

CHARTER
OF
THE CITY OF WILLMAR

CHARTER OF THE CITY OF WILLMAR, MINNESOTA

TABLE OF CONTENTS

	Page
Report of the Commission	1
Article I Powers of the City	2
Article II City Council	2
Article III The Mayor	12
Article IV Boards and Commissions	16
Sec. 4.01 General Provisions	16
Sec. 4.02 The Planning Commission	16
Sec. 4.03 Park and Recreation Board	19
Sec. 4.04 Rice Memorial Hospital Board	19
Sec. 4.05 Municipal Utilities Commissioner	21
Article V Financial Procedures	23
Article VI Nominations and Elections	26
Article VII Initiative, Referendum and Recall	27
Article VIII Franchises	32
Article IX General Provisions	35
Sec. 9.01 Procedure for Vacating Streets, Utility Easements and Public Grounds	35
Sec. 9.02 Personal Financial Interest	38
Sec. 9.03 Prohibitions	38
Sec. 9.04 Oath of Office	39
Sec. 9.05 Corporation Name; Boundaries	39
Sec. 9.06 Amendments to Charter	39
Sec. 9.07 Separability	39
Article X Transitional Provisions	39
Sec. 10.01 Officers and Employees	39
Sec. 10.02 Departments, Offices, and Agencies	40
Sec. 10.03 Pending Matters	40
Sec. 10.04 Eminent Domain	40
Sec. 10.05 State and Municipal Laws	40
Sec. 10.06 Ordinances and Resolutions Inconsistent with This Charter	41
Sec. 10.07 Effective Date	41
Sec. 10.08 Schedule as to Elections	41
Sec. 10.09 Councilmen Holding Over	41
Sec. 10.10 Temporary Ordinances	41
Index	42
Appendices	

(References after topic are to Sections; at margins to pages.)

APPOINTIVE OFFICES (Cont.)	
City Clerk, 2.08	5
City Engineer, 2.08	6
Department Heads, 2.08	6
Hospital Administrator, 4.04	19
Mayor may supply required vote, 3.06	13
Officials, Other City, 2.08	6
Subordinate officials may appoint, When, 2.08	6
Superintendent of Municipal Utilities Commission, 4.05 ...	21, 22
APPROPRIATIONS	
Capital expenditures, For, 5.08	25
Emergency, 5.07	25
Initiative and referendum shall not extend to, 7.02	27
Lapse of, 5.08	25
Reduction of, 5.07	25
Transfer of, 5.07	25
APPROPRIATIONS, SUPPLEMENTAL	
Provision for, 5.07	24
ARBITRATION	
Franchise holders rates, 8.06	34
ATTENDANCE	
Council may compel attendance of Councilman, 2.11	8
ATTORNEY, ASSISTANT TO CITY	
Council may appoint, 2.08	6
ATTORNEY, CITY	
Forfeiture of Councilman's office, Complaint as to, 2.05	3
General provisions, 2.08	5
Initiative, referendum and recall petitions to be checked by, 7.09	29
Ordinances, To receive copies of proposed, 2.12	9
Vacation petition of owner, Determining validity of, 9.01	36
ATTORNEY, SPECIAL	
Council may appoint, 2.08	6
ATTORNEYS FEES	
Councilman and mayor on successful resistance to forfeiture proceeding may have City pay, 2.05, 3.07	4, 14
Council on election question, 2.07	5
Mayor's temporary disability, To be paid by City for Mayor in proceedings, on, 3.10	15

INDEX

(References after topic are to Sections; at margin to pages.)

ACCESS	
Denial of by vacating street, 9.01	37
ACTING MAYOR	
See Mayor Pro Tempore, 3.09	14
ADMINISTRATIVE CODES	
Ordinance required for enactment of, 2.12	8
AGENCIES	
Franchises required, 8.01	32
Ordinance required for abolition of, 2.12	8
Transfer of powers and duties of, 10.02	40
AMENDMENTS	
Budget after adoption, 5.07	24
Charter, 9.06	39
Council to amend or repeal ordinances and resolution in conflict with charter, 10.06	41
Form of amendments of ordinances, 2.12	8
Ordinances, Amendments of, 2.12	9
Proposed ordinances, Amendment of, 2.12	9
APPEAL	
Councilman, On election question, 2.07	5
Councilman, On forfeiture of office of, 2.05	4
Initiative, referendum and recall, As to, 7.10	29
Mayor, In temporary disability determination of, 3.10	15
Mayor, On Forfeiture of office of, 3.07	14
Mayor, Question of election of, 3.08	14
Vacation proceedings, 9.01	37
APPOINTMENTS	
See Council Appointments; Department Heads, Mayor; Officials	
False statements or reports concerning prohibited, 9.03	38
APPOINTIVE OFFICES	
See Council Appointments	
See Mayor	
Administrative official or department head, By, 2.08	6
Attorney, City, 2.08	5
Boards and Commissions, 3.04	12

(References after topic are to Sections; at margins to pages.)

BUDGET (Cont.)	
Initiative and referendum shall not extend to, 7.02	27
Mayor may veto individual items in, 3.05	13
Mayor to prepare and submit, 3.04, 5.02	12-23
Ordinance not required for adoption, 2.12, 5.05	8, 24
BY-LAWS	
Municipal Utilities Commission may make, 4.05	21
Rice Memorial Hospital Board may make, 4.04	19
CAPITAL EXPENDITURE APPROPRIATION	
Encumbrance to prevent lapse, 5.08	25
CAPITAL IMPROVEMENTS PROGRAM	
Initiative and referendum do not extend to, 7.02	27
Mayor to submit, 3.04, 5.04	12, 24
CAPITAL PROGRAM	
See Recommended Capital Improvements	
CERTIFICATES OF INTENT	
Initiative, referendum and recall require filing of, 7.04	27
CERTIFICATION	
False statement or report as to, 9.03	38
CERTIFIED PUBLIC ACCOUNTANT	
Annual audit to be made by, 2.09	7
CHIEF EXECUTIVE OFFICER	
Mayor, 3.01	12
CITY CLERK	
Appeal, Transmit record in event of, 2.05	4
Appointment of, 2.08	5
Certificate of intent in initiative, referendum and recall to be filed with, 7.04	27
Complaint against Mayor filed with, 3.07	14
Forfeiture of Councilman's office, Duties with respect to, 2.05....	3
Forfeiture of Councilman's office, Filing appeal papers with, 2.05	4
Franchise arbitration board, 8.06	34
Franchise grantee to file acceptance with, 8.04	33
Franchise holder to file statements with, 8.05	33
Franchises, To prepare application forms for, 8.04	32
General provisions, 2.08	5
Initiative, referendum and recall appeals, 7.10	29

(References after topic are to Sections; at margins to pages.)

