall be transferred to any other.

Section 3.04 Subordinate Officers. There shall be a deputy city clerk and such other officers subordinate to the city clerk-administrator as the council may establish by ordinance. The deputy city clerk shall be subject to the direction of the city clerk-administrator. The council may by ordinance abolish offices or departments which have been created by ordinance and it may combine the duties of various offices as it may see fit.

Section 3.05 Purchases and Contracts. The city clerk-administrator shall be the chief purchasing agent of the city. All city purchases and contracts shall be made or let by the city clerk-administrator when the amount involved does not exceed that amount as designated by ordinance. All other purchases shall be made and all other contracts let by the council after the recommendation of the city clerk-administrator has first been obtained. Contracts shall be made in compliance with the State of Minnesota municipal contracting law, and whenever competitive bids are so required, the contract shall be let to the lowest responsible bidder. All contracts, bonds, and instruments of any kind to which the city is a party shall be signed by the mayor and the city clerk-administrator on behalf of the city and shall be executed in the name of the city. The council may by ordinance adopt further regulations for the making of bids and letting of contracts.

Chapter IV

DEPARTMENTS, OFFICES, AND AGENCIES

Section 4.01. General Provisions

{a} Creation of Departments. The city council may establish city departments, offices, or agencies in addition to those created by this charter and may prescribe the functions of all departments, offices, and agencies. No function assigned by this charter to a particular department, office, or agency may be discontinued or, unless this charter specifically so provides, assigned to any other.

{b} Direction by city clerk-administrator. All departments, offices, and agencies under the direction and supervision of the city clerk-administrator shall be administered by an officer appointed by the city council and subject to the direction and supervision of the city clerk-administrator. With the consent of the council, the city clerk-administrator may serve as the head of one or more such departments, offices, or agencies or may appoint one person as the head of two or more of them.

Section 4.02. City Attorney

{a} Appointment. There shall be a city attorney of the city appointed by the city council annually at the first meeting in January.

{b} Role. The city attorney shall serve as chief legal advisor to the council, the city clerk-administrator, and all city departments, offices and agencies; shall represent the city in all legal proceedings; and shall perform any other duties prescribed by state law, by this charter or by ordinance.

Section 4.03. Land Use, Development, and Environmental Planning

{a} Consistent with all applicable federal and state laws with respect to land use, development, and environmental planning, the city council shall:

{1} Designate an agency or agencies to carry out the planning function and such decision-making responsibilities as may be specified by ordinance;

{2} Adopt a comprehensive plan and determine to what extent zoning and other land use control ordinances must be consistent with the plan;

{3} Determine to what extent the comprehensive plan and zoning and other land use ordinances must be consistent with regional plan{s}; and

{4} Adopt development regulations, to be specified by ordinance, to implement the plan.

{b} The designated agency, the city clerk-administrator, and the mayor and council shall seek to act in cooperation with other jurisdictions and organizations in their region to promote integrated approaches to regional issues.

Chapter V

TAXATION AND FINANCIAL MANAGEMENT

Section 5.01. Council to Control Finances. The council shall have full authority over the financial affairs of the city. It shall provide for the collection of all revenues and other assets, the auditing and settlement of accounts, and the safekeeping and disbursement of public monies.

Section 5.02. Fiscal Year. The fiscal year of the city shall begin on the first day of January and end on the last day of December.

Section 5.03. Budget. The budget shall provide a complete financial plan of all city funds and activities for the ensuing fiscal year and, except as required by law or this charter, shall be in such form as the city clerk-administrator deems desirable or the city council may require for effective management and an understanding of the relationship between the budget and the city's strategic goals. The budget shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year. It shall indicate in separate sections:

{a} The proposed income and expenditures for current operations during the ensuing fiscal year, detailed for each fund by department or by other organization unit, and program, purpose and activity, method of financing such expenditures, and methods to measure outcomes and performance related to the goals.

