

CHARTER  
OF  
THE CITY OF WILLMAR

1954 Willmar Charter

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Founder of the West  
Central Daily Tribune  
at Willmar and Historian  
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## PREFACE

On November 19, 1901, Willmar became a Home Rule Charter City under the Law of the State of Minnesota, by adoption of its City Charter. From time to time in the intervening years, the Charter was amended but it was not until April 20, 1954 that a general revision and amendment of the Charter was adopted by the people of the City. On that date, by an affirmative vote of approximately 82% of all those voting on the question, the present amendment was adopted, which is submitted herewith in book form, and published by the authority of the City Council of the City of Willmar. The within volume encompasses the entire Charter of the City, the same becoming effective on May 21, 1954.

The Charter of any City is the basic foundation of its Municipal Government. With this latest amendment to the Charter of the City of Willmar now in effect, flexible and modern in concept as it is, it is hoped that there will be even more efficiency in Administrative functioning of the City Government.  
Dated May 1954

TOM E. DAVIS  
City Attorney and  
Attorney for Willmar Charter  
Commission  
Willmar, Minnesota

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PROPOSED  
OF

To the Honorable  
Willmar, in the Court  
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The undersigned  
District Court of the  
freeholders (chartered  
mar, Kandiyohi County  
liver the hereto attached  
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proposed amendments  
adoption, according

Dated this 22nd

TOM E. DAVI  
Attorney for B  
Bonde Building  
Willmar, Minn

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PROPOSED AMENDMENT TO THE CHARTER  
 OF THE CITY OF WILLMAR  
 MINNESOTA

To the Honorable Harold E. Miller, Mayor of the City of Willmar, in the County of Kandiyohi, State of Minnesota, and the members of the City Council of said City;

The undersigned, heretofore appointed by the Judges of the District Court of the Twelfth Judicial District as a board of freeholders (charter commission) in and for said City of Willmar, Kandiyohi County, Minnesota, do hereby report and deliver the hereto attached proposed amendment to the home-rule charter for said City of Willmar and do recommend that said proposed amendment be submitted to the voters of said City for adoption, according to law.

Dated this 22nd day of January, 1954.

- ALBIN C. CARLSON, Chairman
- RAY EGGERS, Vice-Chairman
- FLORENCE WESTMAN, Secretary
- DOROTHY BECKER (Mrs. W. F. Becker)
- DON H. BOWER
- W. G. FERGUSON
- FORREST L. GOVE
- TONY HOLMBERG
- NORRIS E. JOHNSON
- HAZEL LAWLER (Mrs. W. J. Lawler)
- LENORE MAERTZ (Mrs. B. L. Maertz)
- RUSSELL E. NELSON
- FRAN O. OSTERAAS
- R. K. PROESCHEL
- ROBERT TORGERSON

Being all of the members of the board of Freeholders for the City of Willmar, Minnesota.

TOM E. DAVIS  
 Attorney for Board of Freeholders  
 Bonde Building  
 Willmar, Minnesota

## CHAPTER I

### NAME, BOUNDARIES, POWERS AND GENERAL PROVISIONS

Sec. 1.01. NAME AND BOUNDARIES. The City of Willmar, in the County of Kandiyohi, and State of Minnesota, shall, upon the taking effect of this charter, continue to be a municipal corporation, under the name and style of the City of Willmar, within the corporate limits as now established or as hereafter established in the manner provided by law.

Sec. 1.02. POWERS OF THE CITY. The City of Willmar, by and in its corporate name, shall have perpetual succession; and save as herein otherwise provided and save as prohibited by the constitution or statutes of the State of Minnesota, it shall have and exercise all powers, functions, rights, and privileges possessed by it prior to the adoption of this charter; also all powers, functions, rights and privileges now or hereafter given or granted to municipal corporations having "home rule charters" by the constitution and laws of the State of Minnesota; also all powers, functions, rights, and privileges, usually exercised by, or which are incidental to, or inhere in, municipal corporations of like power and degree; also all municipal powers, functions, rights, privileges, and immunities, of every name and nature whatsoever; and in addition it shall have all the powers and be subject to the restrictions contained in this charter. In its corporate name it may take and hold, by purchase, condemnation, gift, or device, and lease and convey any and all such real, personal, or mixed property, within or without its boundaries, as its purposes may require, or as may be useful or beneficial to its inhabitants; and it may contract with the county, or with other municipalities for such joint services and utilities as may seem desirable and for all other legitimate purposes.

Sec. 1.03. CONSTRUCTION OF THIS CHARTER. The provisions of this charter shall be construed liberally in favor of the City, to the end that it may have all necessary powers for the efficient conduct of its municipal affairs, as contemplated by the municipal home rule provisions of the constitution and laws of the State of Minnesota. The specific mention of particular municipal powers in other sections of this charter shall not be construed as limiting the powers of the city in the premises of those thus mentioned.

Sec. 1.04. CHARTER A PUBLIC ACT. This charter shall be a public act and need not be pleaded or proved in any case. It shall take effect thirty (30) days from and after its adoption by the voters.

Sec. 1.05. CITY DIVIDED INTO WARDS. The City of Willmar shall be divided in four (4) wards, with such boundaries as may be fixed by resolution adopted by the Council. Said resolution shall subdivide each ward into such voting precincts as may be necessary and feasible under this Charter and pursuant to the laws of the State of Minnesota; provided, however, that the Council may, from time to time, by vote of three-fourths ( $\frac{3}{4}$ ) of the total members thereof, by ordinances make

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such redivision of the City into wards as may be required in the public interest and by the laws applicable hereto; and provided further, that in any such redivision into wards and precincts, it shall be the duty of the Council to provide for an equal population, as near as may be, in each ward.

After the adoption of this Charter, the Council, from time to time, shall examine the distribution of population within the limits of the City of Willmar and may thereafter subdivide the City as herein provided, into proper wards and voting precincts. Until such redivision, the ward and precinct boundaries hereinafter described and set forth shall obtain and be in full force and effect, to-wit:

1. The First Ward of the City of Willmar shall comprise the following territory: All that part and portion of the City of Willmar lying North of the South line of the right of way, as now located on the main line of the Great Northern Railway Company, and included within the limits of said City.

a. The First Precinct of the First Ward shall be that part and portion of said First Ward lying Easterly of the following described line: Commencing at the intersection of Tenth Street and the South line of the right of way, as now located on the main line of the Great Northern Railway Company, thence running in a general Northerly direction along the center line of 10th Street West to its intersection with Ella Avenue; thence generally Westerly along the center line of Ella Avenue to the intersection of Ella Avenue and Russell Street; thence in a general Northerly direction along the center line of Russell Street to the intersection of Russell Street and Olaf Avenue; thence in a general Westerly direction along the center line of Olaf Avenue to the Westerly right of way limits of Twelfth Street to a point; thence in a general Northerly direction on and along the Westerly right of way limits of Twelfth Street, as extended, to the shores of Foot Lake, there terminating.

b. The Second Precinct of the First Ward shall be comprised of that part and portion of the said First Ward not included within the First Precinct thereof.

2. The Second Ward of the City of Willmar shall comprise the following territory: All that part and portion of the City of Willmar lying South of the South line of the right of way, as now located on the main line of the Great Northern Railway Company, and West of the center line of Fourth Street West.

a. The First Precinct of the Second Ward shall be that part and portion of said Second Ward lying within the area bounded by the following described lines: The South line of the right of way as now located on the main line of the Great Northern Railway Company; the center line of Seventh Street West; the center line of Willmar Avenue; the center line of Fourth Street West.

b. The Second Precinct of the Second Ward shall be that part and portion of said Second Ward lying with the area bounded by the following described lines: The South line of the right of way as now located on the main line of the Great Northern Railway Company; the center line of Eleventh Street West;

the center line of Willmar Avenue; the center line of Seventh Street West.

c. The Third Precinct of the Second Ward shall be comprised of that part and portion of the said Second Ward not included within the First Precinct or the Second Precinct thereof, as herein defined and described.

3. The Third Ward of the City of Willmar shall comprise the following territory: All that part and portion of the City of Willmar and bounded by the said South line of the right of way as now located on the main line of the Great Northern Railway Company; the center line of Fourth Street West; the center line of Trott Avenue West extending Easterly; the center line of Lakeland Drive; the center line of Litchfield Avenue East; the Easterly limit of Erickson's Second Addition to the City of Willmar.

a. The First Precinct of the Third Ward shall be that part and portion of said Third Ward lying Easterly of the following described line: Commencing at the intersection of Trott Avenue and Fifth Street East, thence generally Northerly along the center line of Fifth Street East to its intersection with Becker Avenue; thence generally Easterly along the center line of Becker Avenue to its intersection with Sixth Street East to a point; thence generally Northerly along the center line of Sixth Street East to its intersection with the said South line of the right of way, as now located, on the main line of the Great Northern Railway Company.

b. The Second Precinct of the Third Ward shall comprise all of said Third Ward, not included within the First Precinct thereof.

4. The Fourth Ward of said City of Willmar shall comprise the following territory: All that part and portion of the City of Willmar South of the center line of Trott Avenue and East of the center line of Fourth Street West.

a. The First Precinct of said Fourth Ward shall be that part and portion of said Fourth Ward, lying within the area bounded by the following described lines: The center line of Trott Avenue East; the center line of Second Street East; the center line of Olena Avenue, as extended; it shall be understood that any territory East of Inger Street and North of Olena Avenue, as extended Easterly, which may later be added as a part of the City of Willmar shall be considered to lie within the First Precinct of the Fourth Ward thereof.

b. The Second Precinct of the Fourth Ward shall be that part and portion of the Fourth Ward not included within the limits of the First Precinct thereof.

Sec. 1.06. REPRESENTATION OF ADDITIONAL WARDS. In the event the City Council, in the future, may subdivide the City so that there are more Wards than four (4), each of said additional wards shall be represented by two (2) councilmen, who shall have membership upon the City Council; in the event additional ward representation is present upon the City Council, the majority, or other voting margins, prescribed herein shall be increased by one (1) for each of such additional wards.

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CHAPTER II

FORM OF GOVERNMENT

Sec. 2.01. FORM OF GOVERNMENT. The form of government established by this charter shall be known as the "Mayor-Council Plan". All discretionary powers of the City, both legislative and executive, shall vest in and be exercised by the City Council, subject to the initiative, referendum, and recall powers of the people. It shall have complete control over the city administration, which it shall exercise either directly or through its appointed officers and heads of departments, subject to the provisions of this charter and any regulations or ordinances consistent herewith. The council may create such departments, divisions and bureaus for the administration of the City's affairs as it may deem necessary for efficient Government, and from time to time may alter the power and organization of the same.

Subdivision A. For the better and more efficient administration of city affairs, the council, either directly through its own action, or by action of the people taken through the power of initiative as hereinafter defined and set forth, may adopt an ordinance consolidating the administrative work of the City under one department and place all such work under the supervision of an Administrative Assistant, who shall be appointed by the council. Such Administrative Assistant, when appointed, shall become the Chief Administrative and Financial Officer of the City and he shall be selected for his ability and training and special fitness; he need not be a resident of the City, or State of Minnesota, but shall be a citizen of the United States. If an Administrative Assistant shall be appointed, as herein provided, his powers and duties as such officer of the City shall be as defined and set forth in the said ordinance, and subject to the provisions of this charter. No such ordinance creating the office of an Administrative Assistant shall be effective unless and until the same shall have been submitted to the voters of the City of Willmar for approval at any special city election called for that purpose, and under such terms and conditions as the council may prescribe and pursuant to the law of the State of Minnesota; the affirmative majority vote of all persons voting at said City Election shall be required to adopt such an ordinance.

If such a plan, as hereinabove set forth and defined is adopted, it shall not, then, be discarded except upon an initiative or referendum vote in the manner as provided in Chapter V of this charter.

Sec. 2.02. BOARDS AND COMMISSIONS. The council shall by ordinance create a Board of Health of three (3) members in conformity with the provisions of Section 145.01 Minnesota Statutes, 1945. There shall also be a Sinking Fund Commission of three (3) members of the City Council, together with the City Clerk and the City Attorney. There shall also be created a City Planning Commission, as set forth and prescribed in Chapter VIII hereof. There shall also be appointed the following boards or commissions, all of which shall be created by ordinance duly adopted by the City Council, which said boards shall have only advisory powers and power to recommend to the

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City Council such policies of function, administration, and policy as may be deemed necessary and expedient in the case of each of said advisory boards, and relating to the respective institution or department of which said board is an advisor as herein established, and set forth. The following advisory boards shall be established:

Subdivision 1. RICE MEMORIAL HOSPITAL BOARD, which board shall consist of five (5) members, all of whom shall be residents and freeholders of and in the City of Willmar, who shall hold office for such terms and under such conditions as the City Council shall establish by ordinance; no regularly and duly licensed medical doctor, chiropractor, osteopathic physician or other persons who must be licensed by the State of Minnesota under its basic science act to practice the healing arts shall be appointed as a member of this board at any time. The chairman of the finance committee of the City Council and the Mayor of the City shall be ex-officio members of the hospital board, and shall take part in all discussions, but shall have no vote.

Subdivision 2. A LIBRARY BOARD, consisting of five (5) members, all of whom shall be residents and freeholders of and in the City of Willmar, who shall hold office for such term and under such conditions as the City Council shall establish by ordinance.

Subdivision 3. A PARK AND RECREATION BOARD, consisting of five (5) members, all of whom shall be residents and freeholders of and in the City of Willmar, who shall hold office for such term and under such conditions as the City Council shall establish by ordinance.

The members of said boards and commissions as established in this section shall be appointed by a majority vote of the council and save as otherwise provided in this Charter, no member of the council shall act upon any of such boards or commissions.