AUDIT	
General provisions, 2.09	7
AUTHENTICATION	
Codes of technical regulation, 2.12	10
Ordinances, 2.12	10
BALLOT	
Initiative, referendum and recall, 7.15	31
BIENNIAL ORGANIZATION MEETING OF COUNCIL	
Mayor Pro Tempore elected, 3.09	14
Terms of Councilman expire at , 2.11	7
When held, 2.11	7
BOARDS AND COMMISSIONS	
Advisory or administration boards established by ordinance, 4.01	16
City Attorney counsel for, 2.08	5
Council may establish or activate, 4.01	16
Financial interest of members, 9.02	38
General provisions, 4.01 ff.	16-23
Mayor Pro Tempore may not remove or suspend members of, 3.09	14
Mayor to appoint members of subject to Council approval, 3.04	12
Municipal Utilities Commission, 4.05	21
Oaths of office, Members required to take, 9.04	39
Park and Recreation Board, 4.03	19
Planning Commission, 4.02	16
Residents of the City, Members must be, 4.01	16
Rice Memorial Hospital Board, 4.04	19
BORROWING MONEY	
Emergency ordinance, May not be done by, 2.12	9
Ordinance required to authorize, 2.12	8
BOUNDARIES	
Of City, 9.05	39
BRIBERY	
Appointments and promotions, 9.03	38
BUDGET	
Administration of, 5.09	26
Council to prescribe form, 5.03	24
General provisions, 5.02 ff.	23-26

(References after topic are to Sections; at margins to pages.)

CITY CLERK (Cont.)

Initiative, referendum and recall committee members and circulators are registered voters, To check that, 7.04 28

Initiative, referendum and recall petition, Duties as to, 7.09.... 29

Initiative, referendum and recall signatures to be checked by committee including, 7.09 29

Mayor, Appeals on determination of temporary disability of, 3.10 15

Mayor, Complaint as to forfeiture of office of filed with, 3.07 14

Mayor, To present record of Council proceedings, to 3.05 13

Municipal Utilities Commission, Duty to transmit to Council minutes, resolutions, rules and regulations of, 4.05 23

Municipal Utilities Commission, To sign orders of, 4.05 22

Municipal Utilities Commission Treasurer, 4.05 21

Oaths to board and commission members to be filed with, 4.01 16

Ordinances adopted published by, 2.12 9

Ordinances, Authenticating and recording, 2.12 10

Ordinances, To distribute to Mayor, Councilman, and City Attorney proposed, 2.12 9

Proposed budget to be filed with, 5.02 23

Publication of proposed ordinances, 2.12 9

Rice Memorial Hospital Board, Duty to transmit to Council minutes, resolutions, rules and regulations of, 4.04 21

Rice Memorial Hospital Board, To sign orders of, 4.04 20

Rice Memorial Hospital Board Treasurer, 4.04 19

Special Ordinances, To index, record and provide copies of, 2.12 11

Technical Regulations, To authenticate, record and make available codes of, 2.12 10

Vacancy in office of Councilman, Duties in, 2.06 4

Vacation appeals served on, 9.01 37

Vacation of streets, etc., 9.01 35

CITY ENGINEER

General provisions, 2.08 6

Records of official, 2.08 6

Vacation petition of owners, Determining validity of, 9.01 36

CIVIL SERVICE

Employee's rights on adoption of, 10.01 40

CIVIL SERVICE COMMISSION

Council may establish, 2.08 6

(References after topic are to Sections; at margins to pages.)

CODES

Administrative codes require ordinance, 2.12 8

Municipal code of Willmar, 2.12 11

Planning Commission to review, 4.02 17

Technical regulations, 2.12 10

COMMISSIONS

See Boards and Commissions

COMMITTEES

Council may establish, 4.01 16

Initiative, referendum and recall powers exercised through, 7.03 27

COMPETITIVE BIDS

Not required for certified public accountant, 2.09 7

COMPETITIVE TESTS

Employees at adoption of merit system not required to take, 10.01 40

CONDEMNATIONS

Powers of continued, 10.04 40

CONSTRUCTION OF PROVISIONS

Powers of the City, 1.02 2

CONTINGENCY FUND

Authorized, 5.07 24

CONTRACTS

City may contract with governmental agencies, 1.03 2

Financial interest of officials in, 9.02 38

CORPORATE NAME

City of Willmar, 9.05 39

COUNCIL

Appointments of Mayor require approval of, 3.04 12

Attendance of Councilman, May compel, 2.11 8

Biennial organization meeting of, 2.11 7

Boards and committees, May establish, 4.01 16

Budget, Action on, 5.05 24

City Attorney council for, 2.08 5

City Clerk, Appointment of, 2.08 5

Composition of, 2.01 2

Councilman, Vacancy in office of, 2.06 4

Elections, 6.02, 6.03 26, 27

(References after topic are to Sections; at margins to pages.)

COUNCIL (Cont.)

Excusing non attendance of Councilman, 2.05	3
Forfeiture of office of Councilman, Duties as to, 2.05	3
Franchises, Sole power to grant, 8.02	32
General powers and duties, 2.03	2
Inconsistent ordinances and resolutions, To repeal, 10.06	41
Initiative, referendum and recall, 7.03, 7.12ff.	27, 30-32
Investigations, May make, 2.10	7
Journal of its proceedings, Council to keep, 2.11	8
Judge of qualifications and elections, 2.07, 3.08	5, 14
Mayor, Duties as to temporary disability of, 3.10	15
Mayor, Judge of election of, 3.07	14
Mayor not a member of, 3.06	13
Mayor Pro Tempore, Elections of, 3.09	14
Mayor to deliver messages to, 3.03	12
Mayor to preside at meetings of, 3.04	12
Meetings of, 2.11	7
Municipal Utilities Commission, Over-riding power over, 4.05	23
Planning Commission, Meeting with, 4.02	17
Planning Commission, Over-riding power over, 4.02	18
Powers of the City vested in, 2.03	2
Primary election date may be changed by, 6.02	26
Procedure of, 2.11	7
Quorum of, 2.11	8
Recommended Capital Improvements, Action on, 5.05	24
Rice Memorial Hospital Board, Over-riding power over, 4.04	20
Rules, Shall determine its own, 2.11	8
Temporary ordinances in transition to new charter, 10.10	41
Vacate streets, etc., Exclusive power to, 9.01	35
Voting by roll call except on procedural motions, 2.11	8

COUNCIL APPOINTMENTS

Assistant City Attorney, 2.08	6
Auditor, 2.09	7
Certified public accountant, 2.09	7
City Attorney, 2.08	5
City Clerk, 2.08	5
City Engineer, 2.08	6
Department heads, 2.08	6
Employees, 2.08	6

(References after topic are to Sections; at margins to pages.)

COUNCIL APPOINTMENTS (Cont.)