{b} The anticipated income and expense, profit and loss for the ensuing year for each utility or other enterprise fund or internal service fund operated by the city. For any fund, the total of proposed expenditures shall not exceed the total of estimated income plus carried forward fund balance exclusive of reserves.

5.04. Council Action on Budget

{a} 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. The council shall adopt the budget not later than September 15 by a resolution which shall set forth the total for each budgeted fund and each department with such segregation as to objects and purposes of expenditures as the council deems necessary for purposes of budget control. The council shall also adopt a

resolution levying the amount of taxes provided in the budget and the city clerk-administrator shall certify the tax resolution to the county auditor in accordance with law not later than September 15. 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.

{b} The city council shall publish the general summary of the budget and a notice stating:

{1} The times and places where copies of the budget are available for inspection by the public.

{2} The time and place, not less than two weeks after such publication, for a public hearing on the budget if required by law.

{c} After the public hearing, the city council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for an estimated cash deficit, provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than total estimated income.

{d} As used in this Chapter, the term "publish" means to print in the contemporary means of information sharing, which includes but is not limited to, one or more newspapers of general circulation in the city, and, if available, in a web site.

Section 5.05. System of Taxation. Subject to 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 5.06. Amendments after Adoption

{a} Supplemental Appropriations. If during or before the fiscal year the city clerk-administrator certifies that there are available for appropriation revenues in excess of those estimated in the budget, the city council by ordinance may make supplemental appropriations for the year up to the amount of such excess.

{b} Emergency Appropriations. To address a public emergency affecting life, health, property or the public peace, the city council may make emergency appropriations. Such appropriations may be made by emergency ordinance in accordance with the provisions of Section 2.13. To the extent that there are no available unappropriated revenues or a sufficient fund balance to meet such appropriations, the council may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid or refinanced as long-term debt not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.

{c} Reduction of Appropriations. If at any time during the fiscal year it appears probable to the city clerk-administrator that the revenues or fund balances available will be insufficient to finance the expenditures for which appropriations have been authorized, the city clerk-administrator shall report to the city council without delay, indicating the estimated amount of the deficit, any remedial action taken by the city clerk-administrator and recommendations as to any other steps to be taken. The council shall then take such further action as it deems necessary to prevent or reduce any deficit and for that purpose it may by ordinance reduce or eliminate one or more appropriations.

{d} Transfer of Appropriations. At any time during or before the fiscal year, the city council may by resolution transfer part or all of the unencumbered appropriation balance from one department, fund, service, strategy or organizational unit to the appropriation for other departments or organizational units or a new appropriation. The city clerk-administrator may transfer funds among programs within a department, fund, service, strategy or organizational unit and shall report such transfers to the council in writing in a timely manner.

{e} Limitation; Effective Date. No appropriation for debt service may be reduced or transferred, except to the extent that the debt is refinanced and less debt service is required, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

Section 5.07. Administration and Fiduciary Oversight of the Budget. The city clerk-administrator 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 a sufficient unexpended balance left after the appropriation. No officer or employee of the city shall place any order or make any purchase except for a purpose and to the amount authorized in the budget resolution. Any obligation incurred by any person in the employ of the city for any purpose not authorized in the budget resolution or for any amount in excess of the amount authorized 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 5.08. Funds. There shall be maintained in the city treasury a general fund and such other funds as may be required by this charter, statute, ordinance, or resolution. Except as restricted by this charter, the council may, by ordinance or resolution, make inter-fund loans or transfers, except from trust and agency funds, as it may deem necessary and appropriate.

Section 5.09. City Indebtedness. Except as provided in this charter, 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 this charter. Except in the case of obligations for which an election is not required by this charter or 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.

Section 5.10. Debt Limitation. No bonds of the city shall be issued whereby its bonded indebtedness would be made to exceed four per cent {4%} of the market value of the taxable property in the city or the maximum allowed by law, whichever is greater, including monies and credits; provided that certificates of indebtedness or bonds issued before or after the adoption of this charter shall not be included in or counted as a part of such bonded indebtedness if, {1} held in a sinking fund maintained by the city; or {2} issued for the acquisition, equipment, purchase, construction, maintenance, extension, enlargement or improvement of streets, telephone lines, water, lighting, heat and power plants, or any other public convenience from which a revenue is or may be derived, owned and operated by the city, or the acquisition of property needed in connection therewith, or the construction of public drainage ditches or the acquisition of lands for, or for the improvement of streets, parks or other public improvements, to the extent that they are payable from the proceeds of assessments levied upon property specially benefited by such ditches or improvements; or {3} issued for the creation or maintenance of a permanent improvement revolving fund; or {4} for the purpose of anticipating the collection of general taxes for the year in which they are issued. Bonds may be issued by ordinance adopted by five-sevenths vote of all council members within the limits prescribed above, and the city may issue certificates of indebtedness or bonds to any limit prescribed therein, without the approval of voters, if such issue be for either extending, enlarging or improving water, lighting, or heat and power plants owned and operated by the city, or of acquiring property needed in connection therewith, or for the purpose of funding floating indebtedness incurred by the city before the adoption of this charter, or for any municipal purposes or improvements in respect to which the city is authorized by any special or general law to incur indebtedness or issue certificates of indebtedness or bonds at the time of the adoption of this charter.

Section 5.11. Anticipation Certificates. At any time after January 1 the council may issue certificates of indebtedness in anticipation of state and federal aids and the collection of taxes levied the previous year for any fund and not yet collected. The total amount of certificates issued against any fund for any year together with interest thereon until maturity shall not exceed the total of state and federal aids and current taxes due to the fund and uncollected at the time of issuance. Such certificates shall be issued on such terms and conditions as the council may determine, but they shall become due not later than April 1 of the year following their issuance. The proceeds of the tax levied and such state or federal aids as the city council 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 5.12. Emergency Debt Certificates. If in any year the receipts from taxes or other sources should from some unforeseen cause become insufficient for the ordinary expenses of the city, or if any calamity or other public emergency necessitates the making of extraordinary expenditures, the council may by ordinance issue, on such terms and in such manner as the council determines, emergency debt certificates to run not to exceed three years. As required by law a tax sufficient to pay principal and interest on such certificates with the margin required by law shall be levied. The ordinance authorizing an issue of such emergency debt certificate shall state the nature of the emergency and be approved by at least five members of the council. It may be passed as an emergency ordinance.

Section 5.13. Capital Program

{a} Submission to City Council. The city clerk-administrator shall prepare and submit to the city council a multi-year capital program no later than three months before the final date for submission of the budget.

{b} Contents. The capital program shall include:

- {1} A list of all capital improvements and other capital expenditures which are proposed to be undertaken during the fiscal years next ensuing, with appropriate supporting information as to the necessity for each;
- {2} Cost estimates and recommended time schedules for each improvement or other capital expenditure;
- {3} Method of financing upon which each capital expenditure is to be reliant;
- {4} The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

The above shall be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

Section 5.14. City Council Action on Capital Program

{a} Notice and Hearing. The city council shall publish a general summary of the capital program and a notice stating:

{1} The times and places where copies of the capital program are available for inspection by the public, and

{2} The time and place, not less than two weeks after such publication, for a public hearing on the capital program.

{b} Adoption. The city council by resolution shall adopt the capital program with or without amendment after the public hearing and on or before the 15th day of August, or earlier if required by state statute.

Section 5.15. Independent Audit. The city council shall provide for an independent audit of all city accounts and may provide for more frequent audits, as it deems necessary.

Section 5.16. Public Records. Copies of the budget, capital program, independent audits, and appropriation and revenue ordinances shall be public records.

**Chapter VI
ELECTIONS**

Section 6.01. City Elections

{a} Regular Elections. The regular city election shall be held on the first Tuesday after the first Monday in November of even-numbered years and every 2 years thereafter. The city clerk-administrator shall give at least two weeks published notice of the time and place of holding such election and of the officers to be elected, but failure to give such notice shall not invalidate the election.

{b} Special Elections. The council may by resolution order a special election and provide all means for holding it. The city clerk-administrator shall give at least two weeks published notice of a special election. The procedure at such election shall conform as nearly as possible to that prescribed for other city elections.

Section 6.02. Procedure at Elections. Subject to this charter and applicable state laws, the council may by ordinance further regulate the conduct of municipal elections. Except as otherwise provided by this charter and supplementary ordinances, general state laws on elections shall apply to municipal elections.

Section 6.03. Registered Voter Defined. All citizens legally registered under the constitution and laws of the state of Minnesota to vote in the city shall be registered voters in the city within the meaning of this charter.

Section 6.04. Filing for Office. No earlier than 10 weeks or later than 8 weeks before the municipal election, any voter of the city qualified under the state constitution for elective office may, by filing an affidavit and paying a filing fee of \$2.00 to the city clerk-administrator, have his/her name placed on the municipal primary ballot or, if there is no primary election, on the municipal election ballot.

Section 6.05. Methods of Electing Council Members. In order to align council member and mayoral terms of office with the even-year election feature of Section 6.01{a} of this charter, the following procedures will be followed:

{a} The November 2007 election for the 3 council member positions expiring in January 2008 shall be filled by the 3 candidates receiving the greatest number of votes, and they shall serve for a term of three years.

{b} The 3 council member and mayor positions expiring in January 2010 shall be filled by the 3 council member candidates and mayoral candidate receiving the greatest number of votes in the November 2009 election, and they shall serve for a term of three years.

{c} Commencing thereafter at the next regular election and at all subsequent elections all council members and the mayor shall be elected for four-year terms.

**Chapter VII
REFERENDUM**

Section 7.01 General Voter Authority. The voters of the city shall have the right, in accordance with this charter, to require ordinances to be submitted to a vote by the process known as referendum.

Section 7.02 Petitions. A referendum shall be initiated by a petition signed by registered voters of the city equal in number to 15 percent of the registered voters 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. Each petition shall be substantially in the following form:

REFERENDUM PETITION

Proposing the repeal of an Ordinance entitled " _____ " {or part of an Ordinance entitled " _____ " which part reads as follows: { _____ .}}

A copy of said Ordinance is hereto attached.

The proposed repeal is sponsored by the following committee of voters:

- | | <u>Name</u> | <u>Address</u> |
|----|-------------|----------------|
| 1. | | |
| 2. | | |

- 3.
- 4.
- 5.

The undersigned qualified voters of the City of Ortonville, understanding the nature of the measure hereto attached and believing it to be detrimental to the welfare of the city, petition the council for its repeal or submission to the voters for approval or rejection.

Name/Signature of Voter

Address

Each signer shall sign his/her name and give his/her street address. Each separate page of the petition shall have appended to it a certificate, verified by oath, that each signature is the genuine signature of the person whose name it purports to be. The person making the certificate shall be a resident of the city. Any person whose name appears on a petition may withdraw his/her name by a statement in writing filed with the city clerk-administrator before the city clerk-administrator advises the council of the sufficiency of the petition.

Section 7.03 Determination of Sufficiency. Immediately upon receipt of the petition, the city clerk-administrator shall examine the petition as to its sufficiency and report to the council within 20 days. Upon receiving the report the council shall determine by resolution the sufficiency of the petition.

Section 7.04 Disposition of Insufficient Petition. If the council determines that the petition is insufficient or irregular, the city clerk-administrator 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-administrator shall file the petition in his/her office and notify the sponsoring committee. The final finding that the petition is insufficient or irregular shall not prejudice the filing of a new petition for the same purpose nor shall it prevent the council from referring the ordinance to the voters at the next regular or special election at its option.

Section 7.05 Suspension of Ordinance and Election. 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 by the council, 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 VIII

PUBLIC IMPROVEMENTS AND SPECIAL ASSESSMENTS

Section 8.01 Power to Make Improvements and Levy Assessments. The city may make any type of public improvement not forbidden by law and levy special assessments to pay all or any part of the cost of such improvements as are of a local character. The total assessments for any local improvement may not exceed the cost of the improvement, including all costs and expenses connected therewith, with interest. No assessment shall exceed the benefits to the property.

Section 8.02 Assessments for Services. The Council may provide by ordinance that the cost of city services to streets, sidewalks, or other public or private property may be assessed against property benefited and collected in the same manner as special assessments.

Section 8.03 Local Improvement Procedures. When the city undertakes any local improvement to which the state local improvement code applies, it shall comply with the provisions of that law. The council may by ordinance prescribe the procedure to be followed in making any other local improvement and levying assessments therefor.

Chapter IX

EMINENT DOMAIN

Section 9.01 Acquisition of Property. The city may acquire, by purchase, gift, condemnation, or otherwise, any property, either within or without its boundaries, that may be needed by the city for any public purpose. In acquiring property by exercising the power of eminent domain, the city shall proceed according to Minnesota Statutes, Chapter 117 or other applicable law.

Chapter X

FRANCHISES

Section 10.01 Franchises Required. Except as otherwise provided by law, no person, firm, or corporation shall place or maintain any permanent or semi-permanent fixtures in, over, upon, or under any street or public place for the purpose of operating a public utility or for any other purpose, without a franchise therefor from the city. A franchise shall be granted only by ordinance, which shall not be an emergency ordinance. Every ordinance granting a franchise shall contain all the terms and conditions of the franchise. The grantee shall bear the costs of

publication of the franchise ordinance and shall make a sufficient deposit with the city clerk-administrator to guarantee publication before the ordinance is passed.

Section 10.02 Term. No exclusive or perpetual franchise shall ever be granted. No franchise for a term exceeding twenty years shall be effective until approved by a majority of the electors voting thereon.

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

Section 10.04 Power of Regulation Reserved. Subject to any applicable law the council may by ordinance reasonably regulate and control the exercise of any franchise, including the maximum rates, fares, or prices to be charged by the grantee. No franchise value shall be included in the valuation of the grantee's property in regulating utility rates, fares, or prices under any applicable law, ordinance, or regulation or in the 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 XI

PUBLIC OWNERSHIP AND OPERATION OF UTILITIES

Section 11.01 Public Utility Department. The public water works; electric light and power system; sanitary sewer system; health services system, including the municipal hospital, municipal nursing home, and municipal medical clinic building; municipal airport; municipal golf course, including golf clubhouse and golf cart sheds; municipal swimming pool; municipal library; and any other public utility or public convenience {MS 475.52} from which a revenue is or may be derived, whether now or hereafter owned and operated by the city, shall constitute one department of the city, known as the "Public Utility Department," and the city council shall have general management and control thereof with full power to do all things necessary for the proper construction, operation, maintenance, improvement, acquisition, extension, and repair of such utilities.

Section 11.02 Regulations and Rates. Rates to be charged for all services, materials, labor or benefits furnished by any such public utility, including charges to be made for service or benefits furnished to the city as a whole or any of its departments; rules and regulations necessary to properly regulate furnishing such service and secure prompt payment of bills; the method by which the city may acquire and collect liens upon property for unpaid bills; and such other rules and regulations as may be necessary and penalties for violation of any rules and regulations; and the manner and extent to which the city shall operate such public utilities and furnish service outside the corporate limits of the city shall be established or changed by resolution.

Section 11.03 Revenue Warrants. It shall be the duty of the council to see that rates are adequate to provide funds to properly operate and maintain and to pay interest and principal on any indebtedness which may be incurred for capital expenditures for the construction, improvement, acquisition, extension and repair of such public utilities. To provide funds necessary for capital expenditures the council shall have power by resolution to authorize the issuance of Revenue Warrants, which shall be payable solely from the net revenues of the Public Utility Department, and the city shall be expressly relieved by the terms thereof from any obligation to levy, collect, use or apply any taxes or monies received from taxation to the payment of either principal or interest on such Revenue Warrants, except for the payment of service rendered to or benefits received by the city or any of its departments. Such resolution shall fix the maximum amount of Revenue Warrants thereby authorized; describe in general terms the nature of the capital expenditures for which they are to be issued; and may contain covenants determining what shall constitute net revenues of the Public Utility Department, whether all or part of the net revenues shall be pledged, and such other provisions as the council may deem necessary. Such Revenue Warrants shall bear interest at a rate not to exceed the maximum rate allowed by law, payable annually or semi-annually, and shall mature at such time or times, be in such form and be sold under such terms as the council may by resolution deem in the best interest of the city. The council shall have power by resolution to issue Refunding Revenue Warrants to refund outstanding Revenue Warrants whenever monies from the net revenues pledged are insufficient to meet any maturing Revenue Warrants or interest or at the optional or callable dates of such Revenue Warrants and each issue of Refunding Revenue Warrants shall constitute the same charge or lien on the net revenues of the Public Utility Department as do the warrants refunded.

Section 11.04 Lease of Public Utilities. The council may by ordinance lease to any person, firm, or corporation upon terms deemed advantageous to the city, any of the utilities of the city except the public water works, electric light and power system, and the sanitary sewer system, for a term not to exceed ten years and may renew such lease for additional periods not to exceed ten years.

Section 11.05 Sale of Public Utility. No public utility now or hereafter owned by the city shall be sold or otherwise disposed of by the city unless the full terms of the proposed sale or other disposition are embodied in an ordinance passed by the council and approved by two-thirds of the voters voting thereon at a general or special

election. Any sale, lease or abandonment of a water works or light plant shall be subject, in addition, to the requirements of state law.

Section 11.06 Water and Light Reserve Fund. A separate fund, to be known as "Water and Light Reserve Fund," shall be maintained. It shall be the duty of the council to make provision for such fund in the Administrative Code in accordance with this section of the charter. No transfer shall ever be made from the Water and Light Reserve Fund to any other fund whereby monies on hand in said fund shall be reduced below \$250,000, and no transfer shall ever be made from such fund to any other fund except by ordinance. The council shall have power to use any of the monies in the Water and Light Reserve Fund for the purpose of making repairs or improvements to the public waterworks and the electric light and power system, or either of them; provided, however, that should the money on hand in said Water and Light Reserve Fund at any time aggregate less than \$250,000, it shall be the duty of the council to annually transfer 25% of the net earnings of the Public Utility Department to this fund until the monies on hand in said fund shall again be not less than \$250,000.

Chapter XII

GENERAL PROVISIONS

Section 12.01 Official Publication. The council shall annually at its first meeting of the year designate a legal newspaper of general circulation in the city as its official newspaper in which shall be published ordinances and other matters required by law to be so published as well as such other matters as the council may deem it in the public interest to have published in this manner.

Section 12.02 Oath of Office. Every elected or appointed officer of the city shall, before entering upon the duties of his/her 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 Ortonville to the best of my judgment and ability."

Section 12.03 Official Bonds. The city clerk-administrator, city treasurer, and such other officers or employees of the city as may be specified by ordinance shall each, before entering upon the duties of his/her respective office or employment, give a corporate surety bond to the city as security for the faithful performance of his/her 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 in the discretion of the council. They shall be approved by the city council and filed with the city clerk-administrator. The provisions of state laws relating to official bonds not inconsistent with this charter shall be complied with. The premiums on such bonds shall be paid by the city.

Section 12.04 Conflicts of Interest. Except as otherwise permitted by law, no officer of the city who is authorized to take part in any manner in any contract or other financial matter concerning the city shall voluntarily have a personal financial interest in or personally benefit from such contract. Any city officer or employee who has a direct or indirect financial interest in {1} any contract with the city not prohibited by the foregoing provision or any law or {2} any other matter with the city, shall make known that interest and shall, except as permitted by MS471.88, refrain from voting upon or otherwise participating in his/her capacity as a city officer or employee in the making or performance of such contract or in taking official action on such matter. Any city officer or employee who willfully conceals such a financial interest or willfully violates the requirements of this section shall be guilty of malfeasance in office or position and shall forfeit his/her office or position. Violation of this section with the express or implied knowledge of the person or corporation contracting with the city shall render the contract voidable by the city council or by a court of competent jurisdiction.

Section 12.05 Sale of Real Property. No real property of the city shall be disposed of except by ordinance. The net cash proceeds of any sale of the property shall be used to retire any outstanding indebtedness incurred by the city in the acquisition of or improvement to the property. Any remaining net proceeds shall be used to finance other improvements in the capital improvement budget or to retire any other bonded indebtedness.

Section 12.06 Vacation of Streets. The council may by ordinance approved by at least five members of the council vacate any street or alley or other public grounds thereof within the city. Such vacation may be made only after published notice and an opportunity for affected property owners and public to be heard, and upon such further terms and by such procedures as the council by ordinance may prescribe. A notice of completion of such proceedings shall be filed with the proper county officers in accordance with law.

Section 12.07 Prohibitions

{a} Activities Prohibited

{1} No person shall be appointed to or removed from, or in any way favored or discriminated against with respect to any city position or appointive city administrative office because of race, gender, age, sexual orientation, disability, religion, country of origin, or political affiliation.

{2} No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment under the provisions of this charter or the rules and regulations made there under, or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provisions, rules and regulations.

- {3} No person who seeks appointment or promotion with respect to any city position or appointive city administrative office shall directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with his/her test, appointment, proposed appointment, promotion or proposed promotion.
- {4} No person shall knowingly or willfully solicit or assist in soliciting any assessment, subscription or contribution for any political party or political purpose to be used in conjunction with any city election from any city officer or city employee.
- {5} No city officer or city employee shall knowingly or willfully make, solicit or receive any contribution to the campaign funds of any political party or committee to be used in a city election or to campaign funds to be used in support of or opposition to any candidate for election to city office or city ballot issue. Further, no city employee shall knowingly or willfully participate in any aspect of any political campaign on behalf of or opposition to any candidate for city office. This section shall not be construed to limit any person's right to exercise rights as a citizen to express opinions or to cast a vote nor shall it be construed to prohibit any person from active participation in political campaigns at any other level of government.

{b} Penalties. Any person convicted of a violation of this section shall be ineligible for a period of five years following such conviction to hold any city office or position and, if an officer or employee of the city, shall immediately forfeit his/her office or position. The city council shall establish by ordinance such further penalties as it may deem appropriate.

Section 12.08 City to Succeed to Rights and Obligations. The city shall succeed to all the property, rights, and privileges, and shall be subject to all legal obligations of the city under the former charter.

Section 12.09 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 12.10 Pending Condemnations, Improvements, and Assessments. Any condemnation, improvement, or assessment proceeding in progress when this charter takes effect shall be continued and completed under the laws under which such proceedings were begun. All assessments made by the city prior to the time when this charter takes effect shall be collected as if this charter had not been adopted.

Section 12.11 Ordinances to Make Charter Effective. The council shall by ordinance, resolution, or other appropriate action take such steps as may be necessary to make effective the provisions of this charter.

Section 12.12 Present Officers Continued. The present officers of the city shall continue in their respective offices and functions and shall continue to govern the city under the laws and charter previously in effect until the officers provided for by this charter have been elected and qualify. They shall make such financial and other provisions for the fiscal year 2006 as will serve to carry on the government until a government has been set up under this charter, and they shall make provisions for the election of the first city council as provided in Chapter VI of this charter.

Section 12.13 Severability. If any provision of this charter is held invalid, the other provisions of the charter shall not be affected. If the application of the charter or any of its provisions to any person or circumstance is held invalid, the application of the charter and its provisions to other persons or circumstances shall not be affected.

Section 12.14 This charter becomes effective December 10, 2005.