The Council shall also have power by ordinance to create and appoint the members of such other advisory boards and commissions as may be deemed necessary to advise and assist the Council, and the administration officers of the City, as the Council may determine. The number of members and the terms of office of the members of such advisory boards and commissions shall be determined by ordinance, except as otherwise specified in this Charter. All of such boards and commissions may be given the power to administer oaths and to compel the attendance of witnesses and the production of books, papers and other documentary evidence; and the Council may in the ordinance creating any such board or commission, provide that such board or commission shall be given a reasonable period of time to report upon any project within the scope of its advisory powers prior to the council's taking any action thereon.

Any boards, commissions or council committees, their formation, functions, tenure, privileges, liabilities and duties, existing at the time of adoption of this section, shall continue only until the new Council, as provided in this Charter, shall have been sworn in and shall have assumed their duties; thereafter, only such committees, boards and commissions as are specifical-

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ly provided for herein or which may be created hereunder by the ordinance of the new council, shall have any force, effect, power, duties or function whatsoever, and all ordinances or resolutions heretofore adopted by the City Council establishing boards, committees, or commissions and defining their powers and duties are hereby repealed in full.

Sec. 2.03. ELECTIVE OFFICERS. The elective officers of the City of Willmar, shall be a Mayor, a Treasurer, two members of the Council from each of four (4) wards of the City, who shall be known as councilmen, one Justice of the Peace from each ward and two (2) constables from the City at large. All of said elective officers shall be qualified electors and residents in and of the City of Willmar and they shall be elected as herein-after provided. The Mayor shall serve for a term of two (2) years and until his successor is elected and qualified. The eight councilmen shall each serve for a term of four (4) years and until their respective successors are duly elected and qualified.

There shall also be elected a Municipal Judge as presently provided by law, who shall hold office for a term of four (4) years and until his successor is elected and qualified.

The terms of all elective officers shall begin on the first (1st) Monday after the first (1st) Tuesday in January following a regular municipal election. The Council shall be the judge of the election of the Mayor and the Councilmen, and of all elective officers of the City. The term of office of the present Municipal Judge shall be governed by the provisions of this paragraph of the charter and shall expire as set forth in Section 13.16 hereof.

Sec. 2.04. INCOMPATIBLE OFFICES. Neither the Mayor nor a member of the Council shall be appointed Administrative Assistant, nor shall any member or the Mayor, hold any paid municipal office or employment under the City; and until one (1) year after the expiration of this term as Mayor or Councilman, no former member shall be appointed to any paid appointive office or employment under the City which office or employment was created or the emoluments of which were increased during his term as Councilman.

Sec. 2.05. VACANCIES IN THE COUNCIL. A vacancy in the Council shall be deemed to exist in case of the failure of any person elected thereto to qualify on or before the date of the second regular meeting of the Council, or by reason of the death, resignation, removal from office, removal from the City, continuous absence from the City for more than three months, or conviction of a felony of any such person whether before or after his qualification, or by reason of the failure of any Councilman without good cause to perform any of the duties of membership in the Council for a period of three (3) months.

Sec. 2.06. VACANCIES—GENERALLY. Whenever a vacancy shall occur in any of the elective or appointed offices provided for by this Charter by reason of death, resignation, change of residence, refusal or neglect to enter upon the discharge of his office or for any other cause, such vacancy shall be filled for the unexpired term by appointment of the Council; or as

otherwise provided by law; provided, however, that when such vacancies shall occur, in the office of Mayor or Councilmen, and such vacancy occurs more than one (1) year before the expiration of the term for which he was elected, then such vacancy shall be filled by a special election in that ward or wards affected thereby, to be held on the Tuesday next following the expiration of forty (40) days from the date when such vacancy occurred. If any elective officer is not elected for any reason at the time when he should be elected under this Charter, the Council shall forthwith hold a special election to fill the vacancy except where other provision is made herein for such emergency. In case of a re-call election affecting the office of Mayor or Councilmen, or in case of a special election being necessary to fill a vacancy in the office of the Mayor or Councilmen, the vacancy shall be filled in the manner provided by this Charter concerning re-call elections and the primary nominating election shall be dispensed with as provided for in the case of re-call elections.

Sec. 2.07. THE MAYOR. The Mayor shall be the presiding officer of the Council except that an acting mayor, from among the other members of the Council, shall be chosen who shall serve as mayor in case of the mayor's disability or absence from the City. The Mayor shall exercise all powers and perform all duties conferred and imposed upon him by this Charter, the ordinances of the City and the laws of the State of Minnesota. He shall be recognized as the official head of the City for all ceremonial purposes, by the Courts for the purpose of serving civil process, and by the governor for the purposes of martial law. He shall study the operations of the City Government and shall report to the Council any neglect, dereliction of duty, or waste on the part of any officer or department of the City. The Mayor shall be considered to be a member of the Council; he shall have the right to vote on all matters of policy and administration of City affairs, except that he shall have no vote on questions concerning the adoption, modification or repeal of ordinances, or resolutions having to do with legislation. In all matters of legislation, when the Council is acting in its legislative capacity, the Mayor shall have no vote except in case of a tie, when he shall have the power to cast the deciding vote. He shall not serve on any committee of the Council, except upon an unanimous vote of the entire Council.

He shall be the chief executive officer of the City, and shall have command and control of its police force. He shall sign all warrants and orders drawn on the Treasurer, and all bonds, obligations and contracts on behalf of the City, except as may be otherwise provided for herein.

a. There shall be in the City a Police Department of which the Mayor shall have control and supervision and of which he shall be the chief executive officer and head. Said Department shall consist of a Chief of Police and such patrolmen and other personnel as from time to time may be authorized by the Council. All members of said department shall be employees of the City and they shall be nominated by the Mayor, but must be confirmed by the Council before entering upon the discharge of their duties. The Mayor or Council may,

at his or their pleasure. Except as otherwise provided, the Chief of Police, Patrolmen and other employees of the Police Department shall be paid as the compensation:

b. The qualification for the Chief of Police shall be as determined by the Council; all police officers shall be appointed upon them by this Charter, and the law of

Subdivision A. Any resolution passed by the Council before it takes effect, shall be subject to the approval of the Mayor; if he shall approve it, it shall be effective; if he shall return it, he shall return it to the Council by depositing the same in the office of the Council at its next meeting. A resolution so returned for that purpose shall be deemed to be a resolution of the Council and shall again be put to a vote. If the Council shall again pass the resolution, the Mayor shall be deemed to have approved it, and in case of a tie, the Mayor shall be deemed to have entered by the Council, and in case of a tie, the Mayor shall not be deposited with the Council for ten days after it shall be returned, and shall have the same effect.

Subdivision B. The Council may, in its discretion, employ a Civil Service Board, which shall provide for the appointment of officers and employees, and under such terms and conditions as it may determine, including, grading, and termination of service. The Council shall have the duty to appoint and remove officers and employees in accordance with reference to said ordinance.

Sec. 2.08. The salary of the Mayor shall be Three Thousand Dollars (\$3000.00), and he shall also have a contingent fund of Ten Dollars (\$10.00), which shall be paid and proper in the City without compensation. The Council upon its entire session shall have the duty of equalization, one dollar (1.00)

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at his or their pleasure, remove any member of the department. Except as otherwise herein provided, the compensation of the Chief of Police, Patrolmen and other employees of the police department shall be fixed by the Council in the same manner as the compensations of other city officers.

b. The qualifications of all personnel of the police department shall be as determined, from time to time, by the City Council; all police officers of the City of Willmar shall be endowed with, and they shall exercise, all the powers conferred upon them by this Charter, the ordinances of the City of Willmar, and the law of the State of Minnesota.

Subdivision A. VETO POWER. Every ordinance or resolution passed by the Council in its legislative capacity, shall before it takes effect, be presented to the Mayor for approval. If he shall approve it, he shall sign the same, but if he disapproves it, he shall return it to the Council with his objections thereto, by depositing the same with the Clerk, 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 vote by which the same was passed shall be deemed to have been reconsidered, and the question shall again be put upon the passage of the same, notwithstanding the objections of the mayor; and if, upon such submission, the council shall pass the same by a two-thirds ( $\frac{2}{3}$ ) vote of all its members, it shall have the same effect if approved by the mayor, and in case the vote shall be by yeas and nays, it shall be entered by the Clerk. If an ordinance or resolution shall not be deposited with the Clerk by the Mayor within ten (10) days after it shall have been presented to him, the same shall have the same effect as if approved by him.

Subdivision B. CIVIL SERVICE COMMISSION. The council may, in its discretion, adopt an ordinance establishing a Civil Service Board or Commission; said ordinance, if adopted, shall provide that the power of appointment of all police officers shall be in said service board or commission exclusively and under such terms as may be provided therein for the hiring, grading, and classification, advancement or demotion and termination of service of all police officers; in the event of the adoption of such an ordinance, the mayor shall have no further duty to appoint members of the police department or otherwise act with reference to the police department, save as provided in said ordinance.

Sec. 2.08. SALARIES. The mayor shall receive an annual salary of Three Hundred Dollars (\$300.00) payable quarterly; he shall also have placed at his disposal, by the City Council, a contingent fund each year in the sum of Three Hundred Dollars (\$300.00), which he may expend as he may deem necessary and proper in the public interest. The councilmen shall serve without compensation, except that each shall receive the sum of Ten Dollars (10.00) for each regular or special meeting of the council upon which said officer is in attendance throughout its entire session, and except that when meeting as the board of equalization, each councilman shall receive not to exceed one dollar (1.00) per hour of actual service, said sums to be

paid quarterly. All appointive officers and employees of the city shall receive such salaries or wages as may be fixed by the council by resolution. Each councilman shall receive compensation for not to exceed a total of 30 regular or special meetings of the council each year.

Sec. 2.09. INVESTIGATION OF CITY AFFAIRS. The council and the mayor, or either of them, and any officer or officers formally authorized by them, or either of them, shall have power to make investigations into the city's affairs, to subpoena witnesses, administer oaths, and compel the production of books and papers. The council shall provide for a biennial audit of all the funds, books, and accounts of the City, to be conducted by the public examiner of the State of Minnesota or a reliable Certified Public Accountant; the findings of said public examiner or Certified Public Accountant shall become a part of the official records of the City, to be preserved in the office of the City Clerk and said records shall be available for examination by any citizen of the City. The council may, at any other time, provide for an examination or audit of the accounts of any officer or department of the city government.

Sec. 2.10. GENERAL DUTIES OF MUNICIPAL OFFICERS. The duties of all Municipal Officers shall be as provided for herein or as otherwise established and determined by the City Council, from time to time, by resolution or ordinance; such determination of duties of Municipal Officers by the Council shall be consistent with the provisions of this Charter relating thereto.

Sec. 2.11. OFFICES OF CLERK AND TREASURER MAY BE COMBINED. In its discretion, the Council may, by due ordinance, consolidate and combine the offices and duties of City Clerk and City Treasurer, in the City Clerk, under such terms and conditions as may be provided for in said ordinance; upon the adoption of such an ordinance, the City Clerk shall thereafter be known as "Clerk-Treasurer" and the office of City Treasurer shall thereupon be eliminated as an elected office of the City.

### CHAPTER III

#### PROCEDURE OF COUNCIL

Sec. 3.01. COUNCIL MEETINGS. On the first Monday after the first Tuesday in January, following a regular municipal election, the council shall meet at the usual place and time for the holding of Council meetings. At this time the newly elected members of the Council shall assume their duties. Thereafter the Council shall meet at such times as may be prescribed by ordinance or resolution except that they shall meet not less than twice each month. The Mayor or any three (3) members of the Council may call special meetings of the Council upon at least two (2) hours notice to each member of the Council. Such notice shall be delivered personally to each member or shall be left with some responsible person at the member's usual place of residence. All meetings of the Council

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Sec. 3.02. A shall appoint by resolution, a secretary, Clerk, and who shall perform such duties as the Council Charter or by ordinance shall a member of the Council.

The City Council shall employ a licensed attorney who shall act as City Attorney and who shall perform all services and conduct all matters which the City may directly or indirectly charge of and control by ordinance or resolution thereof, and in the absence or absence of the attorney shall appoint by and through the City Attorney to act in his stead.

The City Council shall employ a Civil Engineer; a Mechanical Engineer who is duly licensed by the State Board of Professional Engineers and Land Surveyors; a Professional Engineer must have had at least five years experience in the profession of a Professional Engineer shall be responsible for the maintenance and repair of sidewalks and the streets of Willmar; the sprinkling of a street in the City; the original construction of a street by the City Engineer shall be and shall be carefully inspected by the City Engineer and his official act shall be given to those

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shall be public and any citizen shall have access to the minutes and records thereof at all reasonable times.

a. Unless otherwise specified herein, the latest revision of Robert's Rules of Order shall be followed as to the form and conducting of all Council meetings.

Sec. 3.02. APPOINTED OFFICERS. The City Council shall appoint by majority vote of all its members and by due resolution, a secretary of the Council, who shall be the City Clerk, and who shall hold office under such terms and conditions as the Council shall prescribe; he shall keep such records and perform such other duties as may be required by this Charter or by action of the City Council; under no circumstances shall a member of the Council, act as secretary of the Council.

The City Council shall also appoint a duly qualified licensed attorney-at-law, a resident of the City of Willmar, as City Attorney who shall act as legal advisor to the Council, and to all the boards and departments of the City and who shall perform all services incident to that office. He shall appear in and conduct all civil suits, prosecutions and proceedings in which the City or any board or department thereof shall be directly or indirectly interested, and when necessary shall take charge of and conduct all prosecutions for the violation of all ordinances or resolutions of the City or any board or department thereof, and for the violation of any of the provisions of this Charter. In case of his inability to act, by virtue of sickness or absence from the City, he may, at his own expense, appoint by and with the consent of the Council, another attorney to act in his stead for the time being.

The City Council shall also appoint a City Engineer. The Council shall determine and establish the qualifications of the said Engineer; however, no person shall be appointed City Engineer who is not the holder of a currently effective registration certificate in the divisions of Civil Engineering as issued by the State Board of Registration for Architects, Engineers and Land Surveyors. Before his appointment, such City Engineer must have had at least three (3) years' practical experience in the designated field of engineering. The said City Engineer shall have control and supervision of all construction, maintenance and repair of pavements, sewers, streets, sidewalks and the construction of all public works in the City of Willmar; the maintenance, repair, cleaning, sweeping and sprinkling of all streets, alleys, and other public places within the City; the grading of all streets and alleys, whether in original construction or otherwise, and all works shall be done by the City Engineer or his assistants. His official records shall be and remain the property of the said City and they shall be carefully indexed and preserved in the office of the City Engineer and become a part of the public records of this City. His official acts and all plats, surveys and certificates made by him shall have the same force and validity as are or may be given to those of County Surveyors.

The City Council shall also appoint a duly qualified Assessor who, with his deputies, shall qualify in the manner and form

prescribed by the general law of the state, and he shall perform all the duties required by the general laws of the State of Minnesota; he shall have the powers, rights, and privileges allowed by the same, respecting the listing of property for taxation, and notices may be signed and given and other acts relating to the duties of such office, done by any deputy assessor, shall be done in the name of the assessor, with like force and effect. The Assessor must be a freeholder of the City, and for the past two (2) years preceeding his appointment, a resident and elector thereof. He shall be elected by the Council, by majority vote, at the first meeting in January of each year or within one month thereafter, and he shall enter upon the performance of his duties at such time not later than May 1 of each year as the council may direct, but all assessments shall be made as of the date provided by the law of the State of Minnesota. He shall, with the consent of the Council appoint such deputies as may be required to enable him properly to perform the duties of his office and he may discharge such duties at will. He shall present the name of such deputies to the council for its approval at any regular meeting in April.

The City Council shall also appoint a City Auditor who shall make such audits and such reports thereof as may be ordered by the City Council, concerning any fund or funds, of the City of Willmar or any department thereof; the council shall prescribe the qualifications of the auditor, by due resolution.

The City Council shall also appoint such other and further officers and personnel as may be required to enable the City to operate efficiently.

The terms of office, emoluments, compensation and conditions of employment of all appointive officers of the City of Willmar, shall be fixed by due resolution of the City Council; all officers appointed by the Council shall hold office at the pleasure of the council and any officer may be discharged by the City Council.

**Sec. 3.03. RULES OF PROCEDURE AND QUORUM.** Unless otherwise ordered and determined by the council, the rules and order of business shall be as prescribed in the latest revision of Robert's Rules of Order. The Council shall keep a journal of its proceedings. A majority of all members elected shall constitute a quorum to do business, but a less number may adjourn from time to time. The council shall provide by ordinance a means by which a minority may compel the attendance of absent members, should such procedure be necessary.

**Sec. 3.04. ORDINANCES, RESOLUTIONS, AND MOTIONS.** Every legislative act of the Council shall be by ordinance. The enacting clause of every ordinance shall be in these words: "Be it ordained by the City of Willmar as follows." No ordinance shall contain more than one subject, which shall be expressed in its title, nor shall any ordinance be amended after its introduction so as to change its original purpose.

a. No ordinance shall be introduced except at a regular meeting at which meeting it shall have its first reading. Its second reading shall be at some subsequent regular or adjourn-

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ed meeting, which shall occur not less than one week after its first reading. Its third reading shall be had, and it may be passed, only at a regular or adjourned regular meeting, occurring at least one week after its second reading, and no ordinance shall be passed until it has had three readings, as herein provided. No ordinance shall be reconsidered except at the first regular meeting after its adoption or rejection, nor at such meeting unless there are present as many members of the council as were present when said ordinance was adopted or rejected.

b. It shall require the affirmative vote of at least a majority of all the members of the council to enact an ordinance. The vote shall be taken by yeas and nays, and be entered upon its journal. Every ordinance, before it takes effect, shall be published in the official paper. The proof of such publication, by affidavit of the foreman or publisher of the paper or any other competent proof thereof, shall be prima facie evidence of the legal passage, enactment, approval publication and promulgation of such ordinance in any court of this state or elsewhere.

c. Every ordinance or resolution providing for any specific improvement or involving the appropriation or disposition of public property or the expenditure of public money, or levying any tax or assessment, or creating any liability, or awarding or approving any contract for the payment of money, or ordering the condemnation of private property or the making of any local improvement, shall require a two-thirds vote of all the members of the council; provided, however, that the payroll of certain city officers and employes hereinafter specified shall only require a majority vote of the members of the council present.

d. All ordinances, with proof of publication, shall be deposited with the clerk, who shall record the same at length in a suitable book; but proof of recording shall not be required in any proceeding where it is necessary to prove such ordinances.

Sec. 3.05. EMERGENCY ORDINANCES AND RESOLUTIONS. An emergency ordinance or resolution is an ordinance or resolution for the immediate preservation of the public peace, health, or safety, in which the emergency is defined or declared in a preamble thereto, separately voted upon, and agreed to by at least six (6) members of the council, as recorded by "ayes" and "noes". An emergency ordinance or resolution must be in writing but may be enacted without previous filing or publication. No grant of any franchise shall be construed to be an emergency ordinance.

Sec. 3.06. RESOLUTIONS AND MOTIONS. All powers other than legislative shall be exercised by resolutions or motions. Every resolution shall be presented in writing and shall be read in full before a vote is taken thereon unless the reading of a resolution is dispensed with by unanimous consent.

Sec. 3.07 WHEN ORDINANCES AND RESOLUTIONS TAKE EFFECT. Emergency ordinances and resolutions, and

ordinances and resolutions making the annual tax levy, determining the annual budget, and providing for local improvements and assessments, shall take effect immediately upon their passage and shall not be subject to referendum as provided in Sections 5.10, 5.11 and 5.12 of this Charter. All other resolutions enacted by the Council shall take effect ten (10) days following the date of their adoption, exclusive of the day of said adoption, or on such later date as may be specified in said resolutions.

Resolutions involving and authorizing the expenditure of money shall be published once in the official newspaper, for the information of the public, which publication may occur following the effective date of said resolutions.

The Council may authorize the City Clerk to publish in the official newspaper of the City the minutes and proceedings of the Council in narrative or resume form, except that all ordinances, and all resolutions, necessarily to be published by the terms of this Charter, shall be so published in full.

Sec. 3.08. AMENDMENT AND REPEAL OF ORDINANCES AND RESOLUTIONS. Every ordinance upon its passage shall be numbered and recorded in a separate book or books kept for that purpose. Ordinances may be amended, either wholly or partially, by reference to their numbers, titles, and dates of adoption; ordinances may be repealed by reference to their numbers, titles, and dates of adoption. It shall not be necessary, in the case of amending an ordinance, to completely restate the entire section or sections to be amended.

Sec. 3.09. ORDINANCES GRANTING FRANCHISES. Except as otherwise provided in the constitution of the state, or as otherwise specified in this charter, an ordinance or resolution for the lease or sale of any public utility must be submitted to the vote of the electors of the city before the same shall be valid, and in no case shall any franchise be granted for a longer period than twenty (20) years.

The ballots used at such election shall contain the words, "For the Ordinance" (stating the nature of the proposed ordinance) and "Against the Ordinance" (stating the same.)

Returns of such election shall be made to the clerk, as provided for other elections, and the council must meet and canvass the returns within three (3) days.

If a majority of the votes cast upon such submission shall be in favor thereof, the council shall, within thirty (30) days from the time of such election, proclaim such fact, and upon such proclamation such ordinance shall be legal and binding. No such franchise or lease or sale of any public utility shall be of any force or effect except it be made in the manner above provided.

#### CHAPTER IV

#### NOMINATIONS AND ELECTIONS

Sec. 4.01. ELECTION DISTRICTS. The council shall establish and from time to time divide, consolidate and re-

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arrange election districts by resolution and ordinance accord-  
ing to the laws of the State of Minnesota.

Sec. 4.02 PRIMARY ELECTION. On the third Tuesday  
preceding any general or special election held for the purpose  
of electing city officials an election of nominees, hereafter  
designated as the "primary election", shall be held in each  
election district for the selection of candidates for all elective  
offices within the City of Willmar, to be filled at such ensuing  
election. The City Clerk shall give at least ten days posted  
and published notice of the time and place of holding the same,  
of the hours during which the polls will be open, and of the  
offices for which candidates are to be nominated.

At said primary election, there shall be nominated by the  
qualified electors of the City, two (2) candidates for every  
office to be filled within the city at the next ensuing general  
or special election; candidates shall be filed as follows:

At least fifteen days before the said primary election, any  
person, eligible and desirous of having his name placed upon  
the primary ballot as a candidate for any office to be voted for  
at said primary election shall file, or cause to be filed, with  
the City Clerk of said city a petition, signed by at least fifteen  
(15) qualified voters of said city, which petition shall state the  
name and residence of such person, the office for which he  
desires to be a candidate and that he is a qualified voter in  
said city.

No elector shall sign petitions for more candidates than  
the number of places to be filled at the general election, and  
should he do so, his signature shall be void as to the petition  
or petitions last filed. All petitions shall be in the hands of the  
City Clerk at least fifteen days before the election. The Clerk  
shall prepare the ballots in a manner to be provided by  
ordinance.

Sec. 4.03. NOMINATION PETITIONS. The signatures  
to the petition seeking to have the name of an individual placed  
before the voters for nomination at any primary election need  
not all be appended to one paper, but to each separate paper  
there shall be attached an affidavit of the circulator thereof  
stating the number of signers of such paper, and that each  
signature appended thereto was made in his presence and is  
the genuine signature of the person whose name it purports  
to be, with each signature shall be stated the place of residence  
of the signer, giving the street and number or other descrip-  
tion, sufficient to identify the same. The form of the nomina-  
tion petition shall be substantially as follows:

PETITION

We, the undersigned electors of the City of Willmar,  
Minnesota, hereby petition that the name of.....  
..... whose residence is  
..... be placed upon  
the primary election ballot for the office of.....  
..... to be voted for at the primary  
election to be held on the .....day of

....., 19....., and we individually certify that we are qualified electors and that we have not signed more petitions of this type for candidates for this office than there are persons to be elected thereto.

Name ..... Street and Number .....  
.....  
.....

..... being duly sworn, deposes and says, that he is the circulator of the foregoing petition paper containing ..... signatures, and that the signatures appended thereto were made in his presence and are the signatures of the persons whose names they purport to be.

Signed.....  
Subscribed and sworn to before me  
this..... day of ....., 19.....

This petition, if found insufficient by the City Clerk, shall  
(name) (street)  
be returned to ..... at .....

It shall be the duty of the City Clerk thereafter to provide a sufficient number of primary ballots for each election district, such ballots to have printed thereon the names of all persons by or on behalf of whom petitions have been filed as hereinbefore provided, together with the designation of the office for which the nomination is sought. Where more than one name is presented for nomination for the said office, such name shall be placed upon the primary ballot in alphabetical order. Below each designation for office there shall be a blank line upon which the voter may write the name of any other person as his choice of a nominee for such office. During the week preceding such primary election, the City Clerk shall cause a sample ballot to be published in all newspapers in said City. The two (2) persons having the highest number of votes for any elective office shall be notified of that fact by the Clerk and shall be candidates for such office at the ensuing general election unless within two (2) days after notification they, either, or any of them, file with the Clerk a refusal to be a candidate, in which event the person or persons having the next highest vote shall be notified by the Clerk and this process shall be continued until two (2) candidates are secured, or the list of all those voted for at the primary shall be exhausted, and the person or persons so finally determined by this process to be the candidate or candidates shall be entitled to have his or their names placed upon the official ballot used in the ensuing election. In case of a tie vote, the nomination shall be determined by the casting of lots in the presence of the Clerk at such time and place and in such manner as he may direct.

Sec. 4.04. THE REGULAR MUNICIPAL ELECTION. The regular general municipal election shall be held on the first Tuesday after the first Monday in November in every even numbered year at such place or places as the city council may designate. At least ten (10) days previous notice shall be given by the City Clerk of the time and place of holding such election and of the officers to be elected and of those nominated for said respective positions as determined by the primary election, by causing public notice thereof to be made at least once

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in the official newspaper of the City of Willmar but the failure to give such notice shall not invalidate such election.

Sec. 4.05. **JUDGES AND CLERKS OF ELECTION.** The council shall, ten days before each primary or regular municipal election, appoint a sufficient number of qualified voters of each election district to be judges of election and to serve as clerks of election therein.

Sec. 4.06. **CANVASS OF ELECTIONS.** The council shall meet and canvass the election returns of any primary, special or general election within three (3) days after the holding thereof and shall make full declaration of the results as soon as possible and file a statement thereof with the City Clerk. This statement shall include:

A. The total number of good ballots cast for each candidate, with an indication of those who were either nominated or elected, as the case may be;

B. A true copy of the ballots used in said election;

C. The names of the judges and clerks of election; and

D. Such other information as may seem pertinent

The City Clerk shall forthwith notify all persons nominated or elected of the fact thereof.

Sec. 4.07. **SPECIAL ELECTIONS.** The council may by resolution and shall upon the petition signed by a number of electors equivalent to at least twenty-five (25) percent of the total number of votes cast at the last preceding regular city election order a special election for any proper purpose, fix the time of holding the same and provide the means for holding such special election. The procedure at such election shall conform as nearly as possible to that herein provided for other regular municipal elections.

Sec. 4.08. **PROCEDURE AT ELECTIONS.** The conduct of elections shall be regulated by ordinance subject to the provisions of this Charter and of the general laws of the State of Minnesota, to be conducted as closely as possible to the election procedure set forth in the General Laws of the State applicable thereto.

Sec. 4.09. **COUNCIL MAY CHANGE PRIMARY ELECTION DATE.** The regular general municipal election shall be held as set forth in Section 4.04 hereof. In the interest of economy and general public good, however, the Council may adopt an ordinance providing that the primary election, as provided in Section 4.02 hereof, be held on the Second Tuesday in September next preceeding the regular municipal election. Such an ordinance may be repealed by act of the Council should the public good and interest require it, thereby making the primary election date effective as set forth in Section 4.02. In the event of the adoption of such an ordinance, making it possible to hold the city primary election on the same date as the state primary election, which is the purpose of this provision, no part of the provisions of Section 4.02 hereof shall be abrogated or changed save that the date of such primary election only be changed.

CHAPTER V

INITIATIVE, REFERENDUM, AND RECALL

Sec. 5.01. POWERS RESERVED BY THE PEOPLE. The people of Willmar reserve to themselves the power, in accordance with the provisions of this charter, to initiate and adopt ordinances and resolutions, to require measures passed by the Council to be referred to the electorate for approval or disapproval, and to recall elected public officials. These powers shall be called the initiative, the referendum, and the recall, respectively.

Sec. 5.02 EXPENDITURES BY PETITIONERS. No member of any initiative, referendum, or recall committee, no circulator of a signature paper, and no signer of any such paper, or any other person, shall accept or offer any reward, pecuniary or otherwise, for service rendered in connection with the circulation thereof, but this shall not prevent any such committee from incurring an expense not to exceed twenty dollars (\$20.00) for legal advice, stationery, copying, printing, and notaries' fees. Any violation of the provisions of this section shall constitute a misdemeanor.

Sec. 5.03. FURTHER REGULATIONS. The Council may as soon as possible after the organization of the city government under this charter provide by ordinance such further regulations for the initiative, referendum and recall, not inconsistent with this charter, as may be deemed necessary. Such ordinance shall include the relevant provisions of this charter.

INITIATIVE

Sec. 5.04. INITIATIONS OF MEASURES. Any five electors may form themselves into a committee for the initiation of any measure of public concern. After formulating their measure they shall file a verified copy thereof with the City Clerk, together with their names and addresses as members of such committee. They shall also attach a verified copy of the proposed measure to each of the signature papers herein described, together with their names and addresses as sponsors therefor.

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

INITIATIVE PETITION

proposing an ordinance (or resolution, as the case may be) to (stating the purpose of the measure), a copy of which ordin-

ance (or resolution) proposed by the following Name

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

The undersigned, the nature of the measure for its adoption, and the names of the electors for their Name

- 1. ....
2. ....
3. ....

At the end of the affidavit of the circulator

Sec. 5.06. FILING OF PETITION. All the signatures of the City Clerk as of the filing of the petition the number thereof, and who of the total number preceding regular municipal election insufficient or in the committee or his finding. The petition in all cases shall file the same with the committee or irregularity of the petition to the Council from a regular or any

Sec. 5.07. AFFIDAVIT OF CIRCULATOR. The circulator of every such paper shall make an affidavit that each signature appended to the paper is the genuine signature of the person whose name it purports to be. Each signature paper shall be in substantially the following form;

**RECALL**

**BY PEOPLE.** The power, in appropriate and adopted by the approval or disapproval these powers shall be recall, respect-

**PETITIONERS.** No recall committee, member of any such offer any reward, and in connection prevent any such exceed twenty copying, printing, provisions of this sec-

The Council may the city govern- be such further recall, not incon- necessary. Such of this charter.

Any five elect- the initiation of g their measure City Clerk, to- mbers of such copy of the pro- herein described, sors therefor.

**SIGNATURE** measure shall gnature papers shall not be qual to at least cast at the last gnatures need of every such e appended to n whose name be in substan-

case may be) f which ordin-

ance (or resolution) is hereto attached. This measure is sponsored by the following committee of electors:

Name	Address
1. ....	.....
2. ....	.....
3. ....	.....
4. ....	.....
5. ....	.....

The undersigned electors, understanding the terms, and the nature of the measure hereto attached, petition the council for its adoption, or, in lieu thereof, for its submission to the electors for their approval.

Name	Address
1. ....	.....
2. ....	.....
3. ....	.....

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

**Sec. 5.06. FILING OF PETITIONS AND ACTION THEREON.** All the signature papers shall be filed in the office of the City Clerk as one instrument. Within five (5) days after the filing of the petition, the City Clerk shall ascertain by examination the number of electors whose signatures are appended thereto, and whether this number is at least ten (10) per cent of the total number of electors who cast their votes at the last preceding regular municipal election. If he finds the petition insufficient or irregular, he shall at once notify one or more of the committee of sponsors of that fact, certifying the reasons for his finding. The committee shall then be given thirty (30) days in which to file additional signature papers and to correct the petition in all other particulars. If at the end of that period the petition is found to be still insufficient, or irregular, the Clerk shall file the same in his office and shall notify each member of the committee of that fact. The final finding of the insufficiency or irregularity of a petition shall not prejudice the filing of a new petition for the same purpose, nor shall it prevent the Council from referring the measure to the electors at the next regular or any special election, at its option.

**Sec. 5.07. ACTION OF COUNCIL ON PETITION.** Whenever the petition shall be found to be sufficient, the City Clerk shall so certify to the Council at its next meeting, stating the number of petitioners and the percentage of the total number of voters which they constitute, and the Council shall at once read the measure and refer it to an appropriate committee, which may be a committee of the whole. The committee or Council shall thereupon provide for public hearings upon the measure, after the holding of which the measure shall be finally acted upon by the Council not later than sixty-five (65) days after the date upon which such measure was submitted to the Council by the City Clerk. If the Council shall fail to pass the proposed measure, or shall pass it in a form different from that set forth in the petition and unsatisfactory to the petitioners, the proposed measure shall be submitted by the Council to the vote of the electors at the next regular municipal elec-

tion. But in case the number of signers of said petition is equal to at least fifteen (15) per cent of the total number of voters voting at the last regular municipal election, then the council shall call a special election upon the measure to be held not less than thirty (30) nor more than forty-five (45) days from such date, unless a regular election is to occur within three (3) months in which case it may be submitted at such regular municipal election. In case the Council passes the proposed measure with amendments, and at least four-fifths of the committee of petitioners do not express their dissatisfaction with such amended form by a certificate filed with the City Clerk within ten (10) days from the passage thereof by the Council, then the measure need not be submitted to the electors.

Sec. 5.08. INITIATIVE BALLOTS. The ballots used when voting upon any such proposed measure shall state the substance thereof, and shall give the voter the opportunity to vote either "For the Measure" or "Against the measure". If a majority of the electors voting on any such measure shall vote in favor thereof, it shall thereupon become an ordinance or resolution of the City, as the case may be. Any number of proposed measures may be voted upon at the same election, but in case there shall be more than one, the voter shall be allowed to vote for or against each separately.

Sec. 5.09 INITIATION OF CHARTER AMENDMENTS. Nothing in this charter contained shall be construed as in any way affecting the right of the electors under the constitution and statutes of Minnesota to propose amendments to this charter.

### REFERENDUM

Sec.5.10. THE REFERENDUM. If prior to the date when an ordinance or resolution takes effect a petition signed by qualified electors of the City equal in number to fifteen (15) per cent of the total vote at the last regular municipal election be filed with the City Clerk requesting that any such measure, or any part thereof, be repealed or be submitted to a vote of the electors, the said measure shall thereby be prevented from going into operation. The council shall thereupon reconsider the said measure at its next regular meeting, and either repeal the same, or repeal the sections thereof to which objection has been raised by the petitioners, or by "aye" and "no" vote reaffirm its adherence to the measure as passed. In the latter case the Council shall immediately order an election to be held thereon, pending which the ordinance or resolution shall remain suspended. If a majority of the voters voting thereon are opposed to the measure, it shall not become effective; otherwise, it shall go into effect immediately or on the date therein specified.

Sec. 5.11. REFERENDUM PETITIONS. The requirements laid down in Sections 5.04 and 5.05 above as to the formation of committees for the initiation of measures and as to the form of petitions and signature papers shall apply to the referendum as far as possible, but with such verbal changes as may be necessary. A referendum petition shall read as follows:

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Name

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3. ....
4. ....
5. ....

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Name

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Name

1. ....

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ballots used shall state the opportunity to measure". If a measure shall vote finance or resolution of proposed on, but in case allowed to vote

**AMENDMENTS.**  
 ruled as in any constitution and this charter.

the date when signed by qualified (15) per cent election by each measure, or a vote of the tied from going aside the said appeal the same, has been raised reaffirm its advice the Council thereon, pending suspended. If a ed to the measure shall go into 1.

The requirements to the form and as to the y to the referanges as may follows:

**REFERENDUM PETITION**

proposing the repeal of an ordinance, or any part thereof, (or resolution as the case may be) to (stating the purpose of the measure), a copy of which ordinance, or any part thereof, (or resolution) is hereto attached. The proposed repeal is sponsored by the following committee of electors:

	Name	Address
1.	.....	.....
2.	.....	.....
3.	.....	.....
4.	.....	.....
5.	.....	.....

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

	Name	Address
1.	.....	.....
2.	.....	.....
3.	.....	.....

Sec. 5.12. **REFERENDUM BALLOTS.** The ballots used in any referendum election shall conform as nearly as possible to the rules laid down in Section 5.08 of this charter for initiative ballots.

**RECALL**

Sec. 5.13. **THE RECALL.** Any five electors may form themselves into a committee for the purpose of bringing about the recall of any elected officer of the City. The committee shall certify to the City Clerk the name of the officer whose removal is sought, a statement of the grounds for removal in not more than two hundred and fifty (250) words and their intention to bring about his recall. A copy of this certificate shall be attached to each signature paper and no signature paper shall be put into circulation previous to such certification.

Sec. 5.14. **RECALL PETITIONS.** The petition for the recall of any official shall consist of a certificate identical with that filed with the City Clerk together with all the signature papers and affidavits thereto attached. All the signatures need not be on one signature paper, but the circulator of every such paper shall make an affidavit that each signature appended to the paper is the genuine signature of the person whose name it purports to be. Each signature paper shall be in substantially the following form:

**RECALL PETITION**

proposing the recall of..... from his office as....., which recall is sought for the reasons set forth in the attached certificate.

This movement is sponsored by the following committee of electors:

	Name	Address
1.	.....	.....

2. ....
3. ....
4. ....
5. ....

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

Name	Address
1. ....	.....
2. ....	.....
3. ....	.....

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

**Sec. 5.15. FILING OF PETITION.** Within thirty days (30) after the filing of the original certificate, the committee shall file the completed petition in the office of the City Clerk. The City Clerk shall examine the same within the next five (5) days, and if he finds it irregular in any way, or finds that the number of signers is less than twenty-five (25) per cent of the total number of electors of the City who cast their votes at the last preceding regular municipal election for all candidates for the office in question, he shall so notify one or more members of the committee. The committee shall then be given ten (10) days in which to file additional signature papers and to correct the petition in all other respects, but they may not change the statement of the grounds upon which the recall is sought. If at the end of that time, the City Clerk finds the petition still insufficient or irregular he shall notify all the members of the committee to that effect, and shall file the petition in his office. No further action shall be taken thereon.

**Sec. 5.16. RECALL ELECTION.** If the petition, or amended petition, be found sufficient, the City Clerk shall transmit it to the council without delay, and shall also officially notify the person sought to be recalled of the sufficiency of the petition and of the pending action. The Council shall at its next meeting, by resolution, provide for the holding of a special recall election throughout the City not less than thirty (30) nor more than forty-five (45) days thereafter, provided that if any other municipal election is to occur within sixty (60) days after such meeting, the Council may in its discretion provide for the holding of the recall election at that time.

**Sec. 5.17. PRECEDURE AT RECALL ELECTION.** In the published call for the election printed in the official paper, there shall be given the statement of the grounds for the recall and also, in not more than five hundred (500) words, the answer of the officer concerned in justification of his course of conduct in office. Candidates to succeed the officer to be recalled shall be elected as set forth in Section 5.18 herein and the election shall be conducted as far as possible in accordance with the usual procedure in municipal elections. In the case of a recall election in which the voters determine to recall as elected official, there shall be no primary nominating election to fill the unexpired term of the office in question.

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

## CHAPTER VI

### ADMINISTRATION OF CITY AFFAIRS

Sec. 6.01. POWER OF THE CITY. The City Council shall administer all affairs of the City, through its committees, boards, departments and officers and it shall have full power to do all things necessary to administer, properly and efficiently, the business and affairs of the city. The council shall have full power and authority to make, enact ordain, establish, publish, enforce, alter, modify, amend or repeal all such ordinances, rules, resolutions, and by-laws, for the enhancement of the general welfare, for the government and the good order of the city, for the protection of the public health, comfort and safety, for the suppression of vice and intemperance, and for the prevention of crime as it shall deem expedient, and to do all things in the best public interest, not otherwise prohibited by this charter or by the law of the State of Minnesota; the city council shall be charged with the duty of enforcing this charter and the laws, ordinances and resolutions of the city; to exercise control over all departments and divisions of the city administration created by this charter or which may hereafter be created by the council; to adopt, in ordinance form, such rules for administration incorporating the details of administrative procedure in the operation of the business of the city as may be deemed advisable; to create such departments, divisions and bureaus from time to time, for the administration of the city's affairs as it may deem necessary, and from time to time alter the powers and organizations of the same; to create such offices and to appoint such officers as it may deem necessary and expedient efficiently and properly to carry on the business and affairs of the city.

Sec. 6.02. PURCHASES AND CONTRACTS. The city council may authorize purchases or contracts without advertising and the receiving of competitive bids thereon, for purchases or contracts not exceeding One Thousand Dollars (\$1000 00). Before making purchase of, or contract for, supplies materials, equipment or services of more than One Thousand Dollars, ample opportunity for competitive bidding shall be given under such rules and regulations as the council may prescribe by ordinance, provided that should the article or service required be of a non-competitive nature, the council may purchase the same without bid. The council may reject any and all bids and may re-advertise. The council may provide in such ordinance named in this section for a system of checks and controls through a form of requisition on any purchase to be made in the name and on behalf of the city of Willmar, by any department or officer of the city; the approval of the council must be given in advance for purchases or contracts exceeding \$500.00.

Said ordinance may also provide that the city council may name an officer of the city to act as "purchasing agent" of the city. The said purchasing agent, when so named and appointed by the council, and subject to the provisions of this charter and pursuant to rules and regulations established by ordinance shall make arrangements to contract for, purchase, store and distribute all supplies, materials and equipment required by any office, department or agency of the city government. Such purchasing agent, under the authority, and with the approval of the council, shall establish and enforce specifications and plans, inspect or supervise the inspection of all deliveries and have full and complete charge of, and be responsible for, all supplies, materials and equipment purchased for or belonging to the city.

All contracts, bonds and other instruments of every kind to which the city shall be a party shall be executed in the name of the City and signed by the Mayor and the City Clerk on behalf of the city.

The City Council may, in its discretion and with the recommendation of the proper department head, direct any work or construction or any part thereof to be done by day labor or by any department of the city government under direction of the mayor.

This section of the charter as to contracts and purchases on behalf of the City of Willmar shall be the exclusive procedure, save as otherwise provided for in this charter and as to city purchases.

Sec. 6.03. REQUISITES OF BIDS. In advertising for any bids, the council shall require any bidder to deliver his bid and a certified check, cash, cashier's check drawn upon a reputable banking institution, or bid bond furnished by a reputable bonding company, payable to the City of Willmar for at least 10% of the total amount of such bid, which checks, cash or bid bonds and the amount thereof shall be forfeited to the City of Willmar as liquidated damages if the bidder, upon the letting of the contract to him, shall fail to enter into the contract so let.

Sec. 6.04. CONTROL OF STREETS AND VACATION THEREOF. The council shall have the care, supervision and

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control of all public highways, bridges, streets, lanes, alleys, public squares and grounds, sewers, public improvements and shall have full power and authority to regulate and control the use thereof; it shall have authority to open streets when necessary, and to cause all streets which may have been open under the authority of the city, or with its consent, to be kept open and in repair, and free from obstructions and nuisance.

The council shall have exclusive power to vacate or discontinue public grounds, streets, alleys, highways, and park ways within the City. No such vacation or discontinuance shall be granted or ordered by the council, except upon a petition of a majority of owners of property on the line of such public ground, street, alley or highway within such city, proposed to be vacated, together with a distance of three hundred feet in each direction from the end of such portion so proposed to be vacated, and a corporation, otherwise a proper party, may join in and verify such petition, by any officer, and be counted as a resident for the purpose of this section. Each petition provided for in this section shall state the facts and reasons for such vacation, accompanied by a plat of the ground, and it shall be verified by one of the petitioners. The council, when the petition is presented, shall, if it deems it expedient that the matter shall be proceeded with, thereupon order the petition to be filed with the clerk, who shall give notice by publication in the official paper for two consecutive weeks, at least once a week, to the effect that such petition has been filed as aforesaid and the same shall be heard and considered by the council on a day and at a place therein specified, not less than ten days from the expiration of such publication. The council shall, at the time and place appointed, investigate and consider said matter, and shall hear the testimony and evidence on the part of the parties interested. The council, after hearing the same, may, by resolution, passed by a three-fourths vote of all the members thereof, declare such street, alley, highway or road vacated, which resolution, if approved by the mayor, or passed over his veto shall go into effect the same as other resolutions, after a transcript thereof and of said plat duly certified by the clerk has been filed for record and duly recorded in the office of the register of deeds of said Kandiyohi County.

The council may by resolution in any case provide that no such vacation shall be valid until the value of the premises so vacated shall be deposited in the treasury, which value shall be fixed by resolution of the council by three-fourths vote of all the members thereof, and shall in no case be less than a proportionate value of the abutting property.

Provided that the vacations and discontinuances of any county, state or town road may be granted upon the petition of a majority of the owners of such property to which the same or the portions thereof sought to be vacated passes, when such owner shall have platted the same, and shall have provided in lieu of such roads, sufficient streets, in the opinion of the council; and the acceptance of such plat and the resolution of vacation shall, when recorded, be conclusive evidence thereof.

## CHAPTER VII

### TAXATION AND FINANCE

Sec. 7.01. COUNCIL TO CONTROL FINANCES. The Council shall have full authority over the financial affairs of the city, and shall provide for the collection of all revenues and other assets, the auditing and settlement of accounts, and the safekeeping and disbursements of public moneys, and in the exercise of a sound discretion, shall make appropriations for the payment of all liabilities and expenses.

Sec. 7.02. FISCAL YEAR. The fiscal year of the City shall end each year on the thirty-first (31st) day of December.

Sec. 7.03. SYSTEM OF TAXATION. Subject to the state constitution, and except as forbidden by it or by state legislation, the Council, shall have full power to provide for a system of local taxation and to change the same from time to time. In-so-far as the City procures a revenue from taxes upon real and personal property as such, it shall conform as fully as possible to the general state law as to the assessment of such property and the collection of such taxes; to secure additional revenues the council shall have the power by ordinance adopted by a three-fourths ( $\frac{3}{4}$ ) majority of the total membership of the Council, to assess, levy, and collect taxes for general or special purposes on all subjects, or objects which the City may lawfully tax except an ad valorem tax on real and personal property and except a sales or excise tax on personal services, clothing, food, rent, or fuel, and except an income tax or payroll tax. Nothing herein shall be construed as authorizing a tax on doing business within the City limits or upon the use of a licensing power for the purpose of raising revenue.

Sec. 7.04. BOARD OF EQUALIZATION. The Council shall constitute a board of equalization and shall meet as such in the usual place for holding council meetings on the last Monday in June to equalize the assessments according to law.

Sec. 7.05. PREPARATION OF THE ANNUAL BUDGET. The finance committee of the Council shall prepare the estimates for the annual budget. The estimates of expenditures shall be arranged for each department or division of the city under the following heads: (1) ordinary expenses (for operation, maintenance, and repairs); and (2) capital outlays (for new construction, new equipment, and all improvements of a lasting character). Ordinary expenses shall be subdivided into: (a) salaries, with a list of all salaried offices and positions, with the salary allowance and the number of persons holding each; (b) wages; (c) printing, advertising, telephone, telegraph, express charges, and other like items; (d) supplies and repairs, with sufficient detail to be readily understood; All increases and decreases shall be clearly shown. In parallel columns shall be shown the amounts granted and the amounts expended under similar heads for the past two (2) completed fiscal years and the current year to date, together with the estimate of the total expenditures of the current year. In addition to the estimates of expenditures, the estimates shall include a statement of the

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revenues which have accrued for the past two (2) completed fiscal years, with the amounts collected and the uncollected balances together with the same information for the current fiscal year to date and an estimate of the total of the revenues for the current year. The statement of revenues for each year shall specify the following items: sums derived from (a) taxation, (b) fees, (c) fines, (d) interests, (e) miscellaneous, not included in the foregoing, (f) sales and rentals, (g) operation of public utilities, (h) special assessments, and (i) sales of bonds and other obligation. Such estimates shall be printed or type-written, and there shall be at least twelve (12) copies, one for each member of the council, one for the City Clerk. The estimates shall be submitted to the Council at its first regular meeting in October, and shall be made public. The finance Committee may submit with the estimates such explanatory statement or statements as it may deem necessary, and during the first three (3) years under this Charter it shall be authorized to interpret the requirements of this section as requiring only such comparisons of the city's finances with those of the previous government of the city as may be feasible and pertinent.

Sec. 7.06. SPECIAL BUDGET FUNDS. In the discretion of the Council, it may be provided by ordinance or resolution that the budget be set up by funds and that all funds may be subjected to the budgetary process; however, the Council may permit elimination from the budget estimates of expenditures of bond issue funds, utility funds and special assessment funds.

Sec. 7.07. PASSAGE OF THE BUDGET. The budget shall be the principal item of business at the first regular meeting of the Council in October, and the Council shall hold adjourned meetings shall be so conducted as to give interested citizens a reasonable amount of time in which to be heard, and an opportunity to ask such questions as may seem pertinent to them. The budget estimates shall be read in full, and the chairman of finance committee of the Council shall explain the various items thereof as fully as may be deemed necessary by the Council. The annual budget finally agreed upon shall be a resolution setting forth in detail the complete financial project of the City for the ensuing fiscal year. It shall indicate the sums to be raised and from what sources, and the sums to be spent and for what purposes, according to the plan indicated in Section 7.05. The total sum appropriated shall be less than the total estimated revenue. The Council shall adopt the budget resolution not later than the first day in October.

a. In the event an Administrative Assistant shall hereafter be appointed by due action as specified herein, it shall then become the duty of said Administrative Assistant to prepare the estimates for the annual budget as specified in Section 7.07; it shall also be his duty to enforce strictly the provisions of the budget as specified in Section 7.08 herein.

Sec. 7.08. ENFORCEMENT OF THE BUDGET. It shall be the duty of the City Council to enforce strictly the provisions of the budget. It shall not approve any order upon the City Treasurer for any expenditure unless an appropriation has been

made in the budget, nor for any expenditure covered by the budget unless there is a sufficient unexpended balance left after deducting the total past expenditures and the sum of all outstanding orders and encumbrances. No officer or employee of the City shall place any orders or make any purchases except for the purposes and to the amounts authorized in the budget. Any obligation incurred by any person in the employ of the City for any purpose not authorized in the budget or for any amount in excess of the amount therein authorized shall be a personal obligation upon the person incurring the expenditure.

Sec. 7.09. ALTERATIONS IN THE BUDGET. After the budget shall have been duly adopted, the Council shall not have power to increase the amounts therein fixed, whether by the insertion of new items or otherwise, beyond the estimated revenues, unless the actual receipts shall exceed such estimates, and in that event not beyond such actual receipts. The sums fixed in the budget shall be and become appropriated at the beginning of the fiscal year for the several purposes named therein and no other. The Council may, at any time, by a resolution passed by a three-fourths ( $\frac{3}{4}$ ) vote of the total membership, the sums appropriated for any purpose, or authorize the transfer of sums from unexpended balances to other purposes, in order that expenditures shall not exceed estimated revenues.

Sec. 7.10. LEVY AND COLLECTION OF TAXES. On or before the first of November each year the Council shall levy by resolution the taxes necessary to meet the requirements of the budget for the ensuing fiscal year. The City Clerk shall transmit to the County Auditor annually, not later than the tenth (10th) of November, a statement of all the taxes levied, and such taxes shall be collected and the payment thereof be enforced with and in like manner as State and County taxes. No tax shall be invalid by reason of any informality in the manner of levying the same, nor because the amount levied shall exceed the amount required to be raised for the special purposes for which the same is levied, but in that case the surplus shall go into the fund to which such tax belongs.

Sec. 7.11. TAX SETTLEMENT WITH COUNTY TREASURER. The City Treasurer shall see to it that all moneys in the County Treasury belonging to the City are promptly turned over to the City according to law.

Sec. 7.12. DISBURSEMENTS. HOW MADE. All disbursements shall be made only upon the order of the Mayor and the City Clerk, duly authorized by a resolution of the Council, and every such resolution and order shall specify the purpose for which the disbursement is made, and indicate that it is to be paid out of the proper fund. Each such order shall be directed to the Treasurer, and the latter shall issue a check payable to the order of the person in whose favor the order was drawn. The Treasurer shall issue no check upon any City funds except upon such order. But no such order or check shall be issued until there is money to the credit of the fund out of which it is to be paid, sufficient to pay the same together with all then outstanding encumbrances upon such fund. Any order or resolution for the payment of money violating any provision of this

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section shall be void, and any officer of the City violating any provision of this section shall be personally responsible for the amount of such payment, if any such payment is made contrary to the provisions hereof. No contract requiring the payment of money by the City shall be valid unless the particular fund out of which the same is to be paid is specified in such contract. No claim against the City shall be allowed unless accompanied by an itemized bill and voucher, payroll, or time sheet signed by the responsible officer who has personal knowledge of the facts in the case and vouches for the correctness and reasonableness of the claim. The Council may by ordinance make further regulations for the safekeeping and disbursement of the City's funds. The Council also may by ordinance make such further negotiations as may be deemed desirable or necessary to enable department heads and other payroll agents of the City to requisition upon payroll vouchers or other suitable means such funds as may be necessary to pay said employees upon a regular schedule.

a. It shall not be necessary for the City Treasurer to issue a separate check payable to the order of the person in whose favor any order was drawn, it being sufficient for the City Treasurer to counter-sign or otherwise endorse the original order, as executed by the Mayor and City Clerk; upon the Treasurer's counter-signature upon, or endorsement of, any such order, the same shall have the same force and effect, and be negotiable as, a treasurer's check upon City funds.

Sec. 7.13. FUNDS. SUBDIVISION 1. A general fund shall be maintained in the City Treasury. Into this fund shall be paid all taxes levied for its support and all money not allocated to any other fund. Out of it shall be made all disbursements for general purposes and those not otherwise provided for.

SUBDIVISION 2. There shall be maintained in the City Treasury a debt service fund, into which shall be paid all receipts from taxes or other sources for the payment of principal and interest of all obligations issued by the City except permanent improvement revolving fund bonds and bonds issued on account of any municipally owned utility, or other proprietary enterprise owned and operated by the City. Out of this fund shall be paid the principal and interest of such obligations when due. Any surplus in the fund not needed immediately for debt service may be invested by the Council in such securities as are authorized by statute for the investment of sinking funds; and such investments may be liquidated at any time.

SUBDIVISION 3. There shall be maintained in the City Treasury a bond fund for each issue of bonds sold by the City except permanent improvement revolving fund bonds and bonds issued on account of any municipally owned utility. The proceeds of the bond issue shall be paid into and disbursed from the bond fund.

SUBDIVISION 4. There shall be maintained in the City Treasury a permanent improvement revolving fund, which shall be used to finance local improvements that are to be paid for, in whole or in part, from special assessments against benefited property. There shall be paid into this fund: (1) collections of

special assessments, with interest; (2) proceeds of permanent improvement revolving fund bonds; (3) amounts from other City funds representing either (a) apportionments of costs against the City at large, (b) benefit assessments against City property or (c) appropriations to maintain the integrity of the fund. There shall be paid out of this fund: (2) the amount needed for the redemption of all permanent improvement revolving fund bonds with interest, at or before maturity. The Council shall maintain the integrity of this fund by appropriations from other funds if necessary. For the support of the fund, the Council may by a three-fourths ( $\frac{3}{4}$ ) vote issue and sell bonds, pledging the full faith and credit of the City, or pledging only special assessments, in such amounts and maturities as it may determine, regardless of the provisions of Section 7.16. The aggregate amount of such bonds outstanding at any time shall not exceed the sum of the following: (1) all assessments levied and uncollected; (2) assessable cost of work in progress, and (3) fifteen thousand dollars (\$15,000.00) cash reserve for working capital. The total sum of permanent improvement revolving fund bonds, in addition to obligations payable wholly or partly from special assessments levied prior to the adoption of this Charter, shall never exceed ten (10) percent of the taxable valuation of the City.

**SUBDIVISION 5.** There shall be maintained in the City Treasury a public utility fund, into which shall be paid all money derived from the sale of bonds or other revenue certificates issued on account of any municipally owned utility, all taxes levied for support of the utility, and all money derived from operations of the utility and from the sale of any property acquired or used for utility purposes. There shall be paid out of this fund the cost of the purchase, construction, operation, maintenance and repair of the utility, including the principal of and interest upon obligations issued on its account. A separate fund shall be kept for each utility operated separately.

For the purpose of this section, the term "Public Utility" includes any municipally owned convenience or enterprise from which a revenue is derived including but not being limited to, the supply of water, electric energy, gas, or steam heat. The Municipal Utilities Commission may transfer to the general fund of the City or to any other public utility fund any money in the fund not needed for the purposes of the utility for which the fund has been established. However, the Municipal Utilities Commission shall, within thirty (30) days after the close of the fiscal year, pay into the general fund of the City an amount not less than ten (10) percent of the gross revenues received from the sale of electricity, water and heat for the preceding fiscal year; each year, the City Council and the Municipal Utilities Commission shall meet and determine that amount, not less than ten (10) percent of the gross revenues received from the sale of electricity, water and heat for the preceding year that shall be paid into the general fund of the City. Such payment shall be accounted for by the Municipal Utilities Commission as an operating expense in lieu of property taxes. Any revenue derived from the collection and disposal of sewage, waste and rubbish when financed in whole or in part by charges against

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users of the service shall not be deemed part of the public utility fund, although collected by the utilities commission as a ministerial act, but shall be paid to the city for credit to such fund as the City Council may deem advisable and which it may establish.

SUBDIVISION 6. In addition to the foregoing funds, there may be maintained in the City Treasury, when ever the Council deems it advisable, the following funds: (1) working capital or revolving funds, for financing self-sustaining activities not accounted for through other funds; (2) trust and agency funds, for the care and disbursement of money received and held by the city as trustee or custodian or in the capacity of an agent for individuals or other governmental units; (3) such other funds as may be required by statute or ordinance, including a public works reserve fund to accumulate money for capital improvements in advance of construction so as to avoid the necessity of borrowing against such construction, as far as may be practicable. In lieu of establishing any of the three (3) foregoing types of funds, the council may provide for the recording of operations or activities for which the use of such funds might be suitable through the maintenance of separate accounts in any appropriate fund already established.

Sec. 7.14. RECEIPTS TO GO TO CITY TREASURER. All receipts of money belonging to the city, or any branch thereof, excepting only those funds collected by the county treasurer, shall be paid to the city treasurer by the person authorized to receive the same at the close of each business day. All such moneys, and also all moneys received upon tax settlements from the county treasurer, shall be deposited as soon as received in a bank or banks approved by the city council. Any person in the employ of the city guilty of a violation of this provision shall be liable to be reduced in rank and salary or to be dismissed from his office or position, as the council may determine after a hearing.

Sec. 7.15. ACCOUNTS AND REPORTS. The city treasurer shall be the chief accounting officer of the city and of every branch thereof, and the council may prescribe and enforce proper accounting methods, forms, blanks, and other devices consistent with the law, this charter, and the ordinances in accord with it. He shall submit to the council a statement each month showing the amount of money in the custody of the city treasurer, the status of all funds, the amount spent or chargeable against each of the annual budget allowances and the balances left in each, and such other information relative to the finances of the city as the council may require. Once each year, on or before the last day of January, the city treasurer shall submit a report to the council covering the entire financial operations of the city for the past year. This report shall show the actual total receipts and actual total expenditures, omitting duplications, and stating the cash balance at the beginning of the last fiscal year and at the close; the total outlays for operation and maintenance, and the total capital outlays; the condition of each of the funds; the total receipts by sources and the total expenditures by general purposes; the total outstanding bonds and

debts of the city, when due, the amount of new bonds issued and the amount redeemed, the interest rate of each, the condition of all the annual budget allowances, and an inventory of all the property owned by the city; and such further information as the council may request, and as the council and other city officials and the taxpayers should have.

Sec. 7.16. BONDED DEBT AND DEBT LIMIT. No bond shall ever be issued to pay current expenses but the city council may by ordinance adopted by a three-fourths ( $\frac{3}{4}$ ) vote of the council and ratified by a majority of the electors of the city voting thereon at a special election or at a general election, whichever the council shall authorize, issue bonds for any purpose to the full extent authorized by Minnesota Statutes, Section 410.08, or for any other purpose for which bonds may be issued under the laws of the State of Minnesota. The total net indebtedness of the city shall never exceed ten (10) per cent of the last full and true valuation of the taxable real and personal property excluding moneys and credits as defined in Minnesota Statutes, Chapter 475. In computing such debt, obligations authorized to be deducted therefrom under Minnesota Statutes, Section 410.08 or any other statute, shall not be included in or counted as a part of such indebtedness.

Sec. 7.17. TAX ANTICIPATION CERTIFICATES OF INDEBTEDNESS. For the purpose of providing necessary moneys to meet authorized expenditures prior to the collection of taxes payable in the current year, the council may issue certificates of indebtedness, to be repaid out of such taxes, on such terms and conditions as it may determine; provided that such certificates outstanding at any one time shall not exceed fifty (50) per cent of the current year's tax levy belonging to the fund for the benefit of which the borrowing is authorized; and provided further that all such certificates shall be repaid on or before December thirty-first (31), of the year following that in which they are issued.

Sec. 7.18. AUTHORITY TO ISSUE REVENUE WARRANTS. To provide funds necessary for capital expenditures the council shall have power by ordinance to authorize the issuance of Revenue Warrants which shall be payable solely from the net revenues of the Public Utility Department or other, 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 Revenue Warrants except for the payment of service rendered to or benefits received by the City or any of its departments. Such ordinance shall fix the maximum amount of Revenue Warrants thereby authorized; describe in general terms the nature of the capital expenditures for which they are to be issued; and may contain covenants determining what shall constitute net revenues of the Public Utility Department, or other; whether all or part of the net revenues shall be pledged; and such other provisions as the council may deem necessary; provided, however, that no such ordinance shall ever be construed as an emergency ordinance. Such Revenue Warrants shall bear interest at not to exceed five (5) per cent per

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annum, payable semi-annually, and shall mature at such time or times, be in such form and be sold under such terms as the council may by resolution deem for the best interests of the City. The Council shall have power by resolution to issue Refunding Revenue Warrants to refund outstanding Revenue Warrants whenever moneys from the net revenues pledged are insufficient to meet any maturing Revenue Warrants or interest or at the optional or callable dates of such Revenue Warrants and each issue of Refunding Revenue Warrants shall constitute the same charge or lien on the net revenues of the Public Utility Department as do the warrants refunded.

- (a). The provisions of this chapter shall also apply in the case of Revenue Warrants or Earnings Certificates, separately and individually, to any revenue producing enterprise operated by the City of Willmar including, but not being limited to, the sewer system, Municipal Hospital, or other partially or completely self-supporting revenue producing agencies of the City.

Sec. 7.19. EMERGENCY DEBT CERTIFICATES. If in any year the receipts from taxes or other sources should, from some unforeseen cause, become insufficient for the ordinary expenses of the City, or if any calamity or other public emergency should subject the City to the necessity of making extraordinary expenditures, then the Council may authorize the sale by the city treasurer of emergency certificates to run not to exceed eighteen (18) months and to bear interest at, not to exceed six (6) per cent per annum. A tax sufficient to redeem all such certificates at maturity shall be levied as part of the budget of the following year. The authorization of an issue of such emergency debt certificates shall take the form of an ordinance approved by three-fourths ( $\frac{3}{4}$ ) of the members of the council; the ordinance may, if deemed necessary, be passed as an emergency ordinance.

## CHAPTER VIII

### PLANNING COMMISSION

Sec. 8.01. ORGANIZATION. There shall be a city planning commission of nine (9) members who shall be appointed by the council, none of whom shall hold any other office or position in the city government. At least one member of the Municipal Utilities Commission shall at all times be a member of the planning commission and occupy one of the nine (9) voting memberships. The mayor and one (1) member of the city council to be designated by the council, shall serve as ex-officio members of the commission and they shall not be deemed to be regularly appointed members of the commission, although they shall have the right to vote at all times. The commission shall elect its chairman from among the appointive members.

Sec. 8.02. TERM OF OFFICE; VACANCIES. The term of appointive members shall be three (3) years, except that of nine (9) members first appointed, three (3) shall be appointed for a term of one (1) year, three (3) for a term of two (2) years, and three (3) for a term of three (3) years. Any va-



3. Make recommendations to the city council for the expenditure of city funds in the purchase of property for the city for the development and improvement thereof, and to approve expenditures from the improvement fund as hereinafter provided.

Sec. 8.04. LEGAL EFFECT. No street, park, or other public way, ground, or space; no public building or structure and no public utility service, whether publicly or privately owned, shall be constructed, extended or authorized in the city, nor shall any real property be acquired by the city unless and until the type, specification, location and extent thereof shall have been submitted to and approved by the planning commission; provided that in case of disapproval by the commission said commission shall communicate its reasons therefor to the council, which shall have the power to overrule such disapproval and upon such overruling by a vote of three-fourths ( $\frac{3}{4}$ ) of all the members of the council, the council or proper department shall have power to proceed. The widening, narrowing, relocation, vacation, or change in the use of any street or other public way or ground, or the sale of any public building or real property shall be subject to similar submission and approval by the planning commission, and failure to approve may be similarly overruled by the council as herein set forth. The failure of the commission to act within thirty (30) days after the date of official submission to it of any matter so to be submitted as set forth herein shall be deemed to be approved unless a longer period for consideration thereof be granted by the council.

Sec. 8.05. DEFINITION OF PUBLIC UTILITY. The term "public utility service" as used in chapter 8 hereof only, shall be construed to mean the furnishing of any water, power, light, heat, gas or other commonly designated utility service, and their extension, vacation, or routing to the public, generally within the confines of the City of Willmar, or as extended beyond said confines by action of the city council.

Sec. 8.06. PLANNING COMMISSION TO CONSIDER PETITIONS. In the case of proposal for termination, extension, construction, or other proposal relating to the supply of water, light, power, heat, and sewer service, said proposal shall first have been submitted to the Municipal Utilities Commission for its approval and recommendation to the planning commission; the failure of the Municipal Utilities Commission to approve any such proposal shall be deemed to be sufficient basis upon which the planning commission may thereupon disapprove said proposal; provided, however, that any such disapproval may be overruled by the planning commission by a two-thirds ( $\frac{2}{3}$ ) vote of all the members, and said proposal may thereupon proceed as though the same had never been disapproved by said Municipal Utilities Commission; provided further, that the failure of said Municipal Utilities Commission to act upon any proposal submitted to it as specified herein within a period of thirty (30) days next following the date of said submission, shall be deemed to be an approval thereof.

Sec. 8.07. PLATTING OR SUBDIVISION CONTROL. The planning commission shall be the platting commission of the

city and no proposed plat or subdivision shall be approved by the city council until said proposed plat or subdivision has been submitted to and approved by the commission, provided, that after disapproval by said commission the council may adopt said plat or subdivision by a three-fourths ( $\frac{3}{4}$ ) vote of all the members of the council thereof.

Sec. 8.08. REGULATIONS FOR PLATTING. In exercising the powers hereby granted to the planning commission, said commission shall adopt regulations governing the platting and sub-division of land within its jurisdiction. Such regulations shall provide for the harmonious development of the City and its environs, for the coordination of streets, for adequate open spaces or spaces for traffic, utilities, recreation, light and air, and for the avoidance of traffic and population congestion.

Sec. 8.09. DEBT. The City Council shall, in its budget, make provision for and appropriate such sum of money as may be necessary to defray the expense of the official activities and work of the planning commission; planning commission members shall serve without compensation.

Sec. 8.10. VETO POWER OF COUNCIL. Any action of the planning commission may be overruled on any issue by a three-fourths ( $\frac{3}{4}$ ) vote of the City Council.

## CHAPTER IX

### SPECIAL IMPROVEMENTS AND SPECIAL ASSESSMENTS

Sec. 9.01. THE CITY PLAN. The City Council shall cooperate with the planning commission in the adoption of a complete plan for the future physical development of the City. Such plan may be altered from time to time in conformity with recommendations of the planning commission. It shall include provisions for zoning and may include provisions for planning and development of new areas; for the planning and location of public works of art, public buildings, parks, playgrounds, harbors, bridges, transportation lines, and other public facilities; and for the laying out grading and improving of streets, and public places, as well as for all other matters which may seem essential to such plan.

Sec. 9.02. ENFORCEMENT OF CITY PLAN. The Council shall have all necessary power by such action or method as may be proper, to enforce complete adherence by all persons to the plan adopted as provided above. The Mayor shall, or any city officer may, report to the council all departures from the city plan by individuals or corporations.

Sec. 9.03. POWER TO MAKE IMPROVEMENTS AND LEVY ASSESSMENTS. The City of Willmar shall have the power to make any and every type of public improvement not forbidden by the laws of this state, and to levy special assessments for all such as are of a local character. The amounts assessed to benefited property to pay for local improvements may equal the cost of the improvement plus necessary incidental expenses with interest until paid, but shall in no case exceed the value of the benefits received by such property.

Sec. 9.04.  
The City Council shall have the full power to do such things as may be necessary for the payment of the same. Chapter 398, Laws of 1919, Statutes Anno

Sec. 10.01.  
The City of Willmar may devise, or purchase, either real or personal, any property which may be needed in addition to the existing water, heat, police utility, but shall be consumed in the payment for the same. Easements for pipes, and for other public purposes, or for the purchase, or for the

Sec. 10.02.  
The necessity for the same shall be determined by the City Council, which shall determine the use of such property in taking land into the laws of the charter.

Sec. 10.03.  
The award of damages shall be made by the City Council, and the time for the same shall have expired, within (60) days of the award with interest from the date of the award of the same therefor.

Sec. 10.04.  
The City may, by condemnation, acquire any property which shall have filed an appeal to the City Council within thirty (30) days

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Sec. 9.04. LOCAL IMPROVEMENTS REGULATIONS.  
The City Council of the City of Willmar, and the said City, shall have the full and complete power to make such improvements and do such things and make assessments against properties for the payment thereof, as are set forth and defined in Chapter 398, Laws of 1953 (Section 429.011 to Section 429.111, Minnesota Statutes Annotated).

CHAPTER X  
EMINENT DOMAIN

Sec. 10.01. POWER TO ACQUIRE PROPERTY. The City of Willmar is hereby empowered to acquire, by purchase, gift devise, or condemnation, any property, corporeal or incorporeal, either within or without its corporate boundaries, which may be needed by said city for any public use or purpose. In addition to the power to acquire property for other public purposes, the city may also acquire, as herein provided, any gas, water, heat, power, light, telephone, or other plant, or other public utility, but no proceedings to acquire any such public utility shall be consummated unless the city has the money in its treasury to pay for the same or has by vote of the people made provision for paying for the property proposed to be acquired. Easements for slopes, fills, sewers, building lines, poles, wires, pipes, and conduits for water, gas, heat, and power, and for other public purposes, may be acquired by gift, devise, purchase, or condemnation in the manner provided by law.

Sec. 10.02. PROCEEDINGS IN TAKING PROPERTY. The necessity for the taking of any property by the city shall be determined by the council and shall be declared by a resolution which shall describe such property as nearly as may be and state the use to which it is to be devoted. The acquisition of such property may be accomplished by proceedings at law, as in taking land for public use by right of eminent domain according to the laws of the state, except as otherwise provided in this charter.

Sec. 10.03. PAYMENT OF AWARD. Whenever an award of damages shall be confirmed in any proceeding for the taking of property under this charter, or whenever the court shall render final judgment in any appeal from any such award, and the time for abandoning such proceedings by the city shall have expired, the city shall be bound to, and shall, within sixty (60) days of such final determination, pay the amount of the award with interest thereon at the rate of six (6) per cent per annum from the date of the confirmation of the award or judgment of the court, as the case may be; and if not so paid, judgment therefor may be had against the City.

Sec. 10.04. CITY MAY ABANDON PROCEEDINGS. The City may, by resolution of the Council at any stage of the condemnation proceedings, or at any time within thirty (30) days after any commissioners appointed by the court hereunder shall have filed their report with the Clerk of Court, or in case of an appeal to the district or supreme court at any time within thirty (30) days after final determination thereof, abandon such

proceedings as to all or any parcel of the property sought to be acquired and shall pay all costs thereof.

Sec. 10.05. CITY MAY TAKE ENTIRE PLANT. In case the City shall condemn a public utility which is operated at the time of the commencement of condemnation proceedings as one property or one system it shall not be necessary in such condemnation proceedings or any of the proceedings of the council, to describe or treat separately the different kinds of property composing such system, but all of the property, lands, articles, franchises, and rights which enter into and go to make up such system may, unless otherwise ordered by the Court, be treated together as constituting one property and an award for the whole property in one lump sum may be made by the commissioners or condemnation or other body assessing the damages. But this shall not prevent the city, in cases where the plant and property is separable into distinct parts, from taking only such part or parts thereof as may be necessary in the public interests.

## CHAPTER XI

Sec. 11.01. FRANCHISES DEFINED. The word "franchise" as used in this chapter shall be construed to mean any special privilege granted to any person, association, co-partnership, or corporation, in, over, upon, or under any of the highways or public places of the City, whether such privilege has hertofore been granted by it or by the State of Minnesota, or shall hereafter be granted by the City or by the State of Minnesota.

Sec. 11.02. FRANCHISE, ORDINANCES. The Council may grant franchises by ordinance adopted by a three-fourths ( $\frac{3}{4}$ ) vote, but in no case shall a franchise be granted by an emergency ordinance. Franchise rights shall always be subject to the superior right of the public to the use of streets and public places. All corporations, co-partnerships, or other persons desiring to make an especially burdensome use of the streets or public places, inconsistent with the public's right in such places, or desiring the privilege of placing in, over, upon, or under any street or public place any permanent or semi-permanent fixtures for the purpose of constructing or operating street or other railways, or telegraphing, or transmitting electricity, or transporting by pneumatic tubes, or for furnishing to the City or its inhabitants or any portion thereof transportation facilities, water, light, heat, power, or any other public utility, or for any other purpose shall be required to obtain a franchise before proceeding to make such use of the streets or public places or before proceeding to place such fixtures in such places.

Sec. 11.03. PUBLICATION OF FRANCHISES. Every ordinance granting or extending any franchise shall contain all the terms and conditions of the franchise. A franchise shall be without any validity whatever until it has been accepted by the grantee, and until it has been given adequate publicity, either by the publication of the franchise verbatim in the official paper of the city at least once a week for four (4) successive weeks after its passage, or by the posting of authentic copies of

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the franchise upon bulletin boards in at least three (3) of the most public places in the City for a period of thirty (30) days after its passage. Nothing herein contained shall be construed as in any way preventing the electors from exercising their powers under the referendum to reject such franchise.

Sec. 11.04. TERM OF FRANCHISES LIMITED. No perpetual franchise shall ever be granted, nor shall any franchise be granted for a longer term than twenty-five (25) years.

Sec. 11.05. POWER OF REGULATION RESERVED. The City shall have the right and power to regulate and control the exercise by any corporation, co-partnership, association, or person, of any franchise however acquired, and whether such franchise has been heretofore granted by it or by the State of Minnesota, or shall hereafter be granted by the City or by the State of Minnesota.

Sec. 11.06. REGULATION OF RATES AND CHARGES. All corporations, co-partnerships, and persons exercising franchises in the City shall give courteous, efficient, and adequate service at reasonable rates. A reasonable rate shall be construed to be one which will, with efficient management, normally yield, above all operating expenses and depreciation, a fair return upon all money honestly and efficiently invested in the plant and equipment used by the company in the public service within the City. This shall not be construed as a guarantee of a return and in no case shall there be any return upon franchise value. Within these limits, the determination of a maximum price or rate to be charged by any company for service rendered to the City or to any person or persons within the City shall be made, if possible, by direct negotiations between the company and the Council at public hearings. In case of failure to reach an agreement by this method, the Council shall, not less than thirty (30) days before the expiration of any existing rate schedule or agreement, appoint some expert in the related field as its representative; the company shall appoint a representative; and these two (2) shall by mutual agreement select a third person, preferably an expert in valuation and rate-making, who shall together constitute a board of arbitration. This board shall report its findings as soon as possible, and the rate, which it shall agree upon by a majority vote, shall be the legal rate, subject to revision by any court of competent jurisdiction. Schedules of rates thus fixed shall be as flexible as may be, and shall in no case fix a definite rate for a period of more than five (5) years. The City and the company may, by mutual agreement, revise existing schedules of rates at any time, proceeding in each case as provided for the original fixing of the rates.

Sec. 11.07. CONDITIONS IN EVERY FRANCHISE. Every franchise shall be presumed to include the following:

(a) That the grantee shall be subject to and will perform on its part all the terms of Sections 11.01 to 11.09 inclusive, as well as all other pertinent provisions of this charter.

(b) That the grantee shall in no case claim or pretend to exercise any power to fix fares, rates, and charges; but that such fares, rates and charges shall at all times be just, fair, and



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sion thereof, shall not be construed as impairing the right of the city to insert in any such franchise or renewal or extension thereof such other and further conditions and restrictions as the council may deem proper to protect the city's interests, nor shall anything contained in this charter limit any right or power possessed by the city over existing franchises. The council may further provide by ordinance that every person, association, or corporation exercising any franchise in the city shall pay a franchise fee or a gross earning tax as therein provided, provide the amount thereof and the method of its collection.

Sec. 11.09. ANNUAL STATEMENT. Every corporation, co-partnership, association or person exercising any franchise in the City of Willmar shall file annually, on or before the first Monday in February, in the office of the clerk, a statement subscribed and sworn to by some officer of such corporation or person who knows the facts, setting forth in detail for the preceding calendar year the then actual cost of the plant or business operated by such party; the actual encumbrances, debts, and obligations thereon if any, the amount of stock issued and to whom; the gross earnings; the expenses and the net income; and the amount of stock of any such corporation. Such statement shall be opened to public inspection and if the owner of any such franchise refuses or neglects to file such report as herein provided, the council may provide by ordinance to cancel and revoke such franchise.

CHAPTER XII

MUNICIPAL UTILITIES COMMISSION

Sec. 12.01. POWER OF CITY. The City may construct or purchase its power, water and electric light plant or other publicly owned utility, or either or any of them, and dispose of the same at will. The City may maintain, enlarge, extend, repair and operate the same. It may furnish water, light, heat or any other desired utility service for all municipal purposes, and may supply the same to the inhabitants of all municipal purposes, and may supply the same to the inhabitants of the City and to such others as it may deem expedient. The City is hereby vested with the power to make inter-connection contracts and agreements with other public utilities services, either publicly or privately owned, for exchange and/or standby use of electric power, or other utility service.

Sec. 12.02. COMMISSIONERS. The control, management and operation of all such publicly operated utilities and utility services, which shall not include the control, management or operation of the sanitary and storm sewage system or municipal disposal plant, shall be committed to a commission to be known as the "Municipal Utilities Commission".

Sec. 12.03. ELIGIBILITY—APPOINTMENT—SALARIES. Said Commission shall consist of five (5) members, to be appointed by the affirmative vote of six (6) members of the City Council, and all of said appointees shall have been residents and freeholders of the City of Willmar for at least five (5) years prior to the time of their respective appointment. The term of

each member shall be for a period of five (5) years and the commissioners shall be appointed by the Council in such manner that annually one (1) member shall be appointed by the council at the time and in the manner that other officers are appointed, their terms fixed accordingly to provide a five-year (5) tenure, and said commissioners, before entering upon the duties of their office, shall qualify by filing consents to act as members of said commission in the office of the City Clerk. The secretary of said commission shall be chosen from without its membership and he shall be deemed to be a paid employee of said commission.

(a) The three (3) members presently serving terms as commissioners of the water and light department of the City of Willmar, shall be reappointed by the City Council as members of the newly created Municipal Utilities Commission, at the time of appointment of the commission membership created hereby; in arranging to stagger the terms of the members of the newly created commission, present members of the water and light commission shall obtain the longer term created hereby, and based upon the unexpired portion of the term of the present commissioners. The tenor of this provision is to create a continuity in office and in effort in operation of the Municipal Utilities System. Each member to be appointed by the provisions of Section 12.03 hereof shall be appointed originally for a term of from one (1) to five (5) years so that annually hereafter, one (1) member shall be appointed by the Council for a new term of five (5) years.

Sec. 12.04. ORGANIZATION; POWERS. Said commission shall organize by electing one of its number president and appointing one (1) paid secretary who shall not be a member of the commission and who shall act as the clerk of the commission and office manager of the utilities department. Said Municipal Utilities Commission shall have authority to retain and hire other personnel necessary to the complete and efficient operation of the department and the utilities of the City. Said commission shall prescribe the duties of such employees and shall fix their compensation. The secretary of the Municipal Utilities Commission shall give bond to the Utilities Commission and the City of Willmar in such sum as may be deemed appropriate by the commission.

The Municipal Utilities Commission as constituted herein shall have the full control, operation and management of the waterworks system, the steam heating system, and the electric light and power plant of the City of Willmar.

A. The Commission shall determine and establish the qualifications of all employees of the Municipal Utilities Department. The Commission shall appoint a Superintendent of the Water and Light Plant who shall be charged with the active control, management and operation, under the jurisdiction of the Commission, of all physical properties of the Department. No person shall hereafter be appointed as such Superintendent who is not the holder of a currently effective registration certificate in the Division of Electrical Engineering as issued by the State Board of Registration for Architects and Engineers and Land Surveyors, and who has not had at least two (2) years practical

experience in the provisions of the Superintendent of Light Plant or of the position of Superintendent of the

Sec. 12.05. board of five engagements, a duty of its auditing as if done

Said Utilities Commission shall be implemented, and shall be put into final effect of said commission at the pleasure of the City Council and other persons for the purpose of any land or water rights or extensions in the narrow sense for money power, for the any promise of injury, trespass or caused to the wires, conduit or other apparatus municipally owned

Sec. 12.06. Willmar is hereby authorized to issue bonds for the purpose of said commission. It shall be the duty of the City Treasurer to issue all water, electric and gas bonds, and to complete the works and plant of said utilities. The board for any count of all the may appoint who shall be a secretary; in or other cases secretary providing such that may be ordered of said corporation into the treasury whatever, an City Treasurer and paid out

experience in the field of electric utility operation. However, the provisions of this sub-section as to the qualifications of the Superintendent of the Municipal Utilities Commission Water & Light Plant or Plants, shall not apply to the present occupant of the position of Superintendent of the Water and Light Department of the City, so as to bar his retention in said position of Superintendent by the Commission.

Sec. 12.05. POWERS; CONTINUED. A majority of said board of five (5) shall constitute a quorum and all contracts, engagements, acts and doings of said board within the scope and duty of its authority shall be obligatory upon and in law binding as if done by the common council of said City.

Said Utilities Commission may sue and be sued, plead and be impleaded, answer and be answered unto, appear and prosecute unto final judgment in any court or elsewhere in the name of said commission, have a common seal and alter the same at pleasure. They may employ all proper engineers, surveyors, and other personnel necessary or convenient for accomplishing the purpose contemplated by this chapter and may enter upon any land or water for the purpose of making surveys for alterations or extensions for the same. They may prosecute any action in the name of said commission against any person or persons for money due for the use of water, electricity, heat and power, for the breach of any contract, express or implied, or of any promise or contract made to or for them; and also for any injury, trespass or nuisance done, caused or procured to be done, or caused to the waterworks and pipes, public electric lines and wires, conduits and machinery, and pipes and mains or any other apparatus belonging to or connected with or any part of municipally owned utility plants.

Sec. 12.06. OFFICERS. The Treasurer of the City of Willmar is hereby declared ex-officio the Treasurer of said commission. It shall be the duty of the secretary under the authority of said commission to collect, receive and pay into the City Treasury all moneys due to account of the operation of said water, electric and steam plants, except the proceeds from sale of bonds, and to keep a set of books which shall contain a full and complete statement of the condition and operation of said works and plants, of all moneys received and paid out by order of said utilities commission and all debts due and owing said board for any cause whatever, together with an accurate account of all the expenses of said commission. The said secretary may appoint an assistant for whose acts he shall be responsible, who shall be authorized to act in the absence or disability of said secretary; in the case of the continued disability from absence or other cause of the secretary, the commission may appoint a secretary protempore to perform the duties of such secretary, giving such bond for the faithful performance of his duties as may be ordered by the commission. It is the duty of the Treasurer of said commission to receive all moneys which may be paid into the treasury on account of said commission from any source whatever, and all money so received shall be retained by said City Treasurer and credited to the account of the Commission and paid out only upon the orders of said Commission signed

by its president and secretary, except such money as may be received from the sale of bonds which shall be credited to that account of the City as determined by the City Council and which shall be paid out upon the order of the Mayor and City Clerk, and the Utilities Commission Secretary shall keep a detailed and exact account in such manner as to show at all times the exact financial condition of said commission and its department. The books of said commission shall be open to the examination of any person or persons appointed by the Council for that purpose or to any member or committee of the City Council or other persons interested in the affairs of the City.

Sec. 12.07. **CONTRACTS.** All contracts for supplies material and other commodities, which shall involve the expenditure of the sum of One Thousand Dollars (\$1000.00) or more shall be in writing and in duplicate, one of which shall be filed with the city clerk and the other with the secretary of the board; provided that in the event of any extraordinary and sudden injury or emergency whereby great damage might result or ensue by reason of any delay, the commission may cause the damage or break to be repaired without a contract and in such manner as the commissioners may deem for the best interests of the City. The utilities commission shall have full power and authority to enter into any contract, understanding or agreement necessary to carry out the purposes of this chapter the same as the city council may do and with the same force and effect and pursuant to the Law of the State of Minnesota concerning possible contracts.

Sec. 12.08. **RATES.** The said commission shall establish such water, electric, steam heat and other utility rates as will at all times insure to the city a proper income sufficient, if possible, to pay the interest and to provide a fund to pay the principal of all bonds or other indebtedness to be issued or heretofore issued in connection therewith, as well as to pay all the expenses and costs of maintaining and keeping in repair said utility works and plants; provided, however, that such rates at no time shall be exorbitant or unreasonable, nor shall they prevent the proper and extended use of utility services; provided, also, that the present established rates shall continue in effect until modified, changed, or discontinued by act of the commission. The commission shall make such other regulations as may be necessary and may prescribe penalties for violations of such regulations.

Sec. 12.09. **CITY TO PAY FOR SERVICES.** The commission shall make a reasonable charge based on the cost of service for lighting the streets and public buildings or for supplying heat, power or any other utility service and may prescribe a reasonable hydrant rental and other charges for supplying the city with water to be paid for by the city. Such rentals and other charges shall be collected in the same manner as from other consumers unless the council provides some other plan.

Sec. 12.10. **REMOVAL FROM THE COMMISSION.** Any member of the utilities commission may be removed from office by the city council if it shall appear either upon motion of the council or upon a petition of ten (10) or more freeholders of

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said city that any member of said commission has been guilty of misfeasance, nonfeasance, or malfeasance in office; provided, that upon filing of any such charges against any member of the commission, the City Clerk shall immediately notify such member of that fact and mail to him a written copy of such charges; at the same time, said member shall also be notified of the time and place when the council will meet to consider such charges, which notice shall be given at least ten (10) days before said meeting and at such meeting, said member shall have the right to be present and produce evidence and to be heard in his own behalf.

Sec. 12.11. **ADDITIONAL POWERS.** The City of Willmar, through its duly constituted Municipal Utilities Commission shall have all the power and authority given to cities of its class by the laws of the State of Minnesota and all necessary power hereunder to own, construct, maintain, lease, operate and acquire all properties and property rights necessary to efficiently operate, maintain, extend, alter or modify in any manner any of its public utility plants, lines, pipes, or equipment of whatsoever nature it may be.

The Municipal Utilities Commission shall have full and complete power to advertise for bids, accept bids, enter into contracts, and other agreements having to do with the operation maintenance control and efficient conducting of the business of the commission, the same as the City Council may do, and consistent with the law of the State of Minnesota, and with like force and effect as though said acts were done by the City Council. All contracts to be entered into by the Municipal Utilities Commission shall be entered into in its own name and by its own authority.

Sec. 12.12. **OVER-RIDING POWER OF COUNCIL.** The city council of the City of Willmar is hereby vested with the power to over-ride and change any decision, deed or act of the Municipal Utilities Commission, and to order the commission to do certain things as dictated by the City Council relative to the Municipal Utilities Department of the City, by a three-fourths ( $\frac{3}{4}$ ) vote of the members of the City Council.

Sec. 12.13. **BY-LAWS—RULES.** Said commission is hereby vested with full power to make and enforce such by-laws, rules and regulations as may be necessary to carry into effect the object and intent of this chapter and to cause all such by-laws, rules and regulations to be entered in a book kept for that purpose and signed by the president and secretary, which, when so entered and signed, shall be open at all times for inspection and shall be evidence in any court of justice.

Sec. 12.14. **DISTRIBUTION—PRICE.** Said commission shall regulate the distribution and use of water and lights or other utility services furnished by it in all places and for all purposes where the same shall be required for either public or private use, and shall fix the price and rates therefore.

Said commission is hereby authorized and required to restrain and prevent any and all waste of water and light or other utility service furnished by it, and may, when in its judgment



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cil may direct in each case. If the latter method of publication is adopted, the council may provide that it shall be in lieu of other methods of publication or in addition thereto at its option. Wherever in this charter there is a requirement of the publication of any measure or matter, it shall be understood that the city council may designate the manner of such publication, subject to the options permitted by this section.

Sec. 13.02. OATH OF OFFICE. Every officer of the city shall, before entering upon the duties of his office, take and subscribe an oath of office in substantially the following form: "I do solemnly swear (or affirm) to support the constitution of the United States and of this State, and to discharge faithfully the duties devolving upon me as (mayor, or councilman, or city manager, etc.) of this city to the best of my judgment and ability."

Sec. 13.03. CITY OFFICERS NOT TO ACCEPT FAVORS OR CONTRACTS. No officer or employee of the city shall solicit or receive any pay, commission, money, or thing of value, or derive any benefit, profit, or advantage, directly or indirectly, from, or by reason of, any improvement, alteration, or repair required by authority of the city, or any contract to which the city shall be a party, except his lawful compensation or salary as such officer or employee. No officer or employee of the city, except as otherwise provided in this charter, or by law, shall solicit, accept or receive, directly or indirectly from any public utility corporation or the owner of any public utility or franchise, any pass, frank, free ticket, free service, or any other favor, upon terms more favorable than those granted the public generally. A violation of any of the provisions of this section shall disqualify the offender from continuing in office or in the employment of the city, and he shall be removed therefrom. Any contract with the city in which any officer or employee of the city is, or becomes, directly or indirectly interested, personally, or as a member of a firm, or as an officer or director of a corporation, shall be void; and any money which shall have been paid on such contract by the city may be recovered from any or all the persons interested therein by joint or several action.

Sec. 13.04. OFFICIAL BONDS. The city treasurer, the city clerk, and such other officers of the city as may be provided for by ordinance or resolution, shall each before entering upon the duties of their respective offices, give bond to the city in such sum as may be fixed by the council as an additional security for the faithful performance of their respective official duties and the safekeeping of the public funds. Such bonds shall be approved by the city council and shall be endorsed by at least three (3) members of the council as having been so approved. They shall be filed with the Secretary of the Council. The provisions of the laws of the State relating to official bonds, not inconsistent with this charter, shall be compiled with.

Sec. 13.05. CITY PROPERTY NOT LOST BY ADVERSE POSSESSION. No right title, estate, or easement of the city in any property shall be lost by adverse possession or occupan-

cy, and no statute of limitations shall operate against the city in favor of any person occupying any public property or highway, whether such highway shall have been improved or not; provided, however, that no part of this section shall in any manner abrogate or be deemed to abrogate or make ineffective the provisions of Chapter 541.01, Minnesota Statutes (1945).

Sec. 13.06. SALES OF REAL PROPERTY. No real property of the city shall be disposed of except by ordinance or resolution. The proceeds of any such sale shall be used as far as possible to retire any outstanding indebtedness incurred by the city in the purchase, construction, or improvement of this or other property used for the same public purpose; but if there be no such outstanding indebtedness, then the council may by a resolution adopted by a three-fourths ( $\frac{3}{4}$ ) vote designate some other public use for such proceeds.

Sec. 13.07. DAMAGE SUITS. No action shall be maintained against the city on account of any injuries or damages to persons or property, unless such action shall be commenced within one (1) year from the occurrence of such injury or damage, nor unless notice shall have been given in writing to the city clerk within thirty (30) days of the occurrence of such injury or damage, stating the time when and the specific place where, and the circumstances under which the same occurred, and that the person injured or damages will claim damages of the city therefor.

Sec. 13.08. RECOVERY OF JUDGMENT FOR DAMAGES. If any judgment shall be recovered in any action against the city for any injury or damage caused by any obstruction, excavation, opening or defect in any street or alley or public ground caused or occasioned by the act or omission of any person or corporation, the city shall have the right to recover the amount of any such judgment from the person or corporation so responsible for such obstruction, excavation, opening, or defect; and such person or corporation is hereby declared to be liable to the city in the amount of such damages.

Sec. 13.09. CITY TO HAVE ALL RIGHTS AND OBLIGATIONS AS HERETOFORE. The city shall have all the property, rights, and privileges, and shall be subject to all the legal obligations as the same existed prior to the adoption of this amendment to the existing city charter.

Sec. 13.10. STATUTES NOT AFFECTED BY CHARTER AMENDMENT. All general laws and statutes of the state applicable to all cities operating under home rule charters, or applicable to cities of the same class as the City of Willmar operating under home rule charters, and not inconsistent with the provisions of this amendment, shall apply to the City of Willmar, and shall be construed as supplementary to the provisions of this amendment.

Sec. 13.11. EXISTING ORDINANCES CONTINUED. All ordinances and regulations of the City in force when this amendment takes effect, and not inconsistent with the provisions thereof, are hereby continued in full force and effect until amended or repealed.

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Sec. 13.12. PENDING CONDEMNATIONS AND ASSESSMENTS. Any condemnation or assessment proceedings in progress when this amendment takes effect shall be continued and completed under the laws which such proceedings were begun. All assessments made by the City prior to the time when this Charter amendment takes effect shall be collected and the lien enforced in the same manner as if this Charter amendment had not been adopted.

Sec. 13.13. ORDINANCES TO MAKE AMENDMENT EFFECTIVE. The Council is hereby empowered to, and it shall by ordinance, make such regulations as may be necessary to carry out and make effective the provisions of this Charter.

Sec. 13.14. PROVISIONS SEVERABLE. The various sections and provisions of this Charter, and the clauses, phrases, and sentences thereof, shall be severable, and if any section, part, or provision shall be held to be invalid, it shall not be construed as invalidating any other part or portion thereof.

Sec. 13.15. WHEN CHARTER AMENDMENT BECOMES EFFECTIVE. This amendment to the existing Charter of the City of Willmar shall become effective and become the Charter of the City of Willmar, superseding any existing Charter and amendments thereof, at the end of thirty (30) days after its ratification by the qualified voters of said City, as provided by the Constitution and Laws of the State of Minnesota.

Sec. 13.16. TENURE OF PRESENT ELECTED OFFICERS. The present elected officers of the City shall continue in their respective offices and functions and shall continue to govern in the usual manner upon the adoption of this amendment to the Charter of the City of Willmar; provided, however, that the terms of the officials occupying the hereinafter named offices shall expire on the dates set opposite each respective officer, as follows:

Office Affected	Date of expiration of present term under this amendment.
Mayor .....	January 10, 1955
Aldermen (Those elected at regular municipal election in April, 1951.) .....	January 10, 1955
Aldermen (Those elected at regular municipal election in April, 1953.) .....	January , 1957
City Treasurer .....	January 10, 1955
All Justices of the Peace and all Constables .....	January 10, 1955
Municipal Judge .....	January 10, 1955
City Clerk .....	(To hold office at the pleasure of the Council; abolished as an elective office by this amendment.)

a. Upon the adoption of this amendment to the Charter of the City, the first regular general municipal election shall

be held on the first Tuesday after the first Monday in November, 1954, at which time officers shall be elected to fill the vacancies in those offices which shall occur on January 10, 1955, and thereafter the regular municipal election shall be held bi-annually as provided in Chapter IV hereof, to fill vacancies in offices as they shall arise hereunder.

b. Aldermen previously elected to represent various wards of the City, shall continue to represent those wards from and by which they were elected and until their respective successors shall have been elected and qualified hereunder.