

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE CHARTER
OF THE CITY OF WILLMAR

The Willmar City Council does ordain as follows:

Section 1. Preamble. The Charter is amended by adding the following preamble:

We the people of the City of Willmar, pursuant to the laws of our state, do adopt the Charter in order to secure the benefits of local self-government and we confer upon the City the following powers, subject to the following restrictions, procedures, and governmental structure. We hereby secure the benefits of home rule and thereby affirm the values of representative democracy.

Section 2. Form of Government. The Charter is amended by adding an additional section as follows:

Section 1.03. Form of Government.

The City of Willmar intends to follow the form of government known as the "Weak Mayor-Council" form.

Section 3. Amendment of Section 2.02, Eligibility of Council Members. Section 2.02 of the Charter is amended to read as follows:

Section 2.02. Eligibility of Council members.

Any individual, 21 years of age or older, residing in each Ward shall be eligible to hold the office of Council member for that Ward. ~~For the purpose of this section said individual need not have registered.~~

Section 4. Amendment of Section 2.04, Prohibitions, Incompatible Offices. Section 2.04 of the Charter is amended to read as follows:

Section 2.04. Prohibitions; incompatible offices.

Except where authorized by law or this Charter, a Council members shall not hold any other City office or City employment during the term of office for which they were elected. No Council members or former Council members shall be appointed to or hold any compensated appointive City office or employment which was created or the benefits of which were increased during the term for which they were elected, until the expiration of one year from the expiration of the term to which they were elected. A Council members shall not hold any office which is by law or by this Charter incompatible with the office of Council member and the acceptance of such office shall be a prohibition which shall result in the forfeiture of their office as a Council members.

Section 5. Amendment of Section 2.05, Forfeiture of Office. Section 2.05 Subdivisions 1, 2, 3, 4 and 5 of the Charter are amended to read as follows:

Section 2.05. Forfeiture of office.

Subdivision 1. Grounds of forfeiture. A Council members shall forfeit their office if they

- (A) lack at any time during their term of office any qualification for the office prescribed by this Charter or by law;

- (B) violate any express prohibition of this Charter;
- (C) are convicted of a crime involving moral turpitude;
- (D) fail to attend three (3) consecutive regular meetings of the Council without being excused by the Council;
- (E) fail without good cause to perform any of the duties of office for a period of 90 consecutive days: or
- (F) terminate residency in the city.

A Council members shall not forfeit their office as Council member when the geographic boundaries of his/her Ward are changed so as to change the Ward that they reside in. If a Council members moves their residence to a Ward other than the Ward they were elected in and if there is more than one (1) year left in their term when they move, their terms shall expire on the first Monday after the first Tuesday of the first January immediately following the next general election occurring after their change of residence.

Subdivision 2. Procedure, uncontested. The Mayor, City Attorney or any Council member may make complaint to the Council that any member of the Council has forfeited the right to office. The complaint shall be in writing, shall be verified under oath and shall be filed with the City Clerk. The City Clerk shall cause a copy thereof to be served forthwith, in the manner of the service of a summons in the District Court, upon the charged Council member. If the charged Council members shall not have filed an answer thereto and made a demand for a hearing following the expiration of ten (10) days from the date of service, the City Clerk shall lay before the Council the complaint, evidence of service, and a certificate that no answer and demand for hearing has been received. The Council shall thereupon proceed to consider the matter and shall by resolution make its determination thereon. Its determination shall include specific findings and, if it finds that the Council members ~~have~~ forfeited their office, it shall so state and the grounds on which its decision is based. The office of the Council members shall be vacant upon the filing of the resolution with the City Clerk.

Subdivision 3. Procedure, contested. If the Council members shall answer, the Council shall forthwith at its next regular meeting, set a date for the hearing of the matter, and give notice thereof to the affected Council members by causing a notice of the hearing to be served upon him/her in the manner of the service of a summons in District Court and by publishing the said notice in the official newspaper of the City at least ten (10) days before the said hearing. At the hearing, the Council members shall have the right to appear and be represented by counsel and present witnesses and evidence in their own behalf, but they shall not participate as a members of the Council. After the hearing, the Council shall proceed to consider the matter and to make its decision and findings as provided in Subdivision 2 hereinabove.

Subdivision 4. Appeal. If the Council determines that the office of a Council member shall be forfeited, the Council member shall have the right to appeal to the District Court. The appeal shall be perfected upon the filing of a Notice of Appeal with the Clerk of the District Court and by copy with the City Clerk within twenty (20) days of the filing of the Resolution of the Council with the City Clerk. Upon filing of the copy of Notice of Appeal, the City Clerk shall forthwith certify to the District Court the complete record of the proceedings before the City Council, including a certified copy of the resolution of the Council. The matter in District Court shall be heard by the Court, ~~without a jury~~, and the Court shall have the right to

determine the matter upon the record submitted or at its discretion on the taking of additional evidence.

Subdivision 5. Reasonable attorney's fees chargeable to City, when. If the determination, either by the Council or by the Court, is in favor of the Council members, the reasonable attorney's fees incurred by ~~them~~ a Council member shall be the obligation of the City, and the Council shall appropriate funds for the payment thereof.

Section 6. Amendment of Section 2.06, Vacancies. Section 2.06 is amended to read as follows:

Section 2.06. Vacancies.

Subdivision 1. Determination of vacancy. The office of a Council members shall become vacant upon their death, ~~resignation, removal from office in any manner authorized by law or forfeiture of their office.~~ A vacancy also automatically occurs when an incumbent submits a written resignation to the City Council. The vacancy will be created on the date specified in the written resignation, or if one is not specified, on the date of submittal to the City Council. If the date of submittal is unknown, then the vacancy will occur on the date the City Council receives the written resignation.