Investigative personnel, 2.10	7
Mayor may supply needed vote on, When, 3.06	13
Mayor Pro Tempore, 3.09	14
Officials, 2.08	6
Special attorney, 2.08	6
Vacancy in office of Councilman one year or less prior to end of term, 2.06	5
Votes required to make, 2.08	6

COUNCIL MEETINGS

Failure to attend as ground for forfeiture of office, 2.05	3
--	---

COUNCILMAN

Attendance may be compelled, 2.11	8
Attorney fees chargeable to City, When, 2.05	4
Counsel, Right to on forfeiture hearing, 2.05	3
Eligibility of, 2.02	2
Financial interest, 9.02	38
Forfeiture of office, 2.05	3
Holding over, 10.09	41
Incompatible offices, Not to hold, 2.04	2
Mayor Pro Tempore, One of to be elected, 3.09	14
Oath of office, Required to take, 9.04	39
Ordinance, To Receive copy of proposed, 2.12	9
Term expires, 2.11	7
Term of, 2.01	2
Vacancy in office of, General provisions, 2.06	4

COUNSEL, RIGHT TO

Councilman and Mayor on contested forfeiture hearing, 2.05, 3.07	4, 14
Mayor in proceedings on determining temporary disability, 3.10	15

CRIME INVOLVING MORAL TURPITUDE

Councilman, Ground for forfeiture of office of, 2.05	3
Mayor, Ground for forfeiture of office of, 3.07	14

DEBT SERVICE

Limitations on appropriations as to, 5.07	25
---	----

DEPARTMENT HEADS

Appointment, Council may give power of, 2.08	6
--	---

(References after topic are to Sections; at margins to pages.)

DEPARTMENTS

City Attorney counsel for, 2.08 5
Heads of appointed by Council, 2.08 6
Ordinance required for abolition of, 2.12 8
Transfer of powers and duties, 10.02 40

DISTRICT COURT, APPEALS TO

Forfeiture of office of Councilman and Mayor, 2.05, 3.07 4, 14
Franchises, Arbitration determination in, 8.06 34
Initiative, referendum and recall, 7.10 29
Mayor's temporary disability, Appeal by Mayor in, 3.10 15
Vacation proceedings, 9.01 37

DRAINAGE SYSTEMS

City Engineer to control and supervise, 2.08 6

EASEMENTS

Vacation of utility easements, General provisions, 9.01 35

EFFECTIVE DATE

Appropriations, Emergency and supplementary, 5.07 24
Charter, 10.07 41
Emergency ordinances, 2.12 9
Franchise ordinances, 8.04 32
Ordinances, 2.12 9

ELECTIONS

Conduct of provided by law, 6.04 27
Councilman, When to fill vacancy in office of, 2.06 4
General provisions, 6.01 ff. 26-27
Initiative measure, 7.12 30
Primary, 6.02 26
Recall, 7.14 31
Referendum measures, 7.13 30
Regular municipal, 6.01 26
Schedule as to 1968, 10.08 41
Special, 6.03 27

ELIGIBILITY

Boards and commissions, 4.01 16
Councilman, 2.02 2
Mayor, 3.02 12

EMERGENCY APPROPRIATIONS

Provision for, 5.07 25

(References after topic are to Sections; at margins to pages.)

EMERGENCY ORDINANCES

Classified as special ordinances, 2.12 11
Emergency appropriations, For, 5.07 25
Form of, 2.12 8
Franchise not to be granted by, 8.03 32
General provisions for, 2.12 8
Mayor may not veto, 3.05 13
Referendum, Not subject to, 7.02 27
Repeal of, 2.12 9, 10
Six votes needed for adoption, 2.12 10

EMINENT DOMAIN

Continued, 10.04 40
Municipal Utilities Commission has the power of, 4.05 22

EMOLUMENTS OF OFFICE

Increase of precludes Councilman from holding, 2.04 2

EMPLOYEES, CITY

Continue in transitional period, 10.01 39
Council to appoint and may suspend and remove, 2.08 6
Councilman may not be, 2.04 3
Financial interest of, 9.02 38
Mayor may not be, 3.07 13
Merit system controls if established, 2.08 6
Merit system, Rights on adoption of, 10.01 40
Rights and privileges preserved, 10.01 39

ENGINEER, CITY

See City Engineer

EXECUTIVE SESSION

Council may meet in only in limited instances, 2.11 7

FINANCES

General provisions, 5.01 ff. 23-26
Mayor to report to Council on, 3.04 12
Municipal Utilities Commission, 4.05 22
Participation of City with other governmental agencies
with respect to, 1.03 2
Rice Memorial Hospital, 4.04 20

FINANCIAL INTEREST

City contracts and sales to City, 9.02 38

FINES

Ordinance required to provide for, 2.12 8

(References after topic are to Sections; at margins to pages.)

FISCAL YEAR	
Calendar year, 5.01	23
FORFEITURE OF OFFICE	
Acceptance of incompatible offices, 2.04	2-3
Councilman, General grounds as to, 2.05	3
Financial interest, Failure to show, 9.02	38
Mayor, General grounds as to, 3.07	14
Procedure with respect to Councilman, 2.05	3
Procedure with respect to Mayor, 2.05, 3.07	3, 14
FORFEITURES	
Financial interest, 9.02	38
Franchises, 8.05	34
FRANCHISES	
Emergency ordinances, May not be granted, renewed or extended by, 2.12	9
General provisions, 8.01 ff.	32-35
Ordinance required, 2.12	8
FRAUD	
Appointments, With respect to, 9.03	38
GRADE LEVELS	
City Engineer to set, 2.08	6
HEARING	
Budget, 5.02	23
Forfeiture proceedings, 2.05, 3.07	3, 14
Mayor, Temporary disability, of, 3.10	15
Ordinance proposal require, 2.12	9
Vacation proceeding, 9.01	37
HOSPITAL	
See Rice Memorial Hospital Board	
ILLEGAL ACTS	
Budget and appropriations, As to, 5.09	26
INCOMPATIBLE OFFICES	
Councilman not to hold, 2.04	2
Mayor not to hold, 3.07	13
INDEPENDENT AUDIT	
Council shall provide, 2.09	7

(References after topic are to Sections; at margins to pages.)

INITIATIVE	
General provisions, 7.01 ff.	27-32
Ordinance, Proposals in adopted, 2.12	8
INITIATIVE, REFERENDUM AND RECALL	
General provisions, 7.01 ff.	27-32
INTERGOVERNMENTAL RELATIONS	
Municipal Utilities Commission, 4.05	22
Park and Recreation Board, 4.03	19
Power of City to engage in, 1.03	2
Rice Memorial Hospital Board, 4.04	20
INVESTIGATIONS	
Council has authority to make, 2.10	7
JOINT EXERCISE OF POWERS	
See Intergovernmental Relations	
JOURNAL	
City Clerk to keep, 2.08	5
Council to keep journal of its own proceedings, 2.11	8
JUDGES OF ELECTION	
Councilman, Council judge of election of, 2.07	5
Mayor, Council judge of election of, 3.08	14
LAWS	
State law, Effect on charter of, 10.05	40
LEASES OF PUBLIC PROPERTY	
Ordinance not required for, 2.12	8
Planning Commission to approve leases in excess of one year, 4.02	18
LIMITATIONS	
Franchise, 8.03	32
Initiative, referendum and recall, 7.17	31
Rates of franchise holders, 8.06	35
MARTIAL LAW	
Mayor as official head of City for, 3.04	12-13
MASTER PLAN AND OFFICIAL MAP	
Planning Commission to prepare, 4.02	17
MAYOR	
Appointments of boards and commissions, 3.04	12
Appointments of Council, When Mayor may vote on, 3.06	13
Budget, To submit, 5.02	23

(References after topic are to Sections; at margins to pages.)

MAYOR (Cont.)

Chief executive of City, 3.01	12
City Attorney counsel for, 2.08	5
Council, Not a member of, 3.06	13
Election of, 3.02	12
Emergency ordinances, May provide sixth vote for adoption of, 2.12	10
Forfeiture of Councilman's office, Complaint as to, 2.05	3
Forfeiture of office, 3.07	13
General provisions, 3.01 ff.	12-16
Incompatible offices, 3.07	13
Initiative, referendum and recall, To appoint registered voter on committee to check signatures on petitions for, 7.09	29
Judge of election of, Council, 3.08	14
Mayor Pro Tempore succeeds to, When, 3.09	14
Messages to the Council, 3.03	12
Municipal Utilities Commission, To sign orders on disbursements from bonds and revenue warrants, 4.05	22
Office, Not to hold any City employment or other, 3.07	13
Ordinances, Provisions with respect to, 3.05	13
Ordinances, To receive copies of proposed, 2.12	9
Powers and Duties, 3.04	12
Prohibitions, 3.07	13
Qualifications of, 3.02	12
Recommended Capital Improvements, To submit, 5.04	24
Rice Memorial Hospital Boards, To sign orders on disbursement from bonds and revenue orders of, 4.04	20
Special meetings of Council, May call, 2.11	7
Temporary disability of, 3.10	15
Term of office, 3.02	12
Veto power, 3.05	13

MAYOR PRO TEMPORE

General provisions, 3.09, 3.10	14-16
--------------------------------------	-------

MEETINGS, COUNCIL

Budget, For adoption of, 5.05	24
Failure to attend as ground for forfeiture of office, 2.05	3
Mayor to preside at all, 3.04	12
Regularly at least twice a month, 2.11	7
Special, 2.11	7

(References after topic are to Sections; at margins to pages.)

MERIT SYSTEM

Council may establish, 2.08	6
Employee's rights on adoption, 10.01	40
Employer holding over at adoption of, 10.01	40
Ordinance required, 10.01	40

MINNESOTA, STATE OF

City may participate with, 1.03	2
---------------------------------------	---

MINUTES

City Clerk to transmit to Council, 4.04, 4.05	21, 23
Municipal Utilities Commission, 4.05	23
Planning Commission to file with Council, 4.02	17
Rice Memorial Hospital, 4.04	21

MISDEMEANORS

Bribery in securing position or promotion, 9.03	38
Discrimination as to race, sex, political or religious opinions of affiliations, 9.03	38
Investigation by Council, Failure to obey order in, 2.10	7
Prohibitions sections, 9.03	38
Test, certification or appointment, False statement or report as to, 9.03	38

MORAL TURPITUDE

Crime by Councilman involving ground for forfeiture of office, 2.05	3
Crime by Mayor, involving ground for forfeiture of office, 3.07	14

MUNICIPAL CODE OF WILLMAR

General provisions, 2.12	11
--------------------------------	----

MUNICIPAL CORPORATIONS

City may participate with, 1.03	2
Franchise required, 8.01	32

MUNICIPAL ELECTIONS

First Tuesday after first Monday in November, 6.01	26
--	----

MUNICIPAL JUDGE

Mayor, To preside on hearing as to temporary disability of, 3.10	15
Mayor, To preside over Council to consider forfeiture of office of, 3.07	14

(References after topic are to Sections; at margins to pages.)

MUNICIPAL UTILITIES COMMISSION

City Attorney counsel for, 2.08	5
General provisions, 4.05	21-23
Planning Commission to notify as to proposal on public utilities, 4.02	18
NAME	
City of Willmar corporate name, 9.05	39
NOMINATIONS	
See Elections	
NOTICE	
Appeal by Councilman or Mayor, On, 2.05	4
Appeal in initiative, referendum or recall, 7.10	29
Board and commission members, On hearing for recall or suspension, 4.01	16
Budget, Of submission of, 5.02	23
Council, City Clerk to give notice to members of meetings of, 2.08	5
Council, Special Meetings of, 2.11	7
Councilman's position contested, Hearing on, 2.05	3
Forfeiture proceedings for Councilman, 2.05	3
Mayor, Of hearing on temporary disability of, 3.10	15
Mayor's position contested, Hearing on, 2.05, 3.07	3, 14
Ordinances adopted, Must be given as to, 2.12	9
Ordinances proposed, Must be given as to, 2.12	9
Vacating streets, Notice of, 9.01	37
Vacation of streets, etc., Hearing on, 9.01	37
OATHS	
Board and commission members to make and file, 4.01	16
Complaint in forfeiture proceedings, 2.05	3
Form of oaths of office, 9.04	39
Initiative, referendum and recall committees must verify under, 7.04	27
Investigations, Council may administer in, 2.10	7
Officials required to take, 9.04	39
OFFICE	
Councilman may not hold other City, 2.04	2
Mayor may not hold other City, 3.07	13
Municipal Utilities Commission member may not hold other, 4.05	21

(References after topic are to Sections; at margins to pages.)

OFFICE (Cont.)

Ordinance required for abolition of, 2.12	8
Planning Commission member may not hold other City, 4.02 ..	16
Restrictions of Councilman as to, 2.04	2
Restrictions of Mayor as to, 3.07	13
Rice Memorial Hospital Board member may not hold other, 4.04	19
OFFICE, FORFEITURE OF	
See Forfeiture of Office	
OFFICE, INCOMPATIBLE	
Councilman not to hold, 2.04	2
Mayor not to hold, 3.07	13
OFFICES	
Transfer of powers and duties of, 10.02	40
OFFICIALS	
Appointment, Council may give power of, 2.08	6
Continue in office in transitional period, 10.01	39
Council, Appointment by, 2.08	6
Financial interest in City contracts, 9.02	38
Oaths of office, Required to take, 9.04	39
Rights and privileges preserved, 10.01	39
ORDINANCE	
Advisory or administrative boards, established by, 4.01	16
Authentication and recording of, 2.12	10
Capital improvements, Required to provide for payments beyond end of fiscal year in, 5.09	26
City Clerk to keep, 2.08	5
Conflict with charter, Council to repeal, 10.06	41
Contract or lease beyond fiscal year, Required for, 5.09	26
Emergency, General provisions for, 2.12	9
Form of, 2.12	8
Franchise grant requires, 8.04	32
Franchise procedures may be established by, 8.07	35
General provisions, 2.12	8
Inconsistent with charter, Council to repeal or amend, 10.06 ..	41
Initiative petition must set forth measure in form of, 7.05	28
Initiative, referendum and recall regulations may be made by, 7.16	31
Mayor's power to veto, 3.05	13

(References after topic are to Sections; at margins to pages.)

ORDINANCE (Cont.)

Merit system may be set up by, 2.08, 10.01	6, 40
Park and Recreation Board, Required to establish powers and duties of, 4.03	19
Primary election date may be changed by, 6.02	26
Printing of, 2.12	11
Procedure for adopting, 2.12	8
Repealed by charter if inconsistent, 10.05	40
Special ordinances, 2.12	11
Technical regulations, Requirement for adopting codes of, 2.12	10
Temporary, 10.10	41
Transition to new charter, 10.10	41
Vote required for adoption, 2.12	9
ORDINANCES, TEMPORARY	
Transition to new charter, 10.10	41
PARKS	
Park and Recreation Board, 4.03	19
Planning Commission to approve action on, 4.02	18
PENALTIES	
Franchises, Council has sole power to fix in, 8.05, 8.06	33-34
Ordinance required to provide for, 2.12	8
PERSONNEL SYSTEM	
See Merit System	
PLANNING COMMISSION	
General provisions, 4.02	16-19
Public utilities, To control construction, extension or vacation of, 4.02	18
Sale of property, 4.02	18
Vacation of streets, etc., Duties as to, 9.01	35-37
Zoning ordinance, Review of, 4.02	17
PLATS	
City Engineer's plats official records, 2.08	6
Planning Commission to approve, 4.02	17
POLITICAL AFFILIATIONS	
Discrimination on account of prohibited, 9.03	38
POLITICAL SUBDIVISIONS	
City may participate with, 1.03	2
Franchises required, 8.01	32

(References after topic are to Sections; at margins to pages.)

POWERS

City powers construed liberally, 1.02	2
Council vested with general powers, 2.03	2
Of the City, 1.01	2
Participation in exercise of, 1.03	2
Transfer of in transitional period, 10.02	40
PRIMARY ELECTION	
Provisions as to, 6.02	26
PRINTING	
Charter amendments, 2.12	11
Ordinances, 2.12	11
Resolutions having effect of law, 2.12	11
PROCEDURE	
Council meetings, 2.11	7
Ordinances, Adoption of, 2.12	8
PROHIBITIONS	
Budget and appropriations, As to, 5.09	26
Councilman, Violation by ground for forfeiture, 2.05	3
General, 9.03	38
Incompatible office acceptance as, 2.04, 3.07	2, 13
Mayor, Violation by ground for forfeiture, 3.07	14
PUBLIC BUILDINGS	
Planning Commission to approve action on, 4.02	18
PUBLIC GROUNDS	
Planning Commission to approve action on, 4.02	18
Vacation of, 9.01	35-38
PUBLIC HEARING	
See Hearing	
PUBLIC INDEBTEDNESS	
Budget message to show, 5.02	23
Emergency ordinance, Borrowing money may not be authorized by, 2.12	9
Ordinance required for borrowing money, 2.12	8
PUBLIC PLACES	
City Engineer to control and supervise, 2.08	6
PUBLIC PROPERTY	
Planning Commission to approve action on, 4.02	18

(References after topic are to Sections; at margins to pages.)

PUBLIC RECORDS	
Budget and capital program adopted as, 5.06	24
City Engineer's records are, 2.08	6
Journal of Council as, 2.11	8
Planning Commission shall keep, 4.02	17
PUBLIC UTILITIES	
Planning Commission to approve, 4.02	18
Rates may not be regulated by emergency ordinance, 2.12	9
Rate regulated by ordinance, 2.12	8
PUBLIC WORKS	
City Engineer to control and supervise, 2.08	6
PUBLICATION	
Budget hearing, 5.02	23
Emergency ordinances, 2.12	9-10
Forfeiture of Councilman's and Mayor's position, Hearing on, 2.05	3
Franchise ordinances, 8.04	32
Mayor, with respect thereto, Ordinances and resolutions published shall show act of, 3.05	13
Ordinances adopted, 2.12	8-9
Ordinances proposed, 2.12	8-9
Technical codes not required to be published, 2.12	10
Temporary ordinance for transition to new charter, 10.10	41
Vacation of streets, etc., Resolution setting hearing on, 9.01	37
QUALIFICATIONS FOR OFFICE	
Boards and commissions, Members of, 4.01	16
Councilman, 2.02	2
Lack of ground for forfeiture, 2.05, 3.07	3, 14
Mayor, 3.02	12
QUALIFIED VOTERS	
See Voters, Qualified	
QUORUM	
Council, 2.11	8
Municipal Utilities Commission, 4.05	21
Rice Memorial Hospital Board, 4.04	19
RACE	
Discrimination on account of prohibited, 9.03	38

(References after topic are to Sections; at margins to pages.)

RATES	
Emergency ordinance, May not be regulated by, 2.12	9
Franchise grantees agree not to fix, 8.05	33
Franchise holders, 8.06	34
Ordinance required for regulation of, 2.12	8
REAL ESTATE	
Ordinance required for conveyance of, 2.12	8
Planning Commission to approve transactions in, 4.02	18
RECALL	
Board and commission members, 4.01	16
General provisions, 7.01 ff.	27-32
RECOMMENDED CAPITAL IMPROVEMENTS	
Appropriations for lapse, When, 5.08	25
City Clerk, Filed with, 5.02	23
Mayor to submit, 3.04, 5.04	12, 24
Planning Commission to prepare and submit, 4.02	17
RECORDING	
Ordinances, 2.12	10
Vacation resolutions, 9.01	37
RECORDING SECRETARY	
Planning Commission may appoint, 4.02	16
REFERENDUM	
General provisions, 7.01 ff.	27-32
Municipal Utilities Commission, By voters on sale of property of, 4.05	22
Rice Memorial Hospital Board, By voters on sale of property of, 4.04	20
REGISTERED VOTER	
Councilman need not be registered, 2.02	2
Mayor need not be registered, 3.02	12
REGISTERED VOTERS	
Initiative, referendum and recall committee must consist of, 7.04	27
Initiative, referendum and recall petition circulators must be, 7.04	27
Initiative, referendum and recall petition signers must be, 7.08	28
RELIGIOUS AFFILIATIONS	
Discrimination on account of prohibited, 9.03	38

(References after topic are to Sections; at margins to pages.)

REMOVAL

Appointive officials by City Council, 2.08	6
Authorization for payment without funds cause for, 5.09	26
Board and commission members, 4.01	16
Employees, By City Council, 2.08	6
Merit system controls of established, 2.08	6

REPEAL

Council to expressly repeal ordinance and resolutions in conflict with charter, 10.06	41
Emergency ordinances, 2.12	9
Ordinance required for repeal of ordinance, 2.12	8
Ordinance, resolutions, orders, and regulations inconsistent with charter, 10.05	40-41
Temporary ordinance in transition to new charter, 10.10	41

RESIDENTS

Board and commission members, 4.01	16
--	----

RESOLUTIONS OF THE CITY COUNCIL

Budget, Adoption of, 2.12, 5.05	8, 24
City Clerk to keep, 2.08	5
Committees, Establishment of, 4.01	16
Conflict with charter, Council to repeal, 10.06	41
Election to fill vacancy in office of Councilman, To fix date of, 2.06	4
Forfeiture of office of Councilman, 2.05	3
Forfeiture of office of Mayor, 2.05, 3.07	3, 14
Franchise, Council may fix fees for application for, 8.07	35
Franchise, Forfeiture, cancellation or revocation of, 8.05	34
Franchise, Transfer of, 8.03	32
General provisions, 2.12	8
Inconsistent with charter, Council to ammend or repeal, 10.06	41
Mayor, As to temporary disability of the, 3.10	15
Mayor may break a tie on, 3.06	13
Mayor's power of veto, 3.05	13
Meetings of Council, 2.11	7
Primary election date may be changed by, 6.02	26
Printing of, 2.12	10
Reduction of appropriations, 5.07	25
Repealed if inconsistent with charter, 10.05	40
Supplemental appropriations, 5.07	24

(References after topic are to Sections; at margins to pages.)

RESOLUTIONS OF THE CITY COUNCIL (Cont.)

Transfer of appropriations, 5.07	25
Vacating streets, etc., 9.01	37
Vacation of streets, etc., Initiating, 9.01	35
Vacation of streets, etc., Setting hearing on, 9.01	37

RICE MEMORIAL HOSPITAL BOARD

City Attorney counsel for, 2.08	5
General provisions, 4.04	19

RIGHT TO COUNSEL

See Counsel, Right to

ROLL CALL

Council, Required on all but procedural motions of, 2.11	8
--	---

RULES

Council to establish its own, 2.11	8
Municipal Utilities Commission may establish, 4.05	21
Rice Memorial Hospital Board may establish, 4.04	19

SALARIES

Initiative and referendum shall not extend to, 7.02	27
---	----

SECRETARY OF COUNCIL

City Clerk is, 2.08	5
---------------------------	---

SEPARABILITY

Charter provisions, 9.07	39
--------------------------------	----

SERVICE

Complaint in forfeiture proceedings, 2.05	3
---	---

SERVICE OF PROCESS

Mayor officer for service of, 3.04	12
--	----

SEWERS

City Engineer to control and supervise, 2.08	6
--	---

SEX

Discrimination on account of prohibited, 9.03	38
---	----

SIDEWALKS

City Engineer to control and supervise, 2.08	6
--	---

SPECIAL ELECTION

Council may call, 6.03	27
Initiative measure, 7.12	30
Recall, 7.14	31
Referendum measure, 7.13	30

(References after topic are to Sections; at margins to pages.)

SPECIAL ORDINANCES
 General provisions, 2.12 11

STATE LAWS
 Charter provisions and, 10.05 40

STREETS
 City Engineer to control and supervise, 2.08 6
 Planning Commission to approve action on, 4.02 18
 Vacation of, General provisions as to, 9.01 35-38

SUBDIVISION CONTROL
 Planning Commission to review, 4.02 17

SUBPOENAS
 Council may issue in investigations, 2.10 7

SURVEYS
 City Engineer's surveys public records, 2.08 6

SUPERINTENDENT OF MUNICIPAL UTILITIES COMMISSION
 Qualifications and appointment of, 4.05 21-22

SUPPLEMENTAL APPROPRIATIONS
 Budget, 5.07 24

SUSPENSION
 Appointive officials by City Council, 2.08 6
 Boards and commissions members, 4.01 16
 Employees by City Council, 2.08 6
 Merit system controls as to employees if established, 2.08 6

TAX ANTICIPATION CERTIFICATES
 Authorized, 5.07 25

TAXES
 Emergency ordinances, May not be levied by, 2.12 9
 Ordinance required to levy except for budget, 2.12 8

TEMPORARY ORDINANCES
 For transitional period, 10.10 41

TERMS
 Councilman expires, When term of, 2.11 7
 Councilman, Length of, 2.01 2
 Mayor expires, When term of, 3.02 12
 Mayor, Length of, 3.02 12
 Municipal Utilities Commission, 4.05 21
 Park and Recreation Board, 4.03 19
 Planning Commission, 4.02 16
 Rice Memorial Hospital Board, 4.04 19

(References after topic are to Sections; at margins to pages.)

TEST
 False statement or report as to, 9.03 38

TESTIMONY
 Council may take in investigations, 2.10 7

TREASURER
 City Clerk shall be, 2.08 5

UNITED STATES
 City may participate with, 1.03 2

UTILITY EASEMENTS
 Vacation of, 9.01 35-38

VACANCIES
 Boards and commissioners, 4.01 16
 Councilman, General provisions, 2.06 4
 Councilman who is Mayor Pro Tempore, 3.09 14
 Councilman's office on forfeiture of, 2.05 3
 Mayor, 3.09 14

VACATION OF STREETS
 General provisions, 9.01 35-38
 Planning Commission to approve, 4.02 18

VERIFICATION
 Complaint as to forfeiture of office, 2.05 3
 Initiative, referendum and recall petitions, 7.04 27
 Vacation petition by owner, 9.01 36

VETO
 Mayor, 3.05 13
 Mayor Pro Tempore does not have, 3.09 14

VOTE
 Mayor may vote on motion or regulation in case of tie, 3.06 13
 Mayor Pro Tempore may vote at meetings over which he
 presides, 3.09 14

VOTERS
 Initiative, referendum and recall committees must consist
 of registered voters, 7.03 27
 Initiative, referendum and recall petition signers must be
 registered voters, 7.08 28

VOTERS QUALIFIED
 Councilman must be, 2.02 2
 Mayor must be, 3.02 12
 Registration not required to hold office as Councilman, 2.02... 2
 Registration not required to hold office as Mayor, 3.02 12

(References after topic are to Sections; at margins to pages.)

VOTES

Contingency fund, Six votes required for appropriation from, 5.07	24
Emergency ordinances, Six votes required to adopt, 2.12	9-10
Mayor, Five votes needed to find temporary disability of, 3.10	15
Mayor may supply needed votes on Council appointments, When, 3.06	13
Mayor's appointments approved require five votes of Council, 3.04	12
Municipal Utilities Commission, Five votes required to over-ride, 4.05	23
Ordinances require five votes for adoption, 2.12	9
Planning Commission, Five votes to over-ride, 4.02	18
Rice Memorial Hospital, Five votes required to over-ride, 4.04	20
Roll call required in Council except on procedural motions, 2.11	8

WAGES

Initiative and referendum shall not extend to, 7.02	27
---	----

WORK PROGRAMS AND ALLOTMENTS

Budget administration to include, 5.09	26
Budget message to explain, 5.02	23

ZONING ORDINANCE

Planning Commission to review, 4.02	17
---	----

(References after topic are to Sections; at margins to pages.)

APPENDIX I

Lists of Applicable Statutes

In the drafting of this charter, the Charter Commission removed previous provisions which the legislature in its enactments on the subjects have removed from municipal consideration. It also did not include provisions which are so exhaustively treated by state law that charter provisions would tend to confusion, and it left out those provisions which by state law are specifically stated to be solely within the province of the legislature. In some instances, provisions in the Charter are also treated in the statutes. In order that those using the Charter might find statutory sections applicable to these subjects, this Appendix I is provided. Unless otherwise designated, the references are to the chapters and sections of Minnesota Statutes. Only topics of general interest are included, and the list must not be taken as exhaustive of the subjects of municipal legislation on which legislation has been enacted.

Annexation — Chapter 414
Assessments, Division of — Secs. 435.08 to 435.10
Assessor — Secs. 273.05, 273.051
Automobile Parking Facilities — Sec. 459.14
Board of Health — Secs. 145.01 to 145.07
Building Line Easements — Secs. 463.01 to 463.07
Claims Against City — Secs. 471.38 to 471.415
Codification — Sec. 415.02
Condemnation — Chapter 117
Conflicts of Interest — Secs. 471.87 to 471.89
Conveyances to Promote Industry and Employment — Sec. 465.026
Deputy Local Health Officer — Sec. 145.02
Economic Opportunity Program — Sec. 471.655
Election Law — Chapters 200 to 211
Eminent Domain — Sec. 465.01
Firemen's Civil Service Commissions — Chapter 420
Frontage Water Tax, Limitations on — Sec. 444.15
General and Special Elections — Chapter 203
Grants, Loans or Property from State and Federal Government — Sec. 471.64, 471.65
Health Regulations — Chapter 461
Hospital Districts — Secs. 447.31 to 447.38

(References after topic are to Sections; at margins to pages.)

Hospitals — Secs. 447.05, 447.06, 447.07
Installment Sales of Property — Sec. 465.71
Joint Exercise of Powers — Sec. 471.59, 471.61
Library Board — Secs. 134.07 to 134.15; Sec. 471.59;
Laws 1963, Chapter 446
Local Improvements — Chapter 429
Municipal Bond Code — Chapter 475
Municipal Elections — Chapter 205
Municipal Funds — Secs. 471.56, 471.57
Municipal Housing and redevelopment Act — Secs. 462.411 to
462.716
Municipal Industrial Development Act — Chapter 474
Municipal Utilities — Secs. 452.01 to 452.07
Nursing Homes — Secs. 447.41
Park Board — Secs. 448.43 to 448.48
Park Commissioners, Board of — Sec. 448.56
Parks and Parkways — Sec. 408.09 to 448.18
Planning — Sec. 462.351 to 462.364
Police Civil Service Commissions — Secs. 419.01 to 419.181
Police Pensions — Secs. 423.37 to 423.392
Primary Elections — Chapter 202
Public Health Nurses — Secs. 145.08, 145.10, 145.11
Public Indebtedness — Chapter 475
Public Playgrounds — Secs. 450.06, 450.07
Public Work or Construction, Estimates and Records — Secs.
471.01 to 471.04
Recreational Facilities — Secs. 471.15 to 471.19, 471.191
Registration of Voters — Chapter 201
Salaries of Mayor and Councilmen — 415.11
Sewer, Sewage Disposal and Waterworks Systems — Sec. 444.075
Special Assessments, Cancellation and Crediting — Secs. 435.201
to 435.203
Special Assessments — Chapter 429
Special Assessments, Government Units — Sec. 435.19
Specification for Bids — Secs. 471.35 to 471.36
Statutes, Rules, or Regulations may be adopted by references —
Sec. 471.62
Taxation and Finance — Secs. 426.04, 426.05, 426.055, 426.19
Tort Liability — Chapter 466
Tourist Camping Grounds — Sec. 450.19
Utilities Inspectors — Secs. 452.18, 452.19, 452.20
Waterworks — Secs. 456.08 to 456.15, 456.32

CITY OF WILLMAR
OFFICE OF THE CHARTER COMMISSION

Willmar, Minnesota

To the Honorable Mayor and the Members of the
City Council of the City of Willmar, Minnesota:

The undersigned, constituting at least a majority of
the members of the Charter Commission of the City of
Willmar, Minnesota, duly appointed pursuant to law, do
hereby report that we have examined the Charter of the
City of Willmar and find that it is in need of revision.

We therefore submit herewith draft of a new charter,
and we recommend to the voters of the City of Willmar
that it be adopted and take the place of the present Char-
ter.

Dated this 23 day of August, A.D. 1968.

Warren P. Bostrom
LeRoy J. Nelson
Carl C. Deisting
Irma Peterson (Mrs. Willard E.)
Lennea Hinz (Mrs. Walter E.)
Roland C. Swenson
Ralph Demgen
Wallace L. Norby
Harold E. Miller
Lucile Sanderson
M. A. Wahlstrand
Chester Hebeisen
Gordon Alvig
Randall E. Johnson
Russell J. Dykema

Constituting at least a majority of the Charter Com-
mission of the City of Willmar, Minnesota.

ARTICLE I
Powers of the City

Section 1.01. POWERS OF THE CITY. The City of Willmar, hereinafter called the City, shall have all the powers, functions, rights and privileges possessed by it prior to the adoption of this charter and all powers, functions, rights and privileges possible for a city to have under the constitution and laws of the State of Minnesota as fully and completely as though they were specifically enumerated in this charter.

Sec. 1.02. CONSTRUCTION. The powers of the City under this charter shall be construed liberally in favor of the City, and the specific mention of particular powers in this charter, or in amendments thereof, shall not be construed as limiting in any way the general power stated in this Article.

Sec. 1.03. INTERGOVERNMENTAL RELATIONS. The City, except where prohibited by law, may exercise any of its powers or perform any of its functions, and may participate in the financing thereof, jointly, or in cooperation, by contract or otherwise, with the State of Minnesota or any one or more states, or civil divisions or agencies thereof, or the United States or any agency thereof, or of any municipal corporation or political subdivision.

ARTICLE II
City Council

Section 2.01. COMPOSITION OF THE COUNCIL AND TERMS OF COUNCILMEN. There shall be eight members of the City Council, two from each ward, elected for four-year terms with the terms staggered so that one Councilman from each ward is elected at each biennial election.

Sec. 2.02. ELIGIBILITY OF COUNCILMEN. Only qualified voters of the City shall be eligible to hold the office of Councilman. For the purpose of this section a qualified voter need not have registered.

Sec. 2.03. GENERAL POWERS AND DUTIES OF THE COUNCIL. All powers of the city shall be vested in the Council except as otherwise provided by law or this Charter, and the Council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the city by law.

Sec. 2.04. PROHIBITIONS: INCOMPATIBLE OFFICES. Except where authorized by law or this Charter, no Councilman shall hold any other city office or city em-

ployment during the term of office for which he was elected. No Councilman or former Councilman shall be appointed to or hold any compensated appointive city office or employment which was created or the emoluments of which were increased during the term for which he was elected, until the expiration of one year from the expiration of the term to which he was elected. No Councilman shall hold any office which is by law or by this charter incompatible with the office of Councilman and the acceptance of such office shall be a prohibition which shall result in the forfeiture of his office as Councilman.

Sec. 2.05. FORFEITURE OF OFFICE.

Subdivision 1. GROUNDS OF FORFEITURE. A Councilman shall forfeit his office if he (1) lacks at any time during his term of office any qualification for the office prescribed by this charter or by law; (2) violates any express prohibition of this charter; (3) is convicted of a crime involving moral turpitude; or (4) fails to attend three consecutive regular meetings of the Council without being excused by the Council.

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

Subd. 3. PROCEDURE, CONTESTED. If the Councilman shall answer, the Council shall forthwith at its next regular meeting set a date for the hearing of the matter, and give notice thereof to the Councilman by causing a notice of the hearing to be served upon him in the manner of the service of a summons in District Court and by publishing the said notice in the official newspaper of

the City at least ten days before the said hearing. At the hearing, the Councilman shall have the right to appear and be represented by counsel and present witnesses and evidence in his behalf, but he shall not participate as a member of the Council. After the hearing, the Council shall proceed to consider the matter and to make its decision and findings as provided in Subdivision 2 herein-above.

Subd. 4. APPEAL. If the Council determines that the office of the Councilman shall be forfeited, the Councilman shall have the right to appeal to the District Court. The appeal shall be perfected upon the filing of a Notice of Appeal with the Clerk of the District Court and by copy with the City Clerk within 20 days of the filing of the Resolution of the Council with the City Clerk. Upon filing of the copy of Notice of Appeal, the City Clerk shall forthwith certify to the District Court the complete record of the proceedings before the City Council, including a certified copy of the resolution of the Council. The matter in District Court shall be heard by the Court, without a jury, in or out of term and the Court shall have the right to determine the matter upon the record submitted or at its discretion on the taking of additional evidence.

Subd. 5. REASONABLE ATTORNEYS FEES CHARGEABLE TO CITY, WHEN. If the determination, either by the Council or by the Court, is in favor of the Councilman, the reasonable attorneys fees incurred by him shall be the obligation of the City, and the Council shall appropriate funds for the payment thereof.

Sec. 2.06. VACANCIES.

Subdivision 1. DETERMINATION OF VACANCY. The office of a Councilman shall become vacant upon his death, resignation, removal from office in any manner authorized by law, or forfeiture of his office.

Subd. 2. VACANCY OCCURRING MORE THAN ONE YEAR BEFORE END OF TERM. If the vacancy occurs more than one year before the expiration of the vacant term it shall be filled by election. On learning of the vacancy, the City Clerk shall certify that fact to the next general or special meeting of the Council, which shall by resolution at said meeting fix the date for the holding of such election, which date shall be fixed so that the election may be held pursuant to the provisions as to elections set forth in this Charter, and as soon as may be permitted thereunder, and the election shall be held pursuant to such provisions. If the election date fixed pursuant hereto should result in a special election being held

two months or less prior to the next ensuing general election, the Council, in its discretion, may fix the date of said general election as the date of said election.

Subd. 3. VACANCY OCCURRING ONE YEAR OR LESS PRIOR TO END OF TERM. If the vacancy occurs one year or less prior to the expiration of the vacant term, the vacancy shall be filled by appointment. On learning of the vacancy, the City Clerk shall certify that fact to the Council at its next general or special meeting, and the Council shall proceed to fill the vacancy. If the Council is unable to agree upon a successor at the general meeting next succeeding that at which said certification of vacancy was made, it shall meet from time to time, at least once each week, until the vacancy is filled. The successor Councilman so appointed shall enter upon his office immediately on qualifying and serve for the remainder of the term.

Sec. 2.07. JUDGE OF QUALIFICATIONS. The Council shall be the judge of the election and qualifications of its members. In the event of an adverse determination, the Council shall proceed as provided in Section 2.05, and a Councilman or electee to the Council shall have the right of appeal and the right of reimbursement for attorneys fees therein provided.

Sec. 2.08. APPOINTIVE OFFICES OF THE COUNCIL.

Subdivision 1. CITY CLERK; TREASURER. The Council shall appoint, to serve at its pleasure, an officer of the City who shall be called the City Clerk. He shall be the secretary of the Council and shall keep a journal of all proceedings thereof and keep the same available for inspection at all times by the public upon reasonable demand. He shall give notice of Council meetings to its members and the public. He shall keep all originals of ordinances, resolutions, and the minutes of the Council safe and attend to the making of such copies and the printing from time to time, upon order of the Council, of the same or parts thereof as shall be required for the orderly administration of the City. He shall perform such other duties as are required by law, this Charter, or decision of the Council. He shall be the City Treasurer, and shall perform all the duties which devolve upon the Treasurer by law, this Charter, or the decision of the Council.

Subd. 2. CITY ATTORNEY. The Council shall appoint, to serve at the pleasure of the Council, a duly qualified attorney-at-law as City Attorney who shall act as legal advisor to and counsel for the Council, the Mayor, and all boards, commissions, and departments of the City

and who shall perform all services incident to the office. The Council may also appoint an Assistant or Assistants to the City Attorney, and shall have the power to appoint a Special Attorney on matters in which the City Attorney may be disqualified from acting, and may provide compensation for such assistants and special attorneys to be paid by the City.

Subd. 3. CITY ENGINEER. The Council shall appoint, to serve at the pleasure of the Council, a duly licensed and qualified civil engineer as City Engineer. The City Engineer shall have control and supervision of all construction, grading, maintenance and repair of streets, sidewalks, sewers, drainage systems, public works and public places in the City and the establishment of all grade levels, and shall have such other duties as may be given him by the Council. His official records shall be and remain the property of the City, and they shall be carefully indexed and preserved in the offices of the City Engineer and become a part of the public records of the 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.

Subd. 4. OTHER APPOINTIVE OFFICES AND DEPARTMENT HEADS. The Council shall appoint such other officials and department heads as are not provided to be appointed by the Mayor or as otherwise provided in this Charter or by law. It shall have the authority to suspend and remove such officials and department heