

ARLINGTON CITY COUNCIL
MEETING MINUTES
OCTOBER 20, 2008

The meeting was called to order at 6:30 p.m., Mayor Kreft presiding.

Members present: Mayor Kreft, Borchert, Griep (arrived late), Reetz, Vrklan, Wills

Members absent: None

Also present: Administrator Jaunich, Financial Advisor Sweeney, Police Chief Rovinsky, Engineer Hawbaker, Kurt Menk

Motion by Griep, seconded by Wills, and passed by unanimous vote to approve the agenda as presented.

Motion by Reetz, seconded by Wills, and passed by unanimous vote to approve the consent agenda as follows:

- A) Approval of the October 6th Regular Meeting Minutes
- B) Approval of the Bills
- C) Approve Utility Easement agreement with Randall and Marlin Petzel for \$1,000.

Mayor Kreft recessed the regular meeting to hold a public hearing.

Mayor Kreft called to order the public hearing related to the Utility Extensions for the properties located at 23319 and 23189 State Hwy 5. It was noted that Engineer Hawbaker and resident John Griep were present. Engineer Hawbaker summarized the details of the project. Adm. Jaunich commented that he had spoken with Hutch Co-Op and they didn't really comment either way regarding the notice they were sent, except that they would like to keep their private water well as they tend to utilize a great amount of water in the fall in conjunction with their fertilizer needs. Griep questioned if the proposed 1 inch line could be plastic versus copper. Hawbaker said it could, which would reduce the cost of the project a little bit.

Motion by Reetz, seconded by Borchert, and passed by unanimous vote to adjourn the public hearing.

Mayor Kreft adjourned the public hearing and reconvened the regular meeting.

Discussion was held on whether or not to seek competitive bids or try to add this project onto another utility extension project that was due to start very soon (awarded at a previous meeting). It was suggested to contact the two contractors (lowest bids) from the previous utility extension project for bids on the basis that the project was under \$50,000 and the City did not have to advertise for bids.

Councilmember Vrklan introduced the following resolution and moved for its adoption:

RESOLUTION NO. 47-2008

A RESOLUTION ORDERING IMPROVEMENT

WHEREAS, a resolution of the City Council adopted the 6th day of October, 2008, fixed a date for a Council hearing on the extension of water and sewer utilities on Highway 5 to the properties at 23319 and 23189 State Highway 5; and

WHEREAS, ten days' mailed notice and one week published notice of the hearing was given, and the hearing was held on the 20th day of October, 2008, at which time all persons desiring to be heard were given an opportunity to be heard thereon.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF ARLINGTON, MINNESOTA:

1. Such improvement is necessary, cost-effective, and feasible as detailed in the feasibility report.

2. Such improvement is hereby ordered as proposed in the council resolution adopted on the 6th day of October, 2008.
3. Bolton and Menk is hereby designated as the engineer for this improvement. The engineer shall prepare plans and specifications for the making of such improvement, and is hereby authorized to place an advertisement for bids.
4. The City Council declares its official intent to reimburse a portion of its costs of the improvement through assessments in accordance to the City's Assessment Policy.
5. The City Council wishes to solicit bids from Chard Tiling & Juul Contracting for this project.

The motion for the adoption of the foregoing resolution was duly seconded by Councilmember Reetz and upon poll being taken thereon the following voted in favor thereof: Borchert, Reetz, Vrklan, Wills; and the following voted against the same: None; and the following abstained from voting: Griep; and the following were absent: None.

Adopted by the City Council of the City of Arlington this 20th day of October, 2008.

Signed: /s/ James R. Kreft
Mayor

Attested: /s/ Matthew Jaunich
City Administrator/Clerk/Treasurer

Whereupon said resolution was declared duly passed and adopted and was signed by the Mayor whose signature was attested by the City Administrator.

It was noted that there were no citizens present to address the Council on non-agenda items.

The following announcements were reviewed:

- 1) City Council Candidate Forum Thursday, October 23rd at 7:00 pm
- 2) Budget Workshop Wednesday, October 29th at 5:30 pm
- 3) Comprehensive Plan Open House Monday, November 10th at 5:00 pm
- 4) Sibley County Municipalities Association Meeting Thursday, November 13th in Gaylord.

The Council reviewed the following communications:

- 1) September Financial Reports
- 2) City Administrator Project List.

Police Chief Rovinsky presented the Police Department's report (call log). It was noted that they had responded to 94 calls for the month of September. Rovinsky commented that the Department has been notified that a Level III Sex Offender was being released and moving to the Hamburg area. Rovinsky commented that he would be attending the public meeting scheduled for October 29th in Hamburg so he will be able to answer questions at the meeting scheduled in Arlington on November 7th. Mayor Kreft requested that some information be included in the City's monthly newsletter to the residents. Rovinsky commented that they were following some leads with regards to the recent rash of vandalism.

Financial Advisor Sweeney was present to discuss the process for Issuance and Sale of General Obligation Equipment Certificates related to the energy efficiency upgrades the City is planning to do. He reviewed the process involved, along with defining the difference between a competitive sale and negotiating sale.

Councilmember Reetz introduced the following resolution and moved for its adoption, which motion was seconded by Councilmember Borchert:

RESOLUTION NO. 51-2008

**RESOLUTION AUTHORIZING ISSUANCE AND SALE OF GENERAL OBLIGATION
EQUIPMENT CERTIFICATES, SERIES 2008A**

BE IT RESOLVED by the City Council of the City of Arlington, Minnesota (the City), as follows:

SECTION 1. PURPOSE. It is hereby determined to be in the best interests of the City to issue its General Obligation Equipment Certificates, Series 2008A, in the principal amount of \$660,000 (the Bonds), pursuant to Minnesota Statutes, Section 412.301 and Chapter 475, to finance various items of capital equipment.

SECTION 2. TERMS OF PROPOSAL. David Drown Associates, Inc., financial consultant to the City, is hereby authorized, pursuant to Minnesota Statutes, Section 475.60, Subdivision 2, paragraph (9), to solicit proposals for the Bonds on behalf of the City on a negotiated basis.

SECTION 3. SALE MEETING. This Council shall meet at the time and place shown in the offering materials prepared by the financial consultant for the purpose of considering proposals for the purchase of the Bonds and of taking such action thereon as may be in the best interests of the City.

Upon vote being taken thereon, the following voted in favor thereof: Vrklan, Reetz, Griep, Wills, Borchert and the following voted against the same: None.

Adopted by the City Council of the City of Arlington this 20th day of October, 2008.

Signed: /s/ James R. Kreft
Mayor

Attested: /s/ Matthew Jaunich
City Administrator/Clerk/Treasurer

Whereupon said resolution was declared duly passed and adopted and was signed by the Mayor whose signature was attested by the City Administrator.

The second reading of Ordinance No. 229 – An Ordinance Repealing and Replacing Section 16 of Ordinance 169, The Arlington Zoning Ordinance, Relating to the Board of Zoning Appeals and Adjustments was held. Adm. Jaunich noted that Attorney Arneson and the Planning & Zoning Committee had reviewed the ordinance and were recommending approval.

Motion by Griep, seconded by Wills, and passed by unanimous vote to approve Ordinance No. 229 – An Ordinance Repealing and Replacing Section 16 of Ordinance 169, The Arlington Zoning Ordinance, Relating to the Board of Zoning Appeals and Adjustments as follows:

ORDINANCE NO. 229

AN ORDINANCE REPEALING AND REPLACING SECTION 16 OF ORDINANCE 169, THE ARLINGTON ZONING ORDINANCE, RELATING TO THE BOARD OF ZONING APPEALS AND ADJUSTMENTS

- I. THE CITY COUNCIL OF THE CITY OF ARLINGTON, MINNESOTA TO PROMOTE THE PUBLIC SAFETY, HEALTH, AND WELFARE, HEREBY ORDAINS SECTION 16 OF ORDINANCE 169 SHALL BE REPEALED AND REPLACED BY THE FOLLOWING:

SUBDIVISION 1. CREATION AND MEMBERSHIP.

A Board of Zoning Appeals and Adjustment is hereby established and vested with such administrative authority as is hereinafter provided. The Planning Commission shall serve as the Board of Zoning Appeals and Adjustment. The Board shall serve without compensation.

SUBDIVISION 2. POWERS.

- A. Board of Zoning Appeals and Adjustment decisions shall be advisory to the council who will make the final determination.
- B. The Board of Zoning Appeals and Adjustment shall hear requests for variances from the literal provisions of the zoning ordinance in instances where their strict enforcement would cause undue hardship. The Board shall make a recommendation to the Council to either grant or deny the variance. Such recommendation shall include findings of fact as required under Subdivision 3 of this Section.
- C. The Board of Appeals and Adjustment shall also hear requests for reconsideration of zoning applications where it is alleged there has been an error in the administration of the zoning ordinance.
- D. The Board of Adjustment and Appeals may recommend the imposition of conditions to ensure compliance and to protect adjacent properties.

- E. The Board of Adjustment and Appeals shall not recommend and the City Council shall not permit as a variance any use of land that is not allowed under this Ordinance for the property in the zone where the affected person's land is located.
- F. The Board of Adjustment and Appeals shall have such other additional powers as are given to Boards of Adjustment and Appeals by Minnesota law.

SUBDIVISION 3. FINDINGS OF FACT.

A variance shall not be recommended for approval by the Board or granted by the Council unless the Board first considers the following standards.

- A. An 'undue hardship' exists. "Undue hardship" as used in connection with the granting of a variance shall mean all three of the following conditions exist: the property in question cannot be put to a reasonable use if used under conditions allowed by this Ordinance, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and the variance, if granted, will not alter the essential character of the locality. The Board/Council shall make a written finding of fact that supports each of the aforementioned conditions exist.
- B. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the Ordinance.
- C. Undue hardship also includes, but is not limited to, inadequate access to direct sunlight for solar energy systems.
- D. Variances shall be granted for earth sheltered construction as defined in MN Stat. 216C.06, Subd. 14 as may be amended, when in harmony with the zoning ordinance.

SUBDIVISION 4. PROCEDURE.

- A. Application for any adjustment permissible under the provisions of this Section shall be made to the Zoning Administrator, in the form of a written application for a building permit or for a permit to use the property or premises as set forth in the application. An application for an adjustment shall be accompanied by payment of a fee set by resolution of the City Council from time to time, in addition to the regular building permit fee.
- B. The Zoning Administrator shall review the application for completeness. If the application is found not be complete, the Zoning Administrator shall specify in writing, within fifteen (15) days of the filing of the application, what items are needed to make the application complete.
- C. Upon receipt of a complete application, such officer shall set a time and place for a public hearing before the Board of Zoning Adjustment on such application. At least ten (10) days before the date of the hearing, a notice of the hearing shall be published once in the official newspaper.
- D. In recommending any adjustment or variance under the provisions of this Section, the Board of Zoning Adjustment shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of the regulation to which the adjustment or variance is granted, as to light, air, and the public health, safety, comfort, convenience and general welfare.
- E. No permit shall be issued under the provisions of this Section unless and until a recommendation of the Board of Zoning Adjustment, as aforesaid, is approved and confirmed by the City Council. In reporting its recommendation of the City Council, the Board of Zoning Adjustment shall report its findings with respect thereto and all facts in connection therewith, and shall specifically and fully set forth any adjustment or variance granted and the conditions designated. Upon receipt of such report, the City Council either shall by resolution approve and confirm the decision, with or without changes, whereupon the permit as applied for may be issued; or shall refuse to approve and confirm the decision. In all cases in which adjustments or variances are granted under the provisions of this Section, the Board of Zoning Adjustment and the City Council shall require such evidence and guarantees as it may deem necessary to insure compliance with the conditions designated in connection therewith.
- F. If an adjustment or variance is granted under this Section, the applicant shall have six (6) months from the date the application is approved in which to comply with all conditions as set out in said adjustment or variance approval. If the conditions are not complied with within said six (6) month term, then the approval shall be considered void and the application process would have to be initiated again. The City will not be considered to be under any obligation to approve any such new application, simply on the basis that a prior application had been approved.

II. BE IT FURTHER RESOLVED THIS ORDINANCE SHALL BECOME EFFECTIVE UPON PUBLICATION.

Adopted by the City of Arlington on the 20th day of October, 2008.

Signed: /s/ James R. Kreft
Mayor

Attested: /s/ Matthew Jaunich
City Administrator/Clerk/Treasurer

The second reading of Ordinance No. 230 – An Ordinance Amending the City Charter was held. It was noted that this ordinance would become effective 90 days after publication. It was also noted that the Charter Committee's term length was for four years (per State Statute).

Motion by Vrklan, seconded by Borchert, and passed by unanimous vote to approve Ordinance No. 230 – An Ordinance Amending the City Charter as presented. (*See attached*).

The second reading of Ordinance No. 231 – An Ordinance Establishing a Planning Agency for the City of Arlington was held. The Planning & Zoning Committee had reviewed the ordinance and was recommending it be approved.

Motion by Reetz, seconded by Griep, and passed by unanimous vote to approve Ordinance No. 231 – An Ordinance Establishing a Planning Agency for the City of Arlington as presented. (*See attached*).

The first reading of Ordinance No. 232 – An Ordinance Amending Ordinance 205, Creating a Cemetery Committee and Setting Operating Rules for said Committee was held. Mayor Kreft commented that the ordinance was being revised to change the number of members and their term length on the Cemetery Committee. Adm. Jaunich noted that the ordinance would become effective January 1, 2009.

The first reading of Ordinance No. 233 – An Ordinance Amending Ordinance 202, Creating A Police Committee and Setting Operating Rules for said Committee was held. Adm. Jaunich noted that the ordinance was being revised to change the term length of the members on the Police Committee; the number of members was staying the same.

Councilmember Vrklan introduced the following resolution and moved for its adoption:

RESOLUTION NO. 48-2008

A RESOLUTION APPROVING ORDINANCE NO. 229 ENTITLED “AN ORDINANCE REPEALING AND REPLACING SECTION 16 OF ORDINANCE 169, THE ARLINGTON ZONING ORDINANCE, RELATING TO THE BOARD OF ZONING APPEALS AND ADJUSTMENTS” AND APPROVING SUMMARY PUBLICATION THEREOF.

WHEREAS, the City of Arlington Zoning Ordinance was placed into effect several years ago; and

WHEREAS, the Arlington Planning Commission routinely reviews portions of the Zoning Ordinance to ensure it is up to date; and

WHEREAS, the Planning Commission identified Section 16 of the Arlington Zoning Ordinance relating to the Board of Zoning Appeals and Adjustments as in need of updating; and

WHEREAS, the Planning Commission has studied the proposed text repealing and replacing existing Section 16 of the Arlington Zoning Ordinance; and

WHEREAS, the Planning Commission held a public hearing on Ordinance 229 on October 2, 2008 pursuant to proper publication and posting; and

WHEREAS, The City Council of the City of Arlington held a first reading of Ordinance 229 at its regular meeting on October 6, 2008; and

WHEREAS, The City Council of the City of Arlington approved the second reading and adoption of Ordinance 229 at its regular meeting on October 20, 2008; and

WHEREAS, The City Council of the City of Arlington has determined the publication of the title and a summary of Ordinance 229 entitled “An Ordinance repealing and replacing Section 16 of Ordinance 169, the Arlington Zoning Ordinance, relating to the Board of Zoning Appeals and Adjustments” would clearly inform the public of the intent and effect of Ordinance 229; and

WHEREAS, Prior to the publication of the title and summary, the Council has read and approved the text of the summary and determined that it clearly informs the public of the intent and effect of the Ordinance.

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Arlington hereby adopts Ordinance 229 as presented (*see above*); and

BE IT FURTHER RESOLVED that the City Administrator shall cause a summary of Ordinance No. 229 to be published in the City's official newspaper at the earliest practicable date; and

BE IT FURTHER RESOLVED, the summary publication shall read as follows:

"On October 20, 2008 the City Council of the City of Arlington approved Ordinance 229, entitled, 'An Ordinance repealing and replacing Section 16 of Ordinance 169, the Arlington Zoning Ordinance, relating to the Board of Zoning Appeals and Adjustments.' The Ordinance in its entirety is available for review and/or photocopying during regular office hours at the City of Arlington, 204 Shamrock Lane, Arlington, Minnesota 55307. The Ordinance provides for the Board of Zoning Appeals and Adjustments (BZA). The Arlington Planning Commission is established as the BZA. The BZA provides a recommendation to the City Council which acts on requests to the BZA for variances to established standards, appeals to the literal interpretation of the zoning ordinance, and/or similar requests."

The motion for the adoption of the foregoing resolution was duly seconded by Councilmember Wills and upon poll being taken thereon the following voted in favor thereof: Borchert, Griep, Reetz, Vrklan, Wills; and the following voted against the same: none; and the following abstained from voting: none; and the following were absent: none.

Adopted by the City Council of the City of Arlington this 20th day of October, 2008.

Signed: /s/ James R. Kreft
Mayor

Attested: /s/ Matthew Jaunich
City Administrator/Clerk/Treasurer

Whereupon said resolution was declared duly passed and adopted and was signed by the Mayor whose signature was attested by the City Administrator.

Councilmember Griep introduced the following resolution and moved for its adoption:

RESOLUTION NO. 49-2008

**A RESOLUTION AUTHORIZING SUMMARY PUBLICATION OF ORDINANCE 230 ENTITLED
"AN ORDINANCE AMENDING THE CITY CHARTER OF THE CITY OF ARLINGTON"**

WHEREAS, the City Council of Arlington routinely passes ordinances to promote the public safety, health and welfare of the residents of Arlington; and

WHEREAS, the City Council initiated an ordinance (230) to amend the current City Charter, last amended in 1982; and

WHEREAS, the City Council held a first reading of Ordinance 230 at its regular meeting on October 6, 2008; and

WHEREAS, the City Council approved the second reading and adoption of Ordinance 230 at its regular meeting on October 20, 2008; and

WHEREAS, the City Council of the City of Arlington has determined the publication of the title and a summary of Ordinance 230 entitled "An Ordinance amending the City Charter of the City of Arlington" would clearly inform the public of the intent and effect of Ordinance 230; and

WHEREAS, prior to the publication of the title and summary, the Council has read and approved the text of the summary and determined that it clearly informs the public of the intent and effect of the Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the City Administrator shall cause a summary of Ordinance No. 230 to be published in the City's official newspaper at the earliest practicable date.

BE IT FURTHER RESOLVED, the summary publication shall read as follows:

“On October 20, 2008, the City Council of the City of Arlington approved Ordinance 230 entitled ‘An Ordinance amending the City Charter of the City of Arlington’ The Ordinance in its entirety is available for review and/or photocopying during regular office hours at the City of Arlington, 204 Shamrock Drive, Arlington, Minnesota 55307. The purpose of the Ordinance is to amend sections 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, and 13 of the current charter, and to add new sections to the Charter addressing Law Enforcement and the Charter Commission.”

The motion for the adoption of the foregoing resolution was duly seconded by Councilmember Borchert and upon poll being taken thereon the following voted in favor thereof: Borchert, Griep, Reetz, Vrklan, Wills; and the following voted against the same: none; and the following abstained from voting: none; and the following were absent: none.

Adopted by the City Council of the City of Arlington this 20th day of October, 2008.

Signed: /s/ James R. Kreft
Mayor

Attested: /s/ Matthew Jaunich
City Administrator/Clerk/Treasurer

Whereupon said resolution was declared duly passed and adopted and was signed by the Mayor whose signature was attested by the City Administrator.

Councilmember Griep introduced the following resolution and moved for its adoption:

RESOLUTION NO. 50-2008

A RESOLUTION APPROVING SUMMARY PUBLICATION OF ORDINANCE NO. 231 ENTITLED “AN ORDINANCE ESTABLISHING A PLANNING AGENCY FOR THE CITY OF ARLINGTON”

WHEREAS, the City of Arlington routinely reviews ordinance’s previously enacted to ensure such ordinances are up to date; and

WHEREAS, the City of Arlington identified Ordinance 114, approved on February 6, 1984 and entitled “An Ordinance establishing a Board to plan for the physical development of the City of Arlington and to advise the Council on administration of zoning and building ordinances” as in need of updating; and

WHEREAS, the City Council has studied the proposed text of Ordinance 231 which will repeal and replace Ordinance 114; and

WHEREAS, The City Council of the City of Arlington held a first reading of Ordinance 231 at its regular meeting on October 6, 2008; and

WHEREAS, The City Council of the City of Arlington approved the second reading and adoption of Ordinance 231 at its regular meeting on October 20, 2008; and

WHEREAS, The City Council of the City of Arlington has determined the publication of the title and a summary of Ordinance 231 entitled “An Ordinance establishing a Planning Agency for the City of Arlington” would clearly inform the public of the intent and effect of Ordinance 231; and

WHEREAS, Prior to the publication of the title and summary, the Council has read and approved the text of the summary and determined that it clearly informs the public of the intent and effect of the Ordinance.

NOW THEREFORE BE IT RESOLVED that the City Administrator shall cause a summary of Ordinance No. 231 to be published in the City’s official newspaper at the earliest practicable date; and

BE IT FURTHER RESOLVED, the summary publication shall read as follows:

“On October 20, 2008 the City Council of the City of Arlington approved Ordinance 231, entitled, ‘ An Ordinance establishing a Planning Agency for the City of Arlington.’ The Ordinance in its entirety is available for review and/or photocopying during regular office hours at the City of Arlington, 204 Shamrock Lane, Arlington, Minnesota 55307. The Ordinance provides for the Planning Commission which functions in an advisory capacity to the City Council on issues related to land use and development within the City. The Planning Commission includes seven members and a Zoning Administrator. The Zoning Administrator is an ex-officio member of the Planning Commission. The Planning Commission is responsible for preparing and recommending actions on items relating to the Comprehensive Plan, the Zoning Ordinance, and the Subdivision Ordinance.”

The motion for the adoption of the foregoing resolution was duly seconded by Councilmember Wills and upon poll being taken thereon the following voted in favor thereof: Borchert, Griep, Reetz, Vrklan, Wills; and the following voted against the same: none; and the following abstained from voting: none; and the following were absent: none.

Adopted by the City Council of the City of Arlington this 20th day of October, 2008.

Signed: /s/ James R. Kreft
Mayor

Attested: /s/ Matthew Jaunich
City Administrator/Clerk/Treasurer

Whereupon said resolution was declared duly passed and adopted and was signed by the Mayor whose signature was attested by the City Administrator.

The Council reviewed the Community Center Use and Rental Policy that Adm. Jaunich had drafted.

Motion by Vrklan, seconded by Wills, and passed by unanimous vote to approve the Community Center Use & Rental Policy as presented (*see attached*).

Adm. Jaunich commented on the new Federal Trade Commission ruling regarding the implementation of an Identity Theft Prevention Program. He stated that the program must be in place by November 1st. He presented a draft policy for the Council to review. He stated that most of the information was obtained directly from MMUA.

Motion by Wills, seconded by Reetz, and passed by unanimous vote to approve the Identity Theft Prevention Program as presented (*see attached*), which will become effective November 1st.

Discussion was held on the Meyerson Development. Adm. Jaunich explained that the development (primarily the vacant lots) was not being maintained and the development is most likely going into foreclosure. He asked the Council to authorize City Staff to mow the lawn (at a minimum) and then the City can assess the costs (including staff time) to the development (against the individual lots). Adm. Jaunich commented that the Park Dedication Fees are still due and was working on this with Attorney Arneson.

Motion by Vrklan, seconded by Griep, and passed by unanimous vote to give the Bank responsible for the Meyerson Development, one more week to address the issues, if it doesn't comply authorize the City Staff to clean up (take care of issues) and then assess the costs (including staff time) to the respective properties.

The Council reviewed some information about the Area Transportation Partnership Grant. Adm. Jaunich commented that the Council has discussed the idea of a trail system to the Sportsman's Park and was looking for ways to help fund such a project and stated that this grant could be used. He explained that the money is not necessarily available now (as it is a very competitive program), but he advised the Council to do the initial work now, so that when the money does become available the City will be ready to move the project forward.

It was the consensus of the Council to set Monday, November 10th at 6:15 pm as the date to hold a Special Council Meeting to canvas the 2008 General Election (local) results.

Griep commented that the SMC Board had its master facilities plan meeting. He stated that there are certain items that must be changed, such as the HVAC system, and certain items that aren't immediate, it is just deciding what order to do them all in and how to pay for them.

Mayor Kreft commented that they are nearing the end of the 5 Mayor Goals set at the beginning of the year.

Motion by Reetz, seconded by Vrklan, and passed by unanimous vote to adjourn the meeting at 8:01 pm.

City Administrator Matthew Jaunich

Mayor James R. Kreft

ORDINANCE NO. 230

THE CITY COUNCIL OF THE CITY OF ARLINGTON, MINNESOTA TO PROMOTE THE PUBLIC SAFETY, HEALTH AND WELFARE, HEREBY ORDAIN AS FOLLOWS:

The City Charter of the City of Arlington is hereby amended as to the following chapters and sections, which shall replace the original charter provisions as indicated, and which shall also replace the amendments to the charter previously enacted under City of Arlington Ordinance 105, where said Ordinance 105 conflicts with this ordinance. All other portions of the City Charter not amended herein shall remain in full force and effect.

This amendment has been conducted under the provisions of Minnesota Statute 410.12, Subd. 7, Amendment by Ordinance.

THE FOLLOWING AMENDMENTS ARE HEREBY ADOPTED:

**CHAPTER 2
POWERS – HOW EXERCISED**

Section 3. City Code. The existing departments, divisions, boards, and funds of the City Government are continued except as expressly changed by the provisions of this Charter until the same shall be changed by the adoption of a City Code as hereinafter provided. The City Council shall by ordinance adopt a City Code providing a complete plan of administrative organization and management of the City Government and creating in conformity with the express provisions of the Charter such departments, divisions, boards and funds as they may deem advisable. Thereafter, except as established by the provisions of this Charter, the City Council may by ordinance adopted by a four-fifths vote of all the Council Members, amend the City Code. No such change in the City Code shall be made in such manner as to affect any rights of the City or the time and manner as to obligations due to or by the City with respect to any funds established by the City Code.

**CHAPTER 3
EXECUTIVE OFFICERS AND ELECTIONS**

Section 1. Elective Officers and Terms. The elective officers of the City shall be a Mayor and five Council Members, all to be elected at large. All elective officers shall be qualified voters of the City. The first Council Members and Mayor shall hold offices for three years, provided that at the first election the Council Member receiving the highest number of votes shall be elected for a term of three years, the two Council Members receiving the next highest number of votes shall hold office for the term of two years and the two Council Members receiving the smallest number of votes shall hold office for the term of one year. Subsequent terms shall be staggered terms of four years with elections held every two years. The Mayor and two Council Members will be on the ballot in one election with the other three Council Members on the ballot in the succeeding election.

Section 2. Oath of Office. Every officer of the City, elected or appointed, shall before entering upon the duties of the office taken and subscribe an oath of office in substantially the following form: "I do solemnly swear to support the Constitution of the United States of America, the Constitution of the State of Minnesota, and the Charter of the City of Arlington, and to discharge faithfully the duties devolving upon me as _____ of the City of Arlington to the best of my judgment and ability."

Section 3. Mayor and Council Members Not To Hold Other City Offices. No member of the City Council shall hold any municipal office or employment under the City, except as authorized by State Statute. Until one year after the expiration of his/her term as Mayor or Council Member, no former Mayor or Council Member shall be appointed to any paid appointive office or employment by the city which office or employment was created or the emolument of which was increased during his/her term as Mayor or Council Member.

Section 4. Compensation of Officers. The Council shall fix the salary of all officers elected or appointed under this Charter and the salary so fixed shall not be changed, increased or diminished during the term for which such officer is elected or appointed except that the Council may by four-fifths vote of all the Council Members authorize a change in salary by ordinance, when in their judgment, such change is warranted. No change in salary shall take effect until after the next succeeding regular city election.

Section 5. Elections. City elections shall be held on the first Tuesday following the first Monday in November in evenly numbered years, and the officers elected shall take office on the first called meeting in January next following such election.

Section 7. Vacancies. Whenever a vacancy occurs in any of the elective or appointive offices specifically provided in the Charter, such vacancy shall be filled for the unexpired term of such official by resolution of the Council. In addition, the Council shall have power by a resolution adopted by a four-fifths vote to declare that a vacancy exists in any elective office by reason of the failure of such official to perform any of the duties of such office for a period of three months. For all elected officials, failure to perform duties is defined as being absent, without good cause, for six consecutive regular City Council Meetings. In the event that a vote is taken on declaring that a vacancy exists with a Council Member, the Mayor may vote. In the event that a vote is taken on declaring that a vacancy exists with the Mayor, the Mayor cannot vote.

**CHAPTER 4
EXECUTIVE AND ADMINISTRATIVE OFFICERS**

Section 1. The Mayor. The Mayor shall be recognized as the official head of the City for all ceremonial purposes, by the Governor for military purposes and for all other Mayoral duties as set by Minnesota State Law. It shall be his/her duty to see that the laws of the State, the provisions of this Charter and the Ordinances of the City are duly observed and enforced within the City and that all other officers of the City discharge their respective duties and to that end may institute and maintain on behalf of the City an appropriate action or proceeding against any delinquent officer.

Section 2. Vice Mayor. At its first regular meeting in January, Mayor shall, with the advice and consent of the Council, choose one of its members as Vice Mayor for the year. The Vice Mayor shall perform the duties of the Mayor during his/her absence or disability.

Section 3. City Administrator. The City Administrator shall be appointed by the Council by a resolution adopted by a four-fifths vote of all the Council Members. The City Administrator shall be the Chief Executive Officer of the City, responsible for the day-to-day activities of the City. The City Administrator shall be appointed solely on the basis of fiscal and administrative qualifications and need not, when appointed, be a resident of the City or State. At its first meeting in January, the Council shall appoint such City Administrator for a term of one year commencing on the date of appointment. The City Administrator may, with the advice and consent of the council, appoint a Deputy Clerk to assist in the performance of the administrative duties in his/her absence or disability.

The Administrator shall keep the corporate seal of the City and all papers and records thereof except as otherwise provided in this Charter or by the City Code, attend all meetings of the Council in person or by his/her Deputy Clerk and keep a record of all proceedings thereof. The City Administrator shall keep accounts showing the financial transactions of all departments of the City upon forms prescribed by him/her and approved by the Council. The City Administrator shall on or before the fifteenth day of each month prepare a summary statement of the revenues and expenses for the preceding month, detailed as to appropriations and funds in such manner as to show the exact financial condition of the City and each department, division and office thereof and submit the same to the Council at its regular meeting. The City Administrator shall from time to time give the Council such information and recommend such measures as deemed advantageous to the City. The City Administrator shall perform the duties imposed by the law of the State of Minnesota and such other duties as may be provided for in the City Code.

The City Administrator shall have the power to administer oaths and affirmations and take and certify acknowledgements in all cases in which the same are required or sanctioned by law.

The City Administrator shall also perform all the duties imposed upon the City Treasurer by law and shall present the financial records of the City to an independent auditor for audit at the end of each fiscal year. The Deputy Clerk shall countersign all checks.

Section 4. City Attorney. The Mayor shall, with the advice and consent of the City Council, appoint a City Attorney at the first regular Council meeting each January for a term of one year commencing on the date of appointment, who shall perform the duties imposed upon the City Attorney by State law and the City Charter and City Ordinance Code.

Section 5. Health Officer. The Council at its first regular meeting each January shall appoint a Health Officer for a term of one year commencing on the day of appointment, which shall perform the duties imposed upon Health Officers by State law and the City Charter and City Ordinance Code.

Section 6. Removal from Office of Appointed Officials. All appointive officials shall serve at the will and pleasure of the Mayor and City Council, and may be removed from office at any time.

CHAPTER 5 LAW ENFORCEMENT

Section 1. Police Department. There shall be a police department headed by a chief of police. This department shall have charge of the law enforcement function of the City, and such other public safety activities as assigned by the City Council, with the duty of preserving the public peace and upholding the laws of the City and of the State of Minnesota.

Section 2. Powers and Duties of the Chief of Police. The Chief of Police shall be responsible to and under the direct supervision of the City Administrator. The Chief of Police shall have supervision over all officers and members of the department, and shall have the powers and duties to see that the City Charter, ordinances, and resolutions and the laws of the State of Minnesota are enforced.

CHAPTER 6 COUNCIL MEETINGS, RESOLUTIONS, ORDINANCES AND REFERENDUM

Section 1. Council. The Council shall consist of the Mayor and five Council Members. The Mayor shall preside over its meetings, but shall have no vote except in case of a tie when he/she shall have the power to cast the deciding vote, in the case of a vote declaring a Council Member vacancy, and in the case of emergency ordinances where he shall have no power to veto.

The annual meeting of the Council shall be held on the first Monday in January each year at 6:30 p.m., at which time newly elected members of the Council shall assume their duties. Thereafter, regular Council meetings shall be held at such times as may be prescribed by ordinance, except that there shall be not less than one regular Council meeting each month, and that the time and manner of calling special Council meetings shall also be prescribed by ordinance. A majority of Council Members shall be a quorum

to do business, but a less number may adjourn from time to time. All legislative action shall be by ordinance except as otherwise provided by the laws of the State or by this Charter. The Council shall keep a minute book of its proceedings, which shall be public record; and every final vote upon the passage of all ordinances and resolutions shall be by yes and no and entered in the minute book. No ordinance shall be passed without the concurrence of a majority of the Council Members. All meetings of the Council shall be in conformance with the Minnesota Open Meeting Law. No ordinance or resolution shall contain more than one subject, which shall be clearly expressed in its title, and shall not be amended either after its introduction or passage so as to change its original subject or purpose.

Section 2. Ordinances. The enacting clause of all ordinances shall be "The City Council of the City of Arlington, Minnesota, does ordain". Every ordinance shall be presented in writing. Every ordinance except emergency ordinances shall be fully and distinctly read at two Council meetings, and at least three days shall elapse between the first and second readings thereof. Every ordinance shall be published once in the official newspaper of the City, or in the event that at any time there is no legal newspaper published in the City, shall be posted in three public places in the City. All ordinances, except emergency ordinances, shall take effect upon publication or posting.

Section 3. Emergency Ordinances. An emergency ordinance is an ordinance for the immediate preservation of the public peace, health or safety, in which the emergency is defined or declared in a preamble thereto and no emergency ordinances shall be passed without the concurrence of at least four Council Members. An emergency ordinance shall take effect immediately upon passage. No grant of any franchise, nor the adoption, amendment or repeal of a City Code shall be construed to be an emergency.

Section 4. Approval By Mayor. Every ordinance or resolution of the Council, except emergency ordinances, shall before it takes effect be presented to the Mayor for approval. If the Mayor approves it, the Mayor shall sign the same, but if the Mayor disapproves it, the Mayor shall return it to the City Administrator with objections thereto to be presented to the Council at its next regular meeting or at a special meeting called for that purpose. Upon the return of any ordinance or resolution by the Mayor, the question shall again be put upon its passage and, if upon reconsideration the same shall pass by a four-fifths vote of all the Council Members, it shall go into effect as if approved by the Mayor. If an ordinance or resolution is not returned by the Mayor within three business days after being presented to the Mayor, it will be considered approved.

Section 5. Power of Referendum. The qualified voters of Arlington reserve to themselves the power, in accordance with the provisions of this Charter, to bring a proposed ordinance before the voters, or to require that an existing ordinance be referred to the voters for approval or disapproval, through referendum. A question may be brought to the voters if a petition signed by qualified voters equaling fifteen percent of the total vote cast at the last regular City election or one hundred registered voters, whichever is greater, be filed with the City Administrator requesting that a proposed ordinance, or repeal or modification of an existing ordinance, be brought to a referendum vote.

Any five voters may form a Referendum Committee. More than one copy of the same referendum petition may be circulated as a part of a single petition, but each copy shall contain an affidavit signed by a member of the Referendum Committee that each signature thereon is the genuine signature of the person whose name it purports to be. Each petition shall be in substantially the following form:

REFERENDUM PETITION

Proposing the Passage of an Ordinance
Entitled _____

This petition 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 Arlington, understanding the nature of the measure attached hereto and believing it to be in the best interest and welfare of the City, petition the City Council for submission of said measure to the voters for approval or rejection:

NAME

ADDRESS

(1) _____

(2) _____

(3) _____

I, the undersigned member of the Referendum Committee, hereby verify that I personally witnessed the signatures appearing above and state that said signatures are the true signatures of said persons.

All copies of the petition shall be filed in the office of the City Administrator as one instrument. Within five days after the filing of the petition, the City Administrator shall ascertain by examination whether the petition is regular and has been signed by the required number of qualified voters. If the City Administrator finds the petition insufficient or irregular, he/she shall at once notify one or more of the Referendum Committee members stating the reasons for findings. The committee shall then be given ten days in which to file additional copies of the petition, or corrected petition. The Administrator shall present the petition or corrected petition, to the Council at its next regular meeting, certifying it if he/she finds it regular and sufficient. If the Administrator finds it irregular and insufficient; he/she must give reasons for finding it insufficient or irregular.

The City Council, at the regular meeting at which the petition is first presented or at the next following regular meeting, may in its own discretion vote upon passage of the proposed measure, whether it be new law or the repeal of an existing ordinance. If the Council passes the proposed measure as submitted in the petition without changing or amending any portion, then the petition shall be considered satisfied and a referendum shall not be held. If the City Council opposes the measure or if it takes no action upon the measure at the meeting at which the petition is presented or the next following regular Council meeting, then the Council shall immediately call an election to be held thereon, and if a majority of the votes cast are in favor of the question, the measure shall become law the day after the vote is held. If a majority of the votes cast on the question are opposed to the measure, then the measure shall be deemed to have failed and no referendum shall be held again on the same question or a substantially similar question during the twelve months next following the date on which the first referendum vote on the question was held, unless the City Council by a four-fifths vote authorizes a new referendum vote on the question within said twelve-month period.

**CHAPTER 7
PUBLIC UTILITIES**

Section 1. Public Utilities. All public utilities now or hereafter owned and operated by the City shall constitute one department of the city, known as the "Public Utilities Department". The Council shall have general management and control thereof with full power to do all things necessary for the proper operation, maintenance, improvement, acquisition, extension and repair of such public utilities. The term "Public Utility" as used herein includes any property whether located within or without the corporate limits of the City used or useful for the production, transmission, or distribution and sale of water, electric energy, gas energy, transportation, treatment and disposal of sewage, surface waters or any domestic, commercial or industrial wastes or garbage, together with and including any other public conveniences, enterprise or utility from which a revenue is or may be derived.

Section 2. Rates. Rates to be charged for all services 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 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 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 of the City Council.

Section 3. Capital Expenditures. It shall be the duty of the Council to see that public utility rates are adequate to provide funds to properly operate, maintain, and pay interest and principal on any indebtedness, which may be incurred for capital expenditures for the improvement, acquisition, extension and repair of such public utilities. To provide funds necessary for capital expenditures, the Council shall have powers by resolution to authorize the issuance of General Obligation/Revenue Bonds 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 moneys received from taxation to the payment of either principal or interest on such General Obligation/Revenue Bonds except for the payment of service rendered for health or other benefits received by the City as a whole or any of its departments. Such resolution shall fix the maximum amount of General Obligation/Revenue Bonds thereby authorized; described in general terms the nature of the capital expenditures for which they are 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 General Obligation/Revenue Bonds shall bear interest as set resolution of the council, but shall not exceed State usury limits. Interest shall be payable semiannually. The Council shall set the maturity date, form, and terms for such General Obligation/Revenue Bonds. The Council shall have power by resolution to issue Refunding Revenue Bonds to refund outstanding General Obligation/Revenue Bonds whenever moneys from the net revenues pledged are insufficient to meet any maturing General Obligation/Revenue Bonds or interest or at the optional or callable dates of

such General Obligation/Revenue Bonds and each issue of Refunding Bonds shall constitute the same charge or lien on the net revenues of the Public Utility Department as to the Warrants refunded.

Section 4. Method of Sale or Lease. No public utility now or hereafter owned by the City shall be sold, leased, or otherwise disposed of unless the full terms of the proposed sale, lease or other disposition thereof shall have been embodied in an ordinance passed by the Council and the proposition submitted to an election and approved by two-thirds vote of the voters voting on the question.

CHAPTER 8 FINANCE AND TAXATION

Section 1. General. The council shall have full authority over the financial affairs of the city. It shall provide for the collection of all revenues and other assets, settlement of accounts, and the safekeeping and disbursement of public monies. The council shall provide for an annual certified audit of the City's accounts. The fiscal year of the City shall be the calendar year.

Section 2. Tax Levy. Subject to the state constitution, and except as forbidden by it or by state law, the council shall have full power to provide by ordinance for a system of local taxation. This authority includes the power by ordinance to assess, levy, and collect taxes on all subjects or objects of taxation except as limited or prohibited by the state constitution, by this charter or by laws imposing restrictions upon the City irrespective of charter provisions.

Section 3. Submission of Budget. Annually the city administrator shall recommend and submit to the council a budget by September 1. The budget shall provide a complete financial plan for all city funds and activities for the ensuing fiscal year and, except as required by law or charter, shall be in such form as the city administrator deems desirable or the council may require.

Section 4. Council Action on Budget. The budget shall be considered by 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 by a resolution which shall set forth the total for each budgeted fund and each department with such segregation as to objects and purposes of expenditures as the council deems necessary for purposes of budget control. The council shall also adopt a resolution levying the amount of taxes provided in the budget and the city administrator shall certify the tax resolution to the county auditor in accordance with law. Adoption of the budget resolution shall constitute appropriations at the beginning of the fiscal year of the sums fixed in the resolution for the several purposes named.

Section 5. City Indebtedness. The City Council may issue and sell obligations for any municipal purpose in accordance with law and within the limitations prescribed by law. Except in the case of obligations for which an election is not required by this charter or by law, no such obligations shall be issued and sold without the approval of the majority of voters voting on the question at a general or special election.

CHAPTER 9 LOCAL IMPROVEMENTS

Section 1. Power to Make. The Council shall have power to make any local improvements deemed necessary for the welfare or convenience of the City and its inhabitants and assess the cost or such part thereof as they deem just against any property found benefited thereby. Any two or more local improvements may be made at the same time and as part of the same proceeding and the assessment therefore likewise levied and collected.

Section 2. How Initiated. Local improvement projects can be initiated two ways. 1) by a petition of owners of at least 35%, or an amount determined by City Ordinance, in frontage of the property abutting the proposed improvement. 2) by the City Council when, in its judgment, such action is required. A resolution ordering any improvements initiated by the Council or by owners of less than 35%, or an amount determined by City Ordinance, of abutting property owners requires a four-fifths majority vote of all members of the Council. A resolution ordering any improvements initiated by owners of not less than 35%, or an amount determined by City Ordinance, of abutting property owners requires a majority vote of all members of the Council.

The following is the general procedure followed by the City Council for all local improvement projects from initiation of such a project through certification of the assessment roll to the County Auditor.

1. Staff reviews petition or Developer's request for submission to Council.
2. Council accepts or rejects petition or request. If based upon a petition, the Council adopts a resolution declaring whether the required percentage of property owners has signed. If the petition or request is accepted, Council orders preparation of feasibility report.
3. City Engineer prepares feasibility report. The report shall be a preliminary evaluation whether the proposed improvement is necessary, cost-effective, and feasible and whether it should be made as proposed or in conjunction with another project. The report shall include an estimate of the cost of the improvement as proposed. Council may refer the report to the Planning and Zoning Commission.
4. Council accepts or rejects feasibility report. If accepted, Council orders public hearing on the improvements.
5. Staff posts and publishes hearing notice and mails notices to affected property owners as provided in Minnesota State Law.

6. Council conducts public hearing.
7. Within six (6) months of the hearing date, Council adopts or rejects resolution ordering improvement to be constructed and advertisement of bids. If adopted, the City Engineer and Staff prepares final plans, advertises for and opens bids as provided in Minnesota State Law, prepares bid tabulation, makes recommendation to City Council for award, and prepares proposed assessment roll. Bonds to finance project costs may be issued at any time after the improvements are ordered.
8. Council awards contract based on the bids received.
9. City Engineer supervises construction and prepares payments.
10. Council reviews proposed assessment roll and orders assessment hearing.
11. Staff publishes hearing notice, mails notice of hearing date and proposed assessments to the affected property owners as provided in Minnesota State Law.
12. Council conducts assessment hearing and adopts, revises, or rejects resolution determining the amount of the total expense the City will pay, if any, and establishing the assessment roll. If adopted, Council authorizes certification of the assessment to the County Auditor.
13. Staff certifies the assessment roll to the County Auditor.

Section 3. Local Improvement Ordinance. As soon as possible after this Charter takes effect, the Council shall prepare and adopt a complete Local Improvement Ordinance, which may be amended from time to time as other ordinances, covering procedure for preparations of plans and specifications; awarding contracts; use of day labor; preparation of assessment and share of cost which may be assessed to the City as a whole; hearing on and appeals from special assessment; supplemental assessment and re-assessment; and all other matters appropriate to the subject of local improvements and assessments. After the passage of such ordinance, all resolutions pertaining to local improvements shall conform to the provisions of such Local Improvement Ordinance. The Council shall have the power also to include as a part of such Local Improvement Ordinance the method by which Local Improvement Bonds may be issued to finance such work.

CHAPTER 10 EMINENT DOMAIN

(This chapter is renumbered from Chapter 9, without other text changes)

CHAPTER 11 FRANCHISES

Section 1. Defined. The word "Franchise" as used in this Charter shall be construed to include all privileges granted to any person, firm, association or corporation in, over, upon or under any of the highways or public places of the City, whether such privileges have been or shall hereafter be granted either by the City or by the State of Minnesota.

Section 2. Method of Granting. No franchise shall be granted except by resolution adopted by a majority vote of all Council Members and every resolution by which the Council shall propose to grant any franchise shall contain all terms and conditions of the franchise to be granted. No exclusive franchise shall ever be granted. No franchise shall be granted for a term exceeding twenty-five years.

Section 3. Long Term Contracts. The words "Long Term Contracts" shall be construed to mean and be limited to contracts for the purchase by the City or any of its departments of any materials or supplies including contracts for the purchase of electricity or services of other public utilities which run for a period of more than five years. No such long term contract shall be entered into until the same shall have been approved by resolution adopted by a majority vote of all the Council Members and, except in case of contracts whereby the City Council reserves the unconditional right to cancel and terminate such contract at any time after the expiration of a ten-year period, until such resolution approving the contract shall have been submitted at an election and approved by a majority of the voters voting on the question.

CHAPTER 12 ASSESSMENT OF PROPERTY

Section 1. City to Be Separate District. The City shall constitute a single assessment district separate and apart from any town within the boundaries of which any property within the City limits may be. The assessment of property within the City limits shall be made in the manner provided by the laws of the State for cities of the same class.

Section 2. Board of Equalization. The Board of Equalization shall consist of the Mayor and City Council and shall meet in a place designated by the County Assessor after April 1 of each year to equalize the assessment according to law. The Council may change the date of such equalization meeting from time to time by published resolution to conform to the general laws of the State.

CHAPTER 13 VACATION

Section 1. Vacation. The Council of the City of Arlington may by resolution vacate any street, alley, public grounds, public way or any part thereof, on its own motion or on petition of a majority of the owners of land abutting on the street, alley, public grounds, public way, or part thereof to be vacated. When there has been no petition, the resolution may be adopted only by a vote of four-fifths of all members of the Council. No such vacation shall be made unless it appears in the interest of the public to do so after a

hearing preceded by a two weeks published and posted notice. After a resolution of vacation is adopted, the Council shall prepare and present to the proper County officers a notice of completion of the proceedings in accordance with State law and City Ordinance.

**CHAPTER 14
CHARTER COMMISSION**

Section 1. Appointment. The City Council nominates, by resolution, the Charter Commission. The resolution nominating the charter commission is then sent to the district court, acting through the chief judge of the district, for appointment.

Section 2. Size. The Charter Commission shall consist of 15 qualified voters of the City.

**CHAPTER 15
MISCELLANEOUS PROVISIONS**

Section 1. Call For Bids—Official Bond—Penalties For Violation. The Council shall have power by ordinance to fix the manner in which the publicity shall be given to requests for bids the amount of bond to be given by officers of the City and penalties for any violation of this Charter or any Ordinance of the City.

Any administrative rule or regulation of any department of the State of Minnesota affecting the City, or any statute of the State of Minnesota, or any published code, specification, or regulation prepared by an official or unofficial organization for general circulation and use, may be adopted and incorporated by reference thereto in an ordinance and by marking one copy thereof as “Official Copy” and filing it for reference and inspection in the Office of the City Administrator, and the publication requirement of this Charter shall be as fully satisfied in such cases by this method as if the said material has been set forth in the ordinance in full.

Section 2. Present Rights Retained. The City shall succeed to all contracts and property rights and privileges and be subject to all legal obligations and terms of existing contracts and franchises existing at the time this Charter goes into effect.

Section 3. Services On City. When any suit or action shall be commenced against the City, service or process therein shall be made by leaving a copy thereof with the City Administrator or person in charge of the City Administrator’s Office and one copy with either the Mayor or Vice Mayor. It shall be the duty of the City Administrator to make such entries therein as are required to be entered by statute and forthwith inform the City Attorney and Council thereof.

This ordinance shall become effective 90 days after publication.

For City of Arlington

/s/ James R. Kreft
By James R. Kreft
Its Mayor

/s/ Matthew Jaunich
By Matthew Jaunich
Its City Administrator

ORDINANCE NO. 231

AN ORDINANCE ESTABLISHING A PLANNING AGENCY FOR THE CITY OF ARLINGTON

THE CITY OF ARLINGTON DOES HERE BY ORDAIN:

- I. ESTABLISHMENT OF PLANNING AGENCY. The Planning Agency shall consist of a planning department with the Planning Commission advisory to it. The Planning Commission shall function as a department advisory to the governing body and the municipal administration. The planning department may be provided with professional and/or administrative staff.
- II. COMPOSITION OF PLANNING COMMISSION. The Commission shall consist of seven members appointed by the Mayor, upon the advice of the City Council. The members shall be appointed in such sequence and for such terms so that each year hereafter two or three members' terms shall expire. The purpose of this is to set up a rotation so that two members shall come up for appointment for two consecutive years and three members shall come up for appointment every third year. Planning Commission members shall be appointed for terms of three years. A Planning Commission vacancy shall be filled by appointment by the Mayor, the appointment shall be effective for the duration of the unexpired portion of the term. Each member shall take an oath of office to faithfully discharge the duties of the office. Commissioners shall serve without compensation. The Zoning Administrator shall serve as ex officio member, without voting authority.
- III. PLANNING COMMISSION ORGANIZATION. The Commission shall elect a chairperson and vice-chairperson from its members for a term of one year. Operating expenses of the Commission shall be approved and appropriated by the City Council. The chairperson shall preside at all meetings. In the chairman's absence, the vice-chairperson shall preside. Four members shall constitute a quorum for the conduct of business.
- IV. PLANNING COMMISSION MEETINGS. The Commission will have at least one regular meeting during every three month period. The Commission shall adopt rules and by-laws for the transaction of business and shall keep a record of its meetings, resolutions, transactions, and findings, which shall be of public record.
- V. REPORTS. At the time(s) requested, but at least one time each year, the Planning Agency shall submit a report to the Council summarizing its work during the preceding year.
- VI. PLANNING COMMISSIONER MEETING ATTENDANCE. Any Planning Commission Member who misses three (3) consecutive regular or special meetings of the Board, or misses at least four (4) of the regular monthly meetings in any calendar year, may be considered an inactive member. The Mayor at his/her discretion may appoint a new commissioner to fill out the remaining term of the inactive member.
- VII. CONFLICTS OF INTEREST – PLANNING COMMISSION. The Commissioners may be called upon to vote on a matter affecting a neighbor, business competitor, or other situations which create a conflict of interest or the appearance of a conflict of interest. In such cases, the Commissioner shall use their own discretion in disqualifying themselves from taking part in the discussion or vote on the matter. If a Commissioner has a clear conflict of interest (i.e. has a financial interest in the matter or is an applicant or co-applicant in the matter) and does not remove him/herself from the consideration of the matter, the Chairperson shall have the power to remove said member from taking part in the discussion or vote on said matter.
- VIII. POWERS AND DUTIES OF PLANNING AGENCY. The Planning Agency shall have the powers and duties conferred upon it by this ordinance. They shall include:
 - a. Comprehensive Plan.
 - i. It shall be the function and duty of the Planning Agency to prepare and recommend adoption of a comprehensive City plan for the physical development of the City, including proposed public buildings, street arrangements and improvements, public utility services, parks, playgrounds, and other similar developments, and use of property, the density of population, and other matters relating to the physical development of the City.
 - ii. Hearings and Voting. Before recommending adoption of the comprehensive plan or any section of it or any substantial amendment thereof, the Commission shall hold at least one public hearing. The public hearing shall be preceded by public notice of the time and place of the hearing. The recommending of approval/denial of the plan or of any section or amendment thereof, shall be by resolution of the Commission. The Commission may, from time to time, initiate an amendment or addition to the plan or any section thereof, as herein provided, or the adoption of the original plan whenever changed conditions or further studies by the Commission indicate that such amendment or addition is necessary. The plan or any amendment thereof shall be adopted by Resolution of the City Council with a super-majority vote required.
 - iii. The Planning Commission shall periodically review the Comprehensive Plan, recommend necessary amendments and recommend to the Council reasonable and practical means of implementing the amendments.
 - b. Zoning and Subdivision Ordinances.

- i. The Planning Commission or the City Council may initiate amendments to existing land use and/or subdivision regulations for the City. Before recommending any amendment to the City Council, the Planning Commission shall hold at least one public hearing preceded by public notice.
 - ii. The Planning Agency shall exercise all authority delegated under the zoning ordinance and the subdivision ordinance.
 - iii. The Planning Agency shall review all zoning applications and subdivision requests and when required under ordinance shall recommend approval, approval with conditions, or disapproval, to the City Council. Such recommendations shall be based on conformity with the zoning ordinance and the general health, safety, and welfare of the City and its residents.
- c. Official Zoning Map.
- i. The Planning Commission may, and upon direction of the City Council shall prepare an update of the official zoning map of the platted and unplatted portions of the City.
 - ii. After such map has been prepared, the Planning Commission shall hold a public hearing on the proposed amendment preceded by proper public notice. It shall make a recommendation to the City Council which shall thereupon consider the map and may adopt it or any part of it with amendments as it deems advisable.
- d. Referral to Planning Commission. Change to regulations governing the use of land or platting of land adopted by the City Council shall be referred to the Planning Commission for report and/or recommendation thereon prior to the Council taking action on such changes. The establishment of regulations relating to use or platting of land shall be referred to the Planning Commission for report and/or recommendation prior to adoption by the City Council.
- e. Assume all other advisory responsibilities authorized by Minn. Stat. 462.354, et seq.
 - f. The Planning Commission shall serve as the Board of Appeals and Adjustments.
 - g. The Planning Agency shall participate with planning agencies of other political subdivisions in joint planning where matters of a common interest exist.
 - h. The Planning Agency shall assume other duties and responsibilities relating to planning and land use as may be delegated or assigned by the City Council.

IX. REPEALER. All ordinances or portions of ordinances inconsistent with this ordinance are hereby repealed.

X. EFFECTIVE DATE. This ordinance shall take effect upon publication.

For City of Arlington

/s/ James R. Kreft
By James R. Kreft
Its Mayor

/s/ Matthew Jaunich
By Matthew Jaunich
Its City Administrator



COMMUNITY CENTER USE & RENTAL POLICY

Council Approved/Effective: October 20, 2008

CITY OF ARLINGTON
204 Shamrock Drive, Arlington, MN 55307
507/964-2378 Fax: 507/964-5973
www.arlingtonmn.com - E-mail: cityhall@arlingtonmn.com

I. Introduction

Thank you for selecting the Arlington Community Center! The Arlington Community Center is operated and managed by the City of Arlington under the policies and guidelines established by the Arlington City Council. The Community Center also serves as the location of City Hall and is available for general community use.

The City Council recognizes the desirability of having the Community Center used as much as possible. This policy promotes the active use of the Community Center while establishing priorities for use of the facilities and outlining scheduling procedures and guidelines. It also sets reasonable rules and regulations for use of the facility. To clearly communicate this policy, we ask that you read this policy and abide by it.

II. Community Center Information

Building – In addition to City Hall, the community center contains a main room, which has 2 partition walls so it can be divided into 3 separate rooms; a fully equipped licensed kitchen with a walk-in cooler, large refrigerator unit, large freezer unit, dishwasher, stove and oven with griddle; a stage area of approximately 800 sq. ft.; storage rooms and a meeting room (Council Chambers). The Community Center has a total square footage of 14,785, is smoke free, air conditioned, completely handicap accessible, and can accommodate several small functions at one time or a single large event. In addition:

- 2 patios on the front of the building
- Unloading dock behind stage area
- Large rollup (garage) door for easy unloading
- Guest and seating for 550 with tables and chairs; 1,000 with just chairs
- 150+ parking stalls (2 lots, 8 handicap spaces)

Building Extras – In addition to renting the building, the city offers the following (some at a cost):

- 60 5 ft. round tables
- 14 8 ft. long banquet tables (rectangular)
- 2 6 ft. long tables (rectangular)
- 4 bars with pop dispensers
- 1 keg cooler (holds 3 kegs at one time)
- Rental of Dishes (9 piece place setting)
- Rental of Wine Glasses
- Electronic sign (rentable for special notices/events/celebration – free day of event)
- Sound system (includes: overhead speakers, CD player – holds 200 CD's, 3 microphones & stands, 1 cordless microphone)
- Upright piano
- Podium
- Internet access (hardwire)
- LCD projector (rental fee charged)
- Portable projection screen and 12' drop down screen
- Overhead projector
- Linen service
- 2 Christmas Trees (7' & 14')

III. Priorities for Use of the Community Center

This section of the policy identifies priority classifications for use of the Community Center and Council Chambers. For most instances, reservations for use of the Community Center and Council Chambers will be awarded on a first come, first serve basis. In the case that a conflict arises; below are the classifications in descending order of priority.

Main Room and Kitchen

Priority 1: *Public Emergency Activities* – In the event of public emergencies (mass immunizations, disaster relief, state of emergency declared), the Community Center may be needed to assist a State/Federal/County agency in recovery efforts. Any event (public, non-profit, private) may be cancelled by the City up to the time of use, when a public emergency is declared. In this circumstance, the City assumes no responsibility for any disruption a cancellation may cause. The City will refund any rental fees due to a cancellation for a public emergency. The City will attempt to notify the applicant immediately if cancellation is necessary.

- Priority 2: *Renters paying for the use of the Community Center – Any individual or group paying rental fees to use the Community Center. This includes events/meetings open to the public or private.*
- Priority 3: *Civic & non-profit groups and Ind. School District #2310 – Non-profit groups must provide proof of not-for-profit status.*
- Priority 4: *Business relating to the City of Arlington – City of Arlington sponsored events including Council and Committee meetings.*
- Priority 5: *Other Governmental Agencies*

Meeting Room/Council Chambers

- Priority 1: *Public Emergency Activities*
- Priority 2: *Business Relating to the City of Arlington*
- Priority 3: *Other Governmental Agencies*
- Priority 4: *Renters paying for the use of the Community Center*
- Priority 5: *Civic & non-profit groups, and Ind. School District #2310*

IV. Rental Charges/Damage Deposit

A list of the rental charges is included in the Fee Schedule (Page 8). In addition to the rental fee(s), a damage deposit of \$250 by credit card (Visa/MasterCard), \$500 by cash/check is required. The rental fee(s) plus the damage deposit will be the total lease amount. The damage deposit will be refunded within thirty (30) days after the scheduled event upon inspection of the premises, if the premises are found to be in as good and clean condition as existed just prior to the event. The inspection will be conducted before any other event is held in the rented area. The City reserves the right to retain part or all of the damage deposit to pay for any costs of repairs or cleaning made necessary by the renter's use of the facility. The liability of the renter shall not be limited to the amount of the damage deposit. The liability of the renter shall extend to any damage or cleaning costs incurred as a result of the acts of any participants in the event sponsored by the renter on the premises

V. Reservation Procedures

Reservations can be made by phone or in person. Tentative reservations will be held up to three (3) weeks, at which time a signed lease and damage deposit are due. The balance of the rental fees is due no later than one hundred eighty (180) days prior to the event date. Non-profits are not required to pay the damage deposit. The City will notify a potential renter on the availability of the facility within fourteen (14) business days of being contacted and requested to do so. The renter may not sublet the facility, nor may the application be transferred or assigned.

For large events, the day before the event may be used by the renter for set-up at no cost if there is not another event scheduled. In the event the City receives a request to rent the facility on the set-up date, the renter must pay the rental rate for the day before to have the date available to them for set-up. The renter must notify City Offices and pay for the set-up date within ten (10) business days of being notified of a conflict with their set-up date. Failure to pay for the set-up date within ten (10) business days will open the date for rental to another event.

VI. Cancellation of Rentals and Refunds

Any reservation cancellation of the lease must be in written form, served on the City Office personally or by U.S. Mail. If the reservation is cancelled more than one hundred eighty (180) days prior to the scheduled rental date, the City will refund all amounts paid. If the reservations are cancelled for any reason one hundred eighty (180) days or less prior to the scheduled date, the City shall retain the entire rental amount. You will be refunded the damage deposit and the police officer fee. Failure to pay rental fees no later than one hundred eighty (180) days prior to the event will result in forfeiture of the damage deposit and the reserved lease date shall be cancelled.

Under certain conditions, the City of Arlington may be forced to cancel a lease agreement prior to the event. Possible reasons for cancellation include, but are not limited to, a declared state of emergency, unsafe environmental or health conditions, or interrupted utility services. In such an event, the renter agrees that the City of Arlington shall not have responsibility for anything the renter may suffer or incur due to such a cancellation. The City will attempt to notify the renter as soon as possible if such cancellation occurs. All fees paid to the City by the renter shall be refunded to the renter if the reservation is cancelled by the City of Arlington for any of the above reasons.

VII. Hours of Use

The Community Center is available for rent any day of the week, Monday through Sunday. The Community Center will open no earlier than 6:00 a.m. and will close no later than midnight. Following the event, one hour or

up to 1:00 a.m., the renter will be allowed time to gather their personal items/equipment and clean-up. All participants and equipment must be out of the facility by 1:00 a.m. It will be at the discretion of the Community Center Coordinator, and availability of cleaning staff, if the Community Center will be available on holidays. If the Community Center Coordinator approves rental on a holiday, the normal rental rates will be charged.

VIII. General Policies

The renter is responsible for enforcing the policies of the Arlington Community Center. The renter agrees to follow these policies:

1. Comply with all City Ordinances, Minnesota State Statutes, Federal Laws, and the established rules for use which apply to authorized use of the Community Center.
2. Supervise the conduct of the participants at their event.
3. This is a smoke free public facility. Damages such as cigarette burns or smoke damages will be charged to the renter.
4. Illegal Gambling is prohibited.
5. The renter shall assume full responsibility for any unlawful act committed in the exercise of the lease.
6. Use of Community Center dishes/silverware/cookware by any group needs to be approved by the Community Center Coordinator and paid for.
7. Disorderly conduct of participants is prohibited.
8. All persons and any equipment not owned by the City must leave the Community Center at the end of the contracted time. No items from the event are to be left overnight. The Community Center is not responsible for items that have been left here during setup the day before or left behind after the group has exited the facility.
9. Children must be under the direct supervision of an adult at all times.
10. The lease holder shall assume all responsibilities for noise levels of their participants and noise levels shall not disturb other groups.
11. All bands and audio equipment must stop play by midnight.
12. Leave facility and parking lot in a clean and orderly fashion.
13. Renters will be fully responsible for any damage to the facility or equipment.
14. Any damage to the facility or equipment must be reported as soon as possible to City staff.
15. Trash should be placed in designated containers.
16. One key is given per event. The key shall not be copied or duplicated and shall be returned within two business days.

IX. Violation of Policies

The City reserves the right to end any event early if policies are violated. A violation of these policies may result in a withholding from your damage deposit and may also result in the denial of future use of the Community Center.

X. Alcohol Beverages/Food

Renter and/or their participants are not allowed to bring alcoholic beverages into the facility. The City will designate a holder of an on-sale intoxicating liquor license to serve liquor at the Community Center. The City does not authorize the serving of bottles for alcohol consumption. Liquor in bottles must be served in a glass. Alcoholic beverages shall not be consumed outside of the building. Consumption of intoxicating beverages must cease at the conclusion of the event or at Midnight, whichever comes first.

It is the responsibility of the renter to make all arrangements with the food provider of their choice. The relationship will be between the renter and the food provider, not the City of Arlington. The fully equipped licensed kitchen is available for use to all renters.

XI. Set-up

Renters have the option of setting up themselves, or contracting (for a fee) with the City for set-up (tables and chairs only, no dishes, linens or decorating). If the City does the set-up, the renter must provide a floor plan to the Community Center Coordinator 14 days prior to rental date. Renters are not allowed to pull-out or put away the partition walls; this is only to be done by City staff or the cleaning crew.

XII. Decorating

The Community Center Coordinator and City Staff have the right to refuse certain decorations. Renters are encouraged to discuss all decorating plans with the Community Center Coordinator before decorating. The renter agrees to follow the following guidelines when decorating:

1. There are permanent hooks over the 3 entrance doors, long windows, and top of the stage to hang lights, bows, tulle, etc. The City also has spring tension rods to use between the window frames.
2. The use of tape (includes 2-sided with plastic hooks), pins or tacks, 3M hooks, tacky glue, or any other decorating device on any painted or varnished surface is not allowed. (Includes walls; wood trim around stage/windows/doors/trophy cases in hallway or metal trim around doors/bathroom stalls)
3. The use of tape, pins, or tacks, clips, magnets or any other decorating device on ceiling tiles, ceiling suspension grids, lights, vents or any other ceiling fixture is not allowed.
4. Clear Scotch Tape or Electrical Tape (no duct/masking/packaging tape) may be used on the windowpane (but not on the window frame), the vinyl baseboard and floor.
5. Tape (no duct/packaging tape) and/or tacks may be used on the black painted plywood stage floor only (not the varnished wood trim).
6. The City does not allow any type of sand/pebble/rock to be brought into the facility along with glitter, rice, birdseed, or confetti.
7. Water fountains are permitted with the understanding the renter must guarantee no leaks
8. Candles are permitted, but must be in a container/holder of sufficient size for the candle so wax does not drip onto the tables, linens, and/or floor.
9. All decorations must be removed from the facility by the conclusion of the event, unless other arrangements are made with the Community Center Coordinator prior to the event.
10. A violation of this section may result in a withholding from your damage deposit.

XIII. Clean-Up

The City's cleaning staff will make sure the facility is cleaned following your event. No renter will be allowed to teardown tables or chairs following their event. This is to be done by the cleaning staff and is included in the rental fee. This fee cannot be waived. While the City's cleaning staff does the cleaning, the renter is still responsible for the following:

Cleaning of Rented Rooms

- Remove all decorations and personal items from the facility.
- Place all garbage into the garbage cans.
- All liquids should be poured down the drain and not placed in garbage cans.
- Put all table linens into cloth bags provided (stored in kitchen).

Cleaning of Kitchen (If you rent the kitchen)

- Empty all garbage containers into the outside dumpster.
- Wipe off all countertops. (Dish cloths are available in the kitchen)
- Completely drain the water from the dishwasher after use and turn the unit off.
- Run the garbage disposal long enough to cycle through all waste. Do not put plastic straws, non-food items, or bones in the disposal.
- Empty coffee maker & clean by running a full cycle on each side through without coffee grounds and completely drain.
- Put all items back in their respective areas.
- Do not remove towels from kitchen areas, hang over sink to dry.
- Do not use dish towels for spills and cleaning purposes.
- Do not remove any item that belongs to the City.
- Bring your own containers to take leftovers and cake tops home.

Failure to following these cleaning guidelines may result in a withholding from your damage deposit.

XIV. Security at the Event

The Community Center Coordinator or City Staff may, at their discretion, require security for events. The general rule of thumb is that when alcohol is served, security will be needed. Security will be provided by the City of Arlington Police Department at a charge (the officer cannot be a guest at the event). The renter will be responsible for paying this charge at the same time you pay the basic facility rental charge. When it is determined that security is necessary at the event, the fee cannot be waived.

XV. Notice of Responsibility/Liability

The City of Arlington hopes that you and the participants at your event will all have an enjoyable and safe time at our facility.

This section is to notify you that the City of Arlington, the operator of the Community Center, is responsible only to maintain the building and its structural components and systems, such as plumbing, lighting and electricity, in a safe and operable condition. The City is not responsible for the conduct of persons participating in events held at the facility. It is your responsibility as the renter of the facility and the sponsor of the event to see to it that the participants use the facility in a safe and reasonable manner and obey all laws.

Likewise, the City is not responsible for the conduct of any persons or businesses hired by you to work at the event, including, but not limited to, the liquor servers (as provided under city contract), food caterers, decorators or entertainers hired to service the event. The renter shall take complete responsibility for the conduct of its group or others present during the rental period, and agree to compensate the City of Arlington for all damages to the facility, equipment, or other property owned by the City incurred during the rental period. Furthermore, the renter assumes all liability for any personal injuries, including death caused by participants at the scheduled event.

Any disputes or claims of liability involving such providers of services are matters strictly between you, the event participants, and the providers. You agree that neither you nor the participants at your event shall file any claim against or involve the City in any legal action regarding such matters.

FEE SCHEDULE

<u>Room Fee Schedule</u>	<u>Capacity</u>	<u>Cost</u>
Room 1 (West)	144	\$110.00 per event
Room 2 (Center)	240	\$160.00 per event
Room 3 (East)	160	\$110.00 per event
All Rooms	544	\$380.00 per event
Council Chambers	40	\$35.00 per event
Full Kitchen		\$100.00 per event
Limited Kitchen		\$50.00 per event
Damage Deposit		\$250 with Credit Card or \$500 with cash/check

Non-Profit Fee Schedule

The City Council has adopted the following rate schedule for non-profit users of rooms 1-3 at the Community Center. The fees established cover cleaning costs. Fees are based off of a flat rate.

Friday & Saturday Rentals	\$175.00 per event
Sunday to Thursday Rentals	\$125.00 per event

Miscellaneous Fee Schedule

Set-Up Fee	\$100.00 per event
Tear-Down Fee	\$100.00 per event
Security Officer Fee	\$100.00 per officer
Dish Rental (9-Piece Setting)	\$1.00 per person
Wine Glasses	\$0.15 per piece
Linens	Set by Distributor
LCD Projector	\$50.00 plus cost of staff time



204 Shamrock Drive, Arlington, MN 55307 - 507/964-2378
Fax: 507/964-5973 – Website: www.arlingtonmn.com – E-mail: cityhall@arlingtonmn.com

By your signature below, you agree that you have been given a copy of and read the City of Arlington’s Community Center Use and Rental Policy, understand it, and agree to abide by its terms.

Dated: _____

Renter

Renter

Date of Event

Community Center Coordinator



Identity Theft Prevention Program

Effective beginning November 1, 2008

I. PROGRAM ADOPTION

The City of Arlington Water, Sewer and Electric Utilities ("Utility") have developed this Identity Theft Prevention Program ("Program") pursuant to the Federal Trade Commission's Red Flags Rule ("Rule"), which implements Section 114 of the Fair and Accurate Credit Transactions Act of 2003. (16 C. F. R. § 681.2) This Program was developed with oversight and approval of the City Administrator. After consideration of the size and complexity of the Utility's operations and account systems, and the nature and scope of the Utility's activities, the Arlington City Council determined that this Program was appropriate for the City of Arlington, and therefore approved this Program on October 20, 2008.

II. PROGRAM PURPOSE AND DEFINITIONS

A. Fulfilling requirements of the Red Flags Rule

Under the Red Flag Rule, every financial institution and creditor is required to establish an "Identity Theft Prevention Program" tailored to its size, complexity and the nature of its operation. Each program must contain reasonable policies and procedures to:

1. Identify relevant Red Flags for new and existing covered accounts and incorporate those Red Flags into the Program;
2. Detect Red Flags that have been incorporated into the Program;
3. Respond appropriately to any Red Flags that are detected to prevent and mitigate Identity Theft; and
4. Ensure the Program is updated periodically, to reflect changes in risks to customers or to the safety and soundness of the creditor from Identity Theft.

B. Red Flags Rule definitions used in this Program

The Red Flags Rule defines "Identity Theft" as "fraud committed using the identifying information of another person" and a "Red Flag" as "a pattern, practice, or specific activity that indicates the possible existence of Identity Theft."

According to the Rule, a municipal utility is a creditor subject to the Rule requirements. The Rule defines creditors "to include finance companies, automobile dealers, mortgage brokers, utility companies, and telecommunications companies. Where non-profit and government entities defer payment for goods or services, they, too, are to be considered creditors."

All the Utility's accounts that are individual utility service accounts held by customers of the utility whether residential, commercial or industrial are covered by the Rule. Under the Rule, a "covered account" is:

1. Any account the Utility offers or maintains primarily for personal, family or household purposes, that involves multiple payments or transactions; and
2. Any other account the Utility offers or maintains for which there is a reasonably foreseeable risk to customers or to the safety and soundness of the Utility from Identity Theft.

"Identifying information" is defined under the Rule as "any name or number that may be used, alone or in conjunction with any other information, to identify a specific person," including: name, address, telephone number, social security number, date of birth, government issued driver's license or identification number, alien registration number, government passport number, employer or taxpayer identification number, unique electronic identification number, computer's Internet Protocol address, or routing code.

III. IDENTIFICATION REQUIRED

In order to comply with Red Flags Rule Requirements, the City of Arlington will require a photo ID upon application for a Utility Service. A copy of the photo ID will be kept with the account file.

IV. IDENTIFICATION OF RED FLAGS.

In order to identify relevant Red Flags, the Utility considers the types of accounts that it offers and maintains, the methods it provides to open its accounts, the methods it provides to access its accounts, and its previous experiences with Identity Theft. The Utility identifies the following red flags, in each of the listed categories:

A. Suspicious Documents

Red Flags

1. Identification document or card that appears to be forged, altered or inauthentic;
2. Identification document or card on which a person's photograph or physical description is not consistent with the person presenting the document;
3. Other document with information that is not consistent with existing customer information (such as if a person's signature on a check appears forged); and
4. Application for service that appears to have been altered or forged.

B. Suspicious Personal Identifying Information

Red Flags

1. Identifying information presented that is inconsistent with other information the customer provides (example: inconsistent birth dates);
2. Identifying information presented that is inconsistent with other sources of information (for instance, an address not matching an address on a credit report);
3. Identifying information presented that is the same as information shown on other applications that were found to be fraudulent;
4. Identifying information presented that is consistent with fraudulent activity (such as an invalid phone number or fictitious billing address);
5. Social security number presented that is the same as one given by another customer;
6. An address or phone number presented that is the same as that of another person;
7. A person fails to provide complete personal identifying information on an application when reminded to do so (however, by law social security numbers must not be required); and
8. A person's identifying information is not consistent with the information that is on file for the customer.

C. Suspicious Account Activity or Unusual Use of Account

Red Flags

1. Change of address for an account followed by a request to change the account holder's name;
2. Payments stop on an otherwise consistently up-to-date account;
3. Account used in a way that is not consistent with prior use (example: very high activity);
4. Mail sent to the account holder is repeatedly returned as undeliverable;
5. Notice to the Utility that a customer is not receiving mail sent by the Utility;
6. Notice to the Utility that an account has unauthorized activity;
7. Breach in the Utility's computer system security; and
8. Unauthorized access to or use of customer account information.

D. Alerts from Others

Red Flag

1. Notice to the Utility from a customer, identity theft victim, law enforcement or other person that it has opened or is maintaining a fraudulent account for a person engaged in Identity Theft.

V. DETECTING RED FLAGS.

A. New Accounts

In order to detect any of the Red Flags identified above associated with the opening of a new account, Utility personnel will take the following steps to obtain and verify the identity of the person opening the account:

Detect

1. Require certain identifying information such as name, date of birth, residential or business address, principal place of business for an entity, driver's license or other identification;
2. Verify the customer's identity (for instance, review a driver's license or other identification card);
3. Review documentation showing the existence of a business entity; and
4. Independently contact the customer.

B. Existing Accounts

In order to detect any of the Red Flags identified above for an existing account, Utility personnel will take the following steps to monitor transactions with an account:

Detect

1. Verify the identification of customers if they request information (in person, via telephone, via facsimile, via email);
2. Verify the validity of requests to change billing addresses; and
3. Verify changes in banking information given for billing and payment purposes.

VI. PREVENTING AND MITIGATING IDENTITY THEFT

In the event Utility personnel detect any identified Red Flags, such personnel shall take one or more of the following steps, depending on the degree of risk posed by the Red Flag:

Prevent and Mitigate

1. Continue to monitor an account for evidence of Identity Theft;
2. Contact the customer;
3. Change any passwords or other security devices that permit access to accounts;
4. Not open a new account;
5. Close an existing account;
6. Reopen an account with a new number;
7. Notify the Program Administrator for determination of the appropriate step(s) to take;
8. Notify law enforcement; or
9. Determine that no response is warranted under the particular circumstances.

Protect customer identifying information

In order to further prevent the likelihood of Identity Theft occurring with respect to Utility accounts, the Utility will take the following steps with respect to its internal operating procedures to protect customer identifying information:

1. Ensure that its website is secure or provide clear notice that the website is not secure;
2. Ensure complete and secure destruction of paper documents and computer files containing customer information;
3. Ensure that office computers are password protected and that computer screens lock after a set period of time;
4. Keep offices clear of papers containing customer information;
5. Request only the last 4 digits of social security numbers (if any);
6. Ensure computer virus protection is up to date; and
7. Require and keep only the kinds of customer information that are necessary for utility purposes.

VII. PROGRAM UPDATES

The Program Administrator will periodically review and update this Program to reflect changes in risks to customers and the soundness of the Utility from Identity Theft. In doing so, the Program Administrator will consider the Utility's experiences with Identity Theft situations, changes in Identity Theft methods, changes in Identity Theft detection and prevention methods, and changes in the Utility's business arrangements with other entities. After considering these factors, the Program Administrator will determine whether changes to the Program, including the listing of Red Flags,

are warranted. If warranted, the Program Administrator will update the Program or present the Arlington City Council with his or her recommended changes and the City Council will make a determination of whether to accept, modify or reject those changes to the Program.

VIII. PROGRAM ADMINISTRATION.

A. Oversight

Responsibility for developing, implementing and updating this Program lies with an Identity Theft Committee for the Utility. The Committee is headed by a Program Administrator who is the City Administrator or his or her appointee. Two or more other individuals appointed by the Program Administrator comprise the remainder of the committee membership. The Program Administrator will be responsible for the Program administration, for ensuring appropriate training of Utility staff on the Program, for reviewing any staff reports regarding the detection of Red Flags and the steps for preventing and mitigating Identity Theft, determining which steps of prevention and mitigation should be taken in particular circumstances and considering periodic changes to the Program.

B. Staff Training and Reports

Utility staff responsible for implementing the Program shall be trained either by or under the direction of the Program Administrator in the detection of Red Flags, and the responsive steps to be taken when a Red Flag is detected.

C. Service Provider Arrangements

In the event the Utility engages a service provider to perform an activity in connection with one or more accounts, the Utility will take the following steps to ensure the service provider performs its activity in accordance with reasonable policies and procedures designed to detect, prevent, and mitigate the risk of Identity Theft.

1. Require, by contract, that service providers have such policies and procedures in place; and
2. Require, by contract, that service providers review the Utility's Program and report any Red Flags to the Program Administrator.

D. Non-disclosure of Specific Practices

For the effectiveness of this Identity Theft Prevention Program, knowledge about specific Red Flag identification, detection, mitigation and prevention practices must be limited to the Identity Theft Committee who developed this Program and to those employees with a need to know them. Any documents that may have been produced or are produced in order to develop or implement this program that list or describe such specific practices and the information those documents contain are considered "security information" as defined in Minnesota Statutes Section 13.37 and are unavailable to the public because disclosure of them would be likely to substantially jeopardized the security of information against improper use, that use being to circumvent the Utility's Identity Theft prevention efforts in order to facilitate the commission of Identity Theft.