A vacancy in an office of Council member also exists in the following situations:

- (A) failure of an elected person to qualify on or before the first Monday after the first Tuesday of January immediately following a general election;
- (B) termination of residency in the city;
- (C) termination of a ward council member's residency in the ward from which elected except when a ward boundary change places a ward council member's residence in a different ward, the council member will continue in office until the next general municipal election, at which time the office must be filled for the remainder of that term;
- (D) continuous absence from the city for more than 90 days;
- (E) conviction of a felony either before or after qualification for office;
- (F) loss of qualifications for the elective office; or
- (G) failure without good cause to perform any of the duties of office for a period of 90 consecutive days.

~~Subdivision 2. Vacancy occurring more than one year before end of term. If the vacancy occurs more than one (1) year before the expiration of the vacant term, it shall be filled by election. On learning of the vacancy, the City Clerk shall certify that fact to the next general or special meeting of the Council, which shall be resolution at said meeting fix the date for the holding of such election, which date shall be fixed so that the election may be held pursuant to the provisions as to elections set forth in this Charter, and as soon as may be permitted thereunder, and the election shall be held pursuant to such provisions. If the election date fixed pursuant hereto should result in a special election being held two (2) months or less prior to the next ensuing general election, the Council, in its discretion, may fix the date of said general election as the date of said election.~~

~~Subdivision 3. Vacancy occurring one year or less prior to end of term. If the vacancy occurs one (1) year or less prior to the expiration of the vacant term, the vacancy shall be filled by appointment. On learning of the vacancy, the City Clerk shall certify that fact to the Council at its next general or special meeting, and the Council shall proceed to fill the vacancy. If the~~

~~Council is unable to agree upon a successor at the general meeting next succeeding that at which said certification of vacancy was made, it shall meet from time to time, at least once each week, until the vacancy is filled. The successor Council member so appointed shall assume office immediately on qualifying and serve for the remainder of the term.~~
(Ord. No. 1027, § 1, 7-15-92)

Subdivision 2. The Council must on its own motion declare by resolution that a vacancy exists when a vacancy occurs for a reason other than death or resignation. If the Council fails to act or is unaware of a vacancy, a resident who is an eligible voter in the city may submit a written verified request with supporting facts to the City Clerk, asking the Council to declare a vacancy. A written verified request submitted within 90 days after another request for the same Council position will not be considered under this section. The Council must act on the written verified request within 21 days after submission to the City Clerk, unless a vote approved by 75% of the Council members present authorizes an additional 21 days. If the Council fails to act within the required time, the Mayor has seven days to act on the written verified request. If the Council and Mayor fail to act within the required time, a vacancy automatically occurs.

Subdivision 3. Within 45 days after a vacancy automatically occurs or is declared to exist, the Council must appoint an eligible person to fill the vacancy or schedule a special election to be held within 90 days.

Subdivision 4. An election to fill a vacancy must be held at the next regular municipal election when:

- (a) the vacancy is declared or automatically occurs before the first day to file affidavits of candidacy for the next regular municipal election; and
- (b) more than two years remain in the unexpired term.

In that case, the appointed Council member will serve until a qualified successor is elected at the special election. The Council member elected will fill the unexpired portion of the term.

Subdivision 5. No special election is required to fill a vacancy when:

- (a) the vacancy is declared or automatically occurs on or after the first day to file affidavits of candidacy for the next regular municipal election; or
- (b) two years or less remain in the unexpired term.

In that case, the appointed Council member will serve until expiration of the position's term.

Subdivision 6. The term of a Council member elected at a special election begins as soon as the election results have been certified and the person has qualified for office. The Council member serves until the expiration of the position's term.

Subdivision 7. For a special election held at a time other than a regular municipal election,

- (a) candidates must file for office no later than four weeks before the election,
- (b) no primary will be held,
- (c) the candidate receiving the highest number of votes is elected, and
- (d) the election must be held on a Tuesday.

Section 7. Amendment of Section 2.08, Appointive Offices of the Council. Section 2.08 of the Charter is amended to read as follows:

Section 2.08. Appointive offices of the Council.

Subdivision 1. [City Administrator.] The City Council shall appoint an chief administrative officer of the City who shall be called the City Administrator ~~and shall approve the appointments of other Department Head positions that from time to time may be deemed appropriate.~~ The City Administrator:

- (A) shall exercise supervision, authority and control over all departments and divisions of the City, except Rice Hospital, the Municipal Utilities Commission and the Legal Department,
- (B) shall oversee and supervise the hiring, discipline and removal of all employees of the City of Willmar, except hiring, discipline and removal of Municipal Utilities employees, Rice Hospital employees, and employees of the Legal Department. Hiring, discipline and removal of Department Heads shall be subject to approval of the City Council. The Administrator's duties under this paragraph shall be subject to applicable Civil Service Regulations and other City ordinances,
- (C) shall be responsible for seeing that the City Charter and all laws, regulations and ordinances of the City are enforced,
- (D) shall attend all meetings of the City Council, and such committee meetings of the Council unless otherwise excused by the Council,
- (E) shall make recommendations to the Council for adoption of such ordinances and resolutions as are in the best interests of the City and to ensure and provide for the welfare and well being of the residents of the City,
- (F) shall monitor and oversee all contracts which the City is party to, to ensure that they are performed in accordance with their terms,
- (G) shall cause financial statements of the City to be prepared on a regular basis to keep the Mayor and Council advised of the financial standing of the city,
- (H) shall coordinate the preparation and submission to the Council of the Mayor's annual budget,
- (I) along with the Mayor, shall execute all contracts in the name of the City of Willmar,
- (J) shall be responsible for the negotiation and settlement of all labor contracts of the City,
- (K) shall coordinate all municipal programs and municipal activities of the City,
- (L) shall coordinate the relationship between the City and the news media,
- (M) shall make application for all state and federal funds available to the City through grant programs,

- (N) shall keep the Council fully advised as to the financial condition and future needs of the City and make such recommendations to the Council concerning the affairs of the City including those recommendations which may be suggested by the Mayor,
- (O) shall submit or cause to be submitted to the Council and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year,
- (P) shall make such other reports as the Council may require concerning the operations of the City departments, offices and agencies, and for this purpose all personnel of the City shall furnish to the Mayor such information as requested for the discharge of the Mayor's duties,
- (Q) shall perform such other duties as the City Council may, from time to time, direct.

Subdivision 2. [City Attorney.] The City Council shall appoint an officer of the City who shall be called the City Attorney. The City Council may, as an alternative, contract for legal services with an individual or law firm. The City Attorney shall:

- (A) Prosecute City Ordinance violations.
- (B) Prosecute Petty Misdemeanors, Misdemeanors, and Gross Misdemeanor violations of State Statutes as required by Minnesota law.
- (C) Review agreements and contracts involving the City.
- (D) Draft Ordinances and Resolutions.
- (E) Review licenses, bonds, and insurance certificates.
- (F) Provide legal advice to Mayor, Council, Department Heads, Boards and Commissions.
- (G) Pursue civil actions on behalf of the City including collections, condemnations and contract enforcement.
- (H) Act as legal representative of Rice Memorial Hospital and Municipal Utilities Commission.
- (I) Enforce the City charter and advise the Mayor and Council when the Charter is not being followed or the duties of an office are not being carried out.
- (J) shall perform such other duties as the City Council may, from time to time, direct.

Subdivision 2 3. Votes required for appointments. All appointments, except City Department Heads, shall require the affirmative votes of at least five (5) members of the Council. The appointment of the City Administrator and City Attorney shall require the affirmative votes of at least five (5) members of the Council.

(Ord. No. 1027, § 1, 7-15-92)

Subdivision 4. Except for purposes of inquiry, the City Council must direct the administrative activities solely through the City Administrator. The City Council shall not, publicly or privately, give an order to the City Administrator subordinates. A single member or group of Council members less than a majority shall not give an order to the City Administrator.

Section 8. Amendment of Section 2.08, Independent Audit and Financial Reporting. Section 2.09 of the Charter is amended to read as follows:

Section 2.09. Independent audit and Financial Reporting.

The Council shall provide for an independent annual audit of all City accounts and may provide for such more frequent audits as it deems necessary. The ~~am~~ccounts of Rice Memorial Hospital and the Willmar Municipal Utilities ~~Commission~~ shall be audited at least annually. Such audits shall be made by a certified public accountant or firm of such accountants who have no direct interest in the fiscal affairs of the City government or any of its officers. The annual audit of the City, the Willmar Municipal Utilities and Rice Memorial Hospital shall be certified by the accountant preparing the annual audit. Except as provided herein with respect to audits of Rice Memorial Hospital and the Willmar Municipal Utilities, the Council may, without requiring competitive bids, designate such accountant or firm ~~annually~~ or for a period not exceeding three (3) years, provided that the designation for any particular fiscal year shall be made no later than thirty (30) days after the beginning of such fiscal year. If the State makes such an audit, the Council may accept it as satisfying the requirements of this Section. The Rice Memorial Hospital Board and the Willmar Municipal Utilities Commission may select their respective certified public accountant ~~on approval of the City Council.~~ Rice Memorial Hospital and the Willmar Municipal Utilities shall each pay their own audit fees incurred for the audits required by this Section. Copies of each annual audit of Rice Memorial Hospital and the Willmar Municipal Utilities shall be submitted to the Mayor, the City Council and the City Finance Director.

In addition to the annual audits herein provided for, the Willmar Municipal Utilities and the Rice Memorial Hospital Board shall prepare ~~quarterly~~ monthly statements, prepared on an accrual basis, and submit said statements to the City Council, the Mayor and the City Finance Director on or before the twenty-fifth (25th) day of the ~~quarter~~ month following the month for which the statement was prepared. The annual audits of the City, the Willmar Municipal Utilities and the Rice Memorial Hospital shall be submitted to the Mayor, the City Council and the City Finance Director within One Hundred Twenty (120) days of the end of each year. The Willmar Municipal Utilities and the Rice Memorial Hospital Board shall submit financial statements to the City Council on a more frequent basis than is herein provided for when requested to do so by the City Council.

Section 9. Amendment of Section 2.10, Investigations. Section 2.10 of the Charter is amended to read as follows:

Section 2.10. Investigations.

The Council may make audits and investigations into the affairs of the City and the conduct of any City department, office, agency, board or commission and for such purpose may employ such personnel as it deems necessary therefore. It may subpoena witnesses, administer oaths, take testimony and require the production of evidence. Any person who is found, by a court of competent jurisdiction, to have failed or refused, ~~fails or refuses,~~ without lawful excuse, to ~~obey~~ comply with an order of the Council in the exercise of this investigative power shall be guilty of a misdemeanor as defined in the Minnesota Criminal Code.

Section 10. Amendment of Section 2.11, Procedure. Section 2.11 of the Charter is amended to read as follows:

Section 2.11. Procedure.

Subdivision 1. Meetings. On the first Monday after the first Tuesday of each January immediately following a general election, the Council shall meet for its biennial

organizational meeting and the terms of Council members whose terms expire shall terminate at the opening of such meeting. The Council shall meet regularly at least twice in every month at such times and places as the Council shall prescribe by resolution at such biennial organizational meeting. Special meetings may be held on the call of the Mayor or of four (4) or more members of the Council, or by decision of the Council made at a regular or special meeting, upon no less than twelve (12) hours notice to each member. All meetings shall be public.

Subdivision 2. Rules and journal. The Council shall adopt the Minnesota Mayor's Association Rules of Order for City Councils ~~adopt its own rules and order of business~~ and shall provide for a journal of its proceedings, which journal shall be a public record.

Subdivision 3. Voting and quorum. ~~Voting, except on procedural motions, shall be by roll call and the ayes and nays shall be recorded in the journal.~~ Five (5) members of the Council shall constitute a quorum, but a lesser number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the Council.

Section 11. Amendment of Section 2.12, Ordinances and Resolutions. Section 2.12, Subdivisions 1(E), (F) and (G) and Subdivision 2(D) and Subdivision 6 of the Charter are amended to read as follows:

Section 2.12. Ordinances and resolutions.

Subdivision 1. Action requiring an ordinance. In addition to other acts required by law or by specific provisions of this Charter to be done by ordinance, those acts of the Council shall be by ordinance which:

- (E) Regulate the rates charged for its utility services by ~~a public utility~~ the Willmar Municipal Utilities and City of Willmar;
- (F) Authorize the borrowing of money, incurring indebtedness, or authorizing of capital leases;
- (G) Authorize the conveyance of any lands of the City, provided, however, that leases and utility easements be excepted from this provision;

Subdivision 2. Ordinances in general.

- (D) Vote required for adoption of ordinance. Except as provided by law, ~~Ordinances~~ shall require the affirmative votes of five (5) members of the Council for adoption.

Subdivision 6. Special ordinances. Ordinances of limited application such as zoning and annexation ordinances, or of current interest only, or which by their terms will expire within a definite period of time and emergency ordinances shall be classified for purposes of identification and codification as special ordinances and shall not be codified. They shall, however, have the full force and effect of general as all other ordinances, and the City Clerk shall index and record them so that they can be at all times readily inspected by the public. The City Clerk shall provide copies thereof to the public at a reasonable price fixed by the Council.

Section 12. Amendment of Section 3.01, Chief Executive Officer. Section 3.01 of the Charter is amended to read as follows:

Section 3.01. Chief executive officer.

The Mayor shall be the chief executive of the City ~~with~~ and enjoy the powers given to the Mayor by this Charter and the laws of the state of Minnesota.

Section 13. Amendment of Section 3.02, Election and Qualification. Section 3.02 of the Charter is amended to read as follows:

Section 3.02. Election and qualification.

Residents, 21 years of age or older, of the City shall be eligible to hold the office of the Mayor. For the purposes of this section said resident need not ~~have~~ be registered to vote. The Mayor shall be elected at the regular City election held every even-numbered year by the direct vote of the people for a term of four (4) years to begin on the first Monday after the first Tuesday of the year following the Mayor's election, but the incumbent Mayor shall continue to serve until a new Mayor has been elected and has qualified.

Section 14. Amendment of Section 3.03, Mayor's Messages to the Council. Section 3.03 of the Charter is amended to read as follows:

Section 3.03. Mayor's messages to the Council.

The Mayor shall, at the beginning of each calendar year, and may at other times, ~~give~~ present to the Council the state of the city message, providing information as to the affairs of the City and recommend measures he/she considers necessary and desirable.

Section 15. Amendment of Section 3.04, Powers and Duties. Section 3.04 (C), (D), (E) and (F) of the Charter is amended to read as follows:

Section 3.04. Powers and duties.

~~The Mayor shall see that all the laws and ordinances are enforced and the peace and order of the City are kept.~~ The Mayor shall, in conjunction with the Council, supervise the administration of City affairs. The Mayor shall:

- (C) Prepare or cause to be prepared and submit ~~an~~ the Mayor's annual budget and capital improvements program to the Council; and for this purpose all personnel of the City shall furnish to the Mayor such information as requested for the discharge of this duty;
- ~~(D) Submit or cause to be submitted to the Council and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year;~~
- ~~(E) Make such other reports as the Council may require concerning the operations of the City departments, offices and agencies, and for this purpose all personnel of the City shall furnish to the Mayor such information as requested for the discharge of the Mayor's duties;~~
- (F ~~D~~) Keep the Council fully advised as to the financial condition and future needs of the City and make such recommendations to the Council concerning the affairs of the City as the Mayor deems desirable including those recommendations which may be suggested by the City Administrator;
- ~~(G~~ E) Be recognized as the official head of the City for all ceremonial purposes, by the courts for the purpose of serving civil process, and by the Governor of the State for the purposes of martial law;

(~~H~~ E) In instances when the City Council cannot meet, the Mayor shall have the authority to expend public funds, without Council approval, during the time of a natural disaster, riot, civil disorder, enemy attack or any public emergency that affects a substantial number of residents in the City of Willmar.
(Ord. No. 1027, § 1, 7-15-92)

Section 16. Amendment of Section 3.05, Mayor's Power to Veto Legislation. Section 3.05 of the Charter is amended to read as follows:

Section 3.05. Mayor's power to veto legislation.

Within ~~ninety-six (96) hours~~ seven (7) days after the adjournment of any Council meeting the City Clerk shall present to the Mayor the record of proceedings of the meeting and all ordinances ~~and~~ resolutions, and motions adopted at the meeting. The Mayor, within ~~seven (7)~~ four (4) days of receipt of an ordinance or resolution, shall return it to the City Clerk with approval or with veto. If the Mayor does not return said ordinance ~~and~~ resolutions, and motion within ~~seven (7)~~ four (4) days after receipt or returns it without a veto, it shall be considered approved, which fact shall be noted in any publication required thereof. If an ordinance ~~and~~ resolutions, or motion is vetoed, the Mayor shall attach a written statement explaining the reason for the veto. Ordinances ~~and~~ resolutions, or motions vetoed by the Mayor shall be considered at the next regular meeting of the Council, and the Council may pass the ordinance ~~and~~ resolution, or motion over the veto by the affirmative vote of six (6) of its members. In the publication of an ordinance ~~and~~ resolution, or motion passed over the Mayor's veto, the publication shall recite the fact of the veto, and the vote by which the veto was overridden. The Mayor's veto power shall extend to disapproving or reducing individual appropriation items in the budget or any ordinance ~~and~~ resolution, or motion, except appropriations for auditing or investigating any part of the executive branch or for a zoning or land use decision. The Mayor shall not have the power to veto any emergency ordinance, nor any ordinance repealing an emergency ordinance.

Section 17. Amendment of Section 3.07, Prohibitions, Incompatible Offices, Forfeitures of Office. Section 3.07, Subdivision 2 of the Charter is amended to read as follows:

Subdivision 2. Forfeiture of office. The Mayor shall forfeit the office if he/she

- (A) lacks at any time during his/her term of office any qualifications for the office prescribed by this Charter or by law;
- (B) violates any express prohibition of this Charter; or
- (C) is convicted of a crime involving moral turpitude;
- (D) fails to attend three (3) consecutive regular meetings of the Council without being excused by the Council;
- (E) is continuously absent from the city for more than 90 days;
- (F) fails without good cause to perform any of the duties of office for a period of 90 consecutive days; or
- (G) terminates his/her residency in the city.

Upon written complaint being filed with the City Clerk alleging that the Mayor has forfeited the right to office and stating the grounds therefore, the Council shall immediately convene

and proceed to determine the matter. The procedure for determination, procedure and appeal shall be the same as that provided in Section 2.05 of Article II with respect to a Council member, except that the sessions of the Council shall be presided over by the District Judge or a duly licensed attorney at law appointed by the Judge.

Section 18. Amendment of Section 4.01, General Provisions (Boards and Commissions). Section 4.01 of the Charter is amended to read as follows:

Section 4.01. General provisions.

There shall be established such boards and commissions as are provided in this Article and the Council may establish or activate such other boards and commissions as may be authorized by law. The Council shall have the authority to establish by ordinance such other advisory or administrative boards as it shall from time to time determine and to regulate and control and abolish the same insofar as permitted by law. The Council shall also have the authority to establish by resolution such committees as it may determine, of its own members or otherwise, and to provide for their regulation and control. All boards and commissions shall keep a public record of all its actions, both written and audio recordings and video recordings where practical, and shall transmit to the Council promptly after each meeting true copies of its minutes and of all resolutions adopted by it. Members appointed to boards and commissions established by this Charter shall be appointed as provided in this Charter and otherwise as provided in the ordinance or resolution establishing the board or committee. Members appointed to specific terms shall not be subject to recall or suspension except for cause, and then only upon evidence of malfeasance, misfeasance, or nonfeasance presented at a hearing before the appointing power on notice to the member. If any member of a board or commission fails to attend three (3) consecutive regular meetings of the board or commission, without being excused by the board or commission, the City Council may remove said member by an affirmative vote of five (5) members of the Council. Vacancies shall be filled by the appointing power. With the exception of the licensed physician representing the Hospital Board, members shall be residents of the City and shall serve without pay, except as specifically provided in the Charter, ordinance, or resolution establishing the board, commission or committee. All appointees to boards and commissions shall, before undertaking to serve thereon, file with the City Clerk a written acceptance and oath of office. The required forms shall be available in the City Clerk's office.

Section 19. Amendment of Section 4.02, The Planning Commission. Section 4.02, Subdivisions 1, 3, 4, 5, 7, 9 and 10 of the Charter are amended to read as follows:

Section 4.02. The Planning Commission.

Subdivision 1. Members, qualifications, term. There shall be a City Planning Commission of nine (9) members, appointed for terms of three (3) years in such manner so that the terms of three (3) members expire each year, none of whom shall hold any other office or position in the City government. The Commission shall elect a chairman, vice-chairman and a secretary and such other officers as it shall from time to time determine. The officers shall be members of the Commission, ~~provided that with the approval of the Council, the Commission may hire a recording secretary to keep the minutes and the records of the Commission, and such recording secretary may, but need not be, a member of the Commission.~~ No member shall serve more than two (2) consecutive terms on the Board. The serving of a term of two (2) years or more shall be considered a full term for purposes of the preceding sentence.

Subdivision 3. The Comprehensive Land Use Plan; official map. The Commission shall review the Comprehensive Land Use Plan and the official City map annually, and shall at least once in every three (3) years, make a report to the Council containing any changes or revisions therein. The Commission shall promote public interest in and understanding of said map and plan, of planning, of zoning and of the physical development of the City.

Subdivision 4. Recommended capital improvements. The Commission shall prepare and submit annually to the Council and to the ~~official or agency charged with the duty of submitting the annual budget~~ Rice Memorial Hospital Board and Municipal Utilities Commission where appropriate, a recommended capital improvements report which shall contain recommended capital improvements which in the opinion of the Commission are necessary or desirable in the forthcoming five (5) year period. The report shall include estimated budget requirements for such improvements, and it may contain a priority list and an arrangement of such improvements with respect to the year they are recommended to be begun.

Subdivision 5. Zoning ordinance and codes. The Commission shall review ~~from time to time~~ annually, the zoning ordinance and the codes of the City and shall upon request of the Council make report thereon with respect to proposed revisions and amendments.

Subdivision 7. Powers to secure information and data. The Commission shall have power to require information to be furnished within a reasonable time from applicants and other boards, commissions and officials of the City and shall have the power to enter upon any land and make examinations and surveys as necessary to assist in their decisions.

~~Subdivision 9. Public utilities. No water, power, light, heat, gas or other commonly designated public utility service whether publicly or privately owned shall be constructed, extended, vacated or rerouted until the same shall have been submitted to and approved by the Commission. In the event that the Commission shall affirmatively disapprove the same or shall determine to attach conditions thereon, the action thereon shall be by resolution setting forth its findings with respect thereto and its specific reasons for such disapproval, and a copy of the resolution shall forthwith be sent to the public utility concerned. In the event that the Commission shall have failed to act thereon within a period of sixty (60) days after the same shall have been presented to it, the proposal shall be deemed to have been approved as submitted. The Commission shall have the power and the duty to submit the proposal to other public utilities which may be affected by the proposal. Unless the proposal shall have been originated by the Willmar Municipal Utilities, the secretary of the Planning Commission shall immediately on receipt of the proposal forward a copy of it to that Commission. This subdivision shall not be construed so as to require approval of connections and service lines to individual private properties.~~

Subdivision ~~10~~ 9. Over-riding power of the Council. Any resolution or other action by the Commission may be overruled by the Council by the affirmative votes of ~~five (5)~~ six (6) members of the Council at any time within a period of thirty (30) days from the date of the regular Council meeting next following the receipt by the City Clerk of the copy of the motion, resolution or action of the Commission in question.

Section 20. Amendment of Section 4.03, Park and Leisure Services Board. Section 4.03 of the Charter is amended to read as follows:

Section 4.03. Park and Leisure Services Board.

There shall be an advisory board known as the Park and Leisure Services Board of ~~nine (9)~~ six (6) members appointed for terms of three (3) years, and so that the terms of no more

than ~~three (3)~~ two (2) members thereof shall expire each year. ~~The Board shall include a representative of the School District as a voting member.~~ The Board shall advise and assist the Council in the development and maintenance of a park and recreation program for the City and its people, including acquisition of land for leisure activities. The Board shall, at the request of the Planning Commission, prepare a five (5) year park and leisure services plan, and shall submit written copies of said plan to the Planning Commission and the City Council. The Board shall have such powers and duties as the Council shall from time to time by ordinance give it. No member shall serve more than two (2) consecutive terms on the Board. The serving of a term of two (2) years or more shall be considered a full term for purposes of the preceding sentence.

Section 21. Amendment of Section 4.04, Rice Memorial Board. Section 4.04, Subdivisions 1, 3 and 5 of the Charter are amended to read as follows:

Section 4.04. Rice Memorial Board.

Subdivision 1. Members, qualifications, term, officers. There shall be a Rice Memorial Hospital Board of seven (7) members appointed for terms of three (3) years, and so the terms of no more than three (3) members thereof shall expire each year, none of whom shall hold any other office or position in the City government. One of the seven (7) members of the Rice Hospital Board shall be a licensed physician authorized to practice at Rice Memorial Hospital and whose primary practice is within the City of Willmar. ~~There shall be a Hospital Board-appointed Advisory Committee representing the Hospital Service Area.~~ The Board shall elect from its membership a Chair, Vice-Chair, Secretary, Treasurer and such other officers as it shall from time to time determine. The Chief of the Medical Staff of Rice Memorial Hospital or a representative appointed from time to time may attend all meetings of the Board and participate therein in a consultative capacity. No member shall serve more than three (3) consecutive terms on the Board. The serving of a term of two (2) years or more shall be considered a full term for purposes of the preceding sentence. After serving three (3) consecutive terms on the Board, a member may again be appointed to the Board when one (1) year has elapsed from the date of expiration of the member's most recent term.

Subdivision 3. Fiscal accounting. ~~The Treasurer of the Board, or a person or persons shall designated by the Treasurer in writing approved by the Board~~ a chief financial officer and who shall be bonded in the amount determined by the Board, and who shall collect all funds received in the operation of the said Hospital and shall deposit the same in a legal depository to the account of the said Hospital. The Treasurer of the Board chief financial officer shall keep, or cause to be kept, a complete set of books and accounts, and make report thereon as required by and to the Board, the Mayor and the Council. All such monies shall be kept and retained in the Hospital account by the Treasurer of the Board chief financial officer and disbursed only upon appropriate orders signed by the Chair chief executive officer and the Treasurer of the Board chief financial officer. All proceeds from the sale of bonds and revenue warrants shall be collected by the City Clerk and deposited in the account(s) of Rice Memorial Hospital, and shall be disbursed only upon appropriate orders of the Rice Memorial Hospital Board. The financial records of the Hospital shall be open to inspection at all times by the Mayor and the Council, and shall be subject to the provisions of Sections 2.09 and 2.10 of Article II.

Subdivision 5. Over-riding power of the Council. The Council shall have the power to overrule by the affirmative vote of at least ~~five (5)~~ six (6) members thereof any action of the Board with the exception of personnel appointments, other than the appointment of the ~~C~~hief ~~E~~xecutive ~~O~~ffficer at the Council meeting next following the receipt by the City Clerk

of the minutes of the Board containing such action. If the Council fails or refuses to overrule such action at the said meeting, the action shall be absolute; provided, however, that if the Council desires to consider the matter further, it may by resolution defer action on the matter for a period not to exceed thirty (30) days or to the next scheduled City Council meeting. No such action shall be deemed to have been presented to the Council unless it shall have included in the minutes of a duly constituted meeting of the Board and the text of any resolution, rule or regulation attached thereto in full. It shall be the duty of the City Clerk to transmit such minutes, resolutions, rules and regulations to the Council at the Council meeting next following receipt thereof.

Section 22. Amendment of Section 4.05, Municipal Utilities Commission. Section 4.05, Subdivision 1, Subdivision 2(E), Subdivision 3 and Subdivision 5 of the Charter are amended to read as follows:

Section 4.05. Municipal Utilities Commission.

Subdivision 1. Members, qualifications, term, officers. There shall be a Municipal Utilities Commission of seven (7) members, appointed for terms of three (3) years, and so that the terms of no more than three (3) members thereof shall expire each year, none of whom shall hold any other office or position in the City government. The Commission shall elect from its membership a Chair, Vice-Chair, Secretary, Treasurer and such other officers as it shall from time to time determine. No member shall serve more than three (3) consecutive terms on the Commission. The serving of a term of two (2) years or more shall be considered a full term for the purposes of the preceding sentence. After serving three (3) consecutive terms on the Commission, a member may again be appointed to the Commission when one (1) year has elapsed from the date of expiration of the member's most recent term.

Subdivision 2. Powers and duties. The Commission shall have, subject to the over-riding power of the Council hereinafter provided, full control of the operation and management of the electric, water and district heating systems of the City and such other utilities as it may acquire; the full power of ownership and control of which in the City is hereby confirmed; and the employment of a General Manager. The Commission shall at the request of the Planning Commission prepare a five (5) year capital improvement budget and shall submit written copies of said budget to the Planning Commission and the City Council. It shall have the power to:

(E) Determine upon the qualifications of the General Manager; ~~However, at all times the Willmar Municipal Utilities shall have a graduate electrical engineer registered under Chapter 326 of Minnesota Statutes on its staff as a full-time employee;~~

Subdivision 3. Fiscal accounting. ~~The Treasurer of the Municipal Utilities Commission, or a person or persons shall designated by the Treasurer in writing approved by the Commission~~ a chief financial officer and who shall be bonded in the amount determined by the Commission, and who shall collect all funds received in the operation of the utilities under the control of the Willmar Municipal Utilities and shall deposit the same in a legal depository to the account of the said Willmar Municipal Utilities. The Treasurer of the Commission chief financial officer shall keep, or cause to be kept, a complete set of books and accounts and make a report thereon as required by and to the Commission, the Mayor and the Council. All such monies shall be kept and retained in the Willmar Municipal Utilities account by the Treasurer of the Commission chief financial officer and disbursed only upon appropriate orders signed by the Chair chief executive officer and Treasurer of the Commission the chief financial officer. All proceeds from the sale of bonds and revenue warrants shall be collected by the City Clerk and deposited in the account(s) of the Willmar

Municipal Utilities, and shall be disbursed only upon appropriate orders of the Municipal Utilities Commission. The financial records of the Willmar Municipal Utilities shall be open to inspection at all times by the Mayor and Council and shall be subject to the provisions of Sections 2.09 and 2.10 of Article II.

Subdivision 5. Over-riding power of the Council. The Council shall have the power to overrule, by the affirmative vote of at least ~~five (5)~~ six (6) members thereof, any decision, motion, resolution, rule, regulation or order of the Commission at the Council meeting next following the receipt by the City Clerk of the minutes of the Commission containing such action and if the Council fails or refuses to overrule such action at the said meeting, the action shall be absolute provided, however, that if the Council desires to consider the matter further it may by resolution defer action on the matter for a period not to exceed thirty (30) days or to the next scheduled City Council meeting. No such action shall be deemed to have been presented to the Council unless it shall have been included in the minutes of a duly constituted meeting of the Commission and the text of any resolution, rule or regulation attached thereto in full. It shall be the duty of the City Clerk to transmit such minutes, resolutions, rules and regulations to the Council at the Council meeting next following receipt thereof.

Section 23. Amendment of Sections 5.07 and 5.08, Financial Procedures. Section 5.07, Subdivisions 2, 5 and 6, and Section 5.08 of the Charter are amended to read as follows:

Section 5.07. Amendments after adoption.

Subdivision 2. Contingency ~~fund~~ Reserve. The Council shall be authorized to ~~include in the budget~~ have a reserve fund which shall be called a contingency ~~fund~~ reserve in an amount not to exceed ten (10) percent of the current and subsequent budget, excluding such contingency ~~fund~~ reserve. In the event that any appropriation from any other fund shall be, in the judgment of the Council, insufficient to meet the demands of the City with respect to the program or budget item affected and provide for the orderly administration of the City, the Council by a vote of six (6) members thereof may transfer out of the contingency ~~fund~~ reserve to such ~~other~~ fund such sums as it shall determine shall be reasonably necessary to effect the purpose.

Subdivision 5. Emergency appropriations; tax anticipation certificates. To meet a public emergency affecting life, health, property or the public peace, the Council may make emergency appropriations. Such appropriations may be made by emergency ordinance in accordance with the provisions of Subdivision 3 of Section 2.12 of Article II of this Charter. To the extent that there are no available unappropriated revenues to meet such appropriation, the Council may by such emergency ordinance, authorize issuance of tax anticipation certificates in accordance with the provisions of law. Such tax anticipation certificates shall be paid not later than ~~the last day of the fiscal year next~~ two (2) years succeeding that in which the emergency appropriation was made.

Subdivision 6. Limitations; effective date. No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.
(Ord. No. 1027, § 1, 7-15-92)

Section 5.08. Lapse of appropriations.

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned; the purpose of any such appropriation shall be deemed abandoned if ~~three (3) years pass without any~~ no disbursement or encumbrance of the appropriation is completed by the close of the third fiscal year following the fiscal year in which the funds were appropriated.
(Ord. No. 1027, § 1, 7-15-92)

Section 24. Amendment of Article VI, Nominations and Elections. Article VI of the Charter is repealed in its entirety as follows:

ARTICLE VI. NOMINATIONS AND ELECTIONS Save for Future Reference

~~**Section 6.01. Regular municipal election.**~~

~~The regular municipal election shall be held on the first Tuesday after the first Monday in November of each even-numbered year.
(Ord. No. 1027, § 1, 7-15-92)~~

~~**Section 6.02. Primary election.**~~

~~On the first Tuesday after the second Monday in September preceding any regular municipal election an election of nominees, designated as the "primary election," shall be held for the selection of candidates for all elective offices of the City of Willmar to be filled at said regular election.
(Ord. No. 1027, § 1, 7-15-92; Ord. No. 1070, § 1, 10-4-95)~~

~~**Section 6.03. Special elections.**~~

~~The Council may call special elections in the manner provided by law.
(Ord. No. 1027, § 1, 7-15-92)~~

~~**Section 6.04. Conduct of elections.**~~

~~All City elections shall be held and conducted and the votes canvassed in the manner provided by law.~~

Section 25. Amendment of Section 7, Initiative, Referendum and Recall. Sections 7.03(b) and 7.05(b) of the Charter are amended to read as follows:

Section 7.03(b). The initiative measure.

Any ~~resolution or~~ ordinance proposed for the initiative shall be set forth in such form as is consistent with the forms of ~~resolutions and~~ ordinances in current use at the time the same is filed and shall conform to the provisions of law, this Charter and any ordinance ~~or resolution~~ governing the formulation of ~~resolutions and~~ ordinances. ~~If the effect of the resolution is to repeal any resolution previously adopted by the Council, it shall identify such resolution and specify the amendment or repeal thereof or any part thereof affected.~~ Proposals for ordinances shall be formulated in accordance with the provisions of Section 2.12 of Article II of this Charter.

Section 7.05(b). The recall measure.

The committee seeking the recall of any official elected under the provisions of this Charter shall formulate in clear and concise language a statement, not more than two hundred fifty (250) words, of its reasons for proposing the recall and which shall state that it intends to bring about his/her recall. The statement must clearly set out the alleged malfeasance or nonfeasance of the officeholder being proposed for recall.

Section 26. Amendment of Section 9.01, Procedure for Vacating Streets, Utility Easements, and Public Grounds. Section 9.01, Subdivision 4 of the Charter is amended to read as follows:

~~Subdivision 4. Proceedings on initiation by property owners. -A property owner desiring to vacate any street, alley, road, highway, parkway, public ground or utility easement shall cause to be prepared, in triplicate, a petition therefor, which petition shall describe the area sought to be vacated and shall have attached thereto a map of the area proposed to be vacated and of the area extending out therefrom in all directions a distance of six hundred (600) feet and a list of the property owners within the said total area, together with their addresses and the legal descriptions of the property owned by each of such owners. The petition shall be signed by a majority of the owners of land or by the owners of a majority of the land, measured in feet fronting on the easement, abutting on the street, alley, road, highway, parkway or public ground, or in, on or through which the utility easement exists, and it shall be verified by one of them. For the purposes of determining the validity of the petition, multiple owners of a tract shall be considered as one owner and all such multiple owners of a tract must sign the petition to be counted as a signer. The petition shall be filed with the City Clerk, who together with the City Attorney and the City Engineer shall determine its validity. Upon determination of its validity and at the next regular or special meeting of the Council, the Clerk shall transmit the same to the Council, which shall by motion refer the same in duplicate to the Planning Commission, and the Planning Commission shall consider the same in the manner and within the time provided in proceedings initiated by the Council.~~

(A) Municipal Utilities Commission and City of Willmar specific use easements to-wit: those easements acquired for electric distribution/transmission, water mains, sanitary sewer lines, storm sewer lines, and district heating lines. Proceedings by property owner to vacate an easement in total or in part. Anyone desiring to vacate all or any portion of a specific use easement being used by the Municipal Utilities Commission to provide a utility service shall prepare, in triplicate, a petition requesting the vacation, which petition shall describe the area sought to be vacated and shall have attached thereto a map of the area proposed to be vacated. The petition shall be signed by all of the owners of the land subject to the easement sought to be vacated. The petition shall be filed with the Municipal Utilities Commission General Manager, who together with the City Attorney shall determine its validity. Upon determination of its validity, at the next regular meeting of the Municipal Utilities Commission, the General Manager shall present the petition. Upon approval of the Municipal Utilities Commission, the petition shall be forwarded to the City Council. The Council shall at its next regular meeting consider the petition. If the Council determines to proceed, it shall adopt a resolution approving the vacation request. The City Clerk shall prepare and file a certified copy of the Resolution in the office of the Kandiyohi County Recorder. A request for vacation of a specific use easement being used by the City of Willmar to provide a utility service shall be initiated in the same manner except the petition shall be filed with the City Clerk who shall forward the petition to the City Engineer and City Attorney. Upon approval of the petition by the City Engineer and City Attorney the petition shall be forwarded to the Public Works/Public Safety Committee. After consideration by the committee, the petition shall be forwarded to the City Council for approval. The costs incurred by the Municipal Utilities Commission and City of Willmar to review a petition and record a resolution shall be paid by the petitioner.

(B) Proceedings by property owner to vacate a street, alley, road, highway, parkway or public ground. Anyone desiring to vacate any street, alley, road, highway, parkway or public ground shall cause to be prepared, in triplicate, a petition therefor, which petition shall describe the area sought to be vacated and shall have attached thereto a map of the area proposed to be vacated and of the area extending out therefrom in all directions a distance of six hundred (600) feet and a list of the property owners within the said total area, together with their addresses and the legal descriptions of the property owned by each of such owners. The petition shall be signed by a majority of the owners of land or by the owners of a majority of the land, measured in feet fronting the easement, abutting on the street, alley, road, highway, parkway or public ground, and it shall be verified by one of them. For the purposes of determining the validity of the petition, multiple owners of a tract shall be considered as one owner and all such multiple owners of a tract must sign the petition to be counted as a signer. The petition shall be filed with the City Clerk, who together with the City Attorney and the City Engineer shall determine its validity. Upon determination of the validity and at the next regular or special meeting of the Council, the Clerk shall transmit the same to the Council, which shall by motion refer the same in duplicate to the Planning Commission, and the Planning Commission shall consider the same in the manner and within the time provided in proceedings initiated by the Council.

Section 27. Amendment of Section 9.03, Prohibitions (Activities Prohibited). Section 9.03 of the Charter is amended to read as follows:

Section 9.03. Prohibitions.

The following activities shall be prohibited:

- (A) No person shall be appointed to or removed from, or in any way favored or discriminated against with respect to any City position or appointive position because of race, sex, political or religious opinions or affiliations, or other protected class.
- (B) No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment under the provisions of this Charter, or the rules and regulations made thereunder, or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provisions, rules and regulations.
- (C) No person who seeks appointment or promotion with respect to any City position or appointive position shall directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with their test, appointment, proposed appointment, promotion or proposed promotion.

Any person who by himself/herself or with others has been found, by a court of competent jurisdiction, willfully to have violated any of the provisions of this section shall be guilty of a misdemeanor as defined in the Minnesota Criminal Code.

Any person who is found, by a court of competent jurisdiction, to have failed or refused, fails or refuses without lawful excuse, to obey comply with an order of the Council in the exercise of this investigative power shall be guilty of a misdemeanor as defined in the Minnesota Criminal Code.

Section 28. Amendment of Section 9.04, Oath of Office. Section 9.04 of the Charter is amended to read as follows:

Section 9.04. Oath of office.

Every Council member, elected or appointed official, and board and commission member shall, before entering upon the duties of their office take and subscribe an oath of office in the following form: "I do solemnly swear (or affirm) that I will support the Constitutions of the United States and of the state of Minnesota, and the Willmar City Charter and that I will discharge faithfully the duties of the office of the City of Willmar to the best of my judgment and ability."

This Ordinance shall be effective 90 days after its adoption and second publication.

This Ordinance introduced by Councilman Anderson

This Ordinance introduced on November 21, 2011

This Ordinance published on November 29, 2011

This Ordinance given a hearing on _____

This Ordinance adopted on _____

This Ordinance published on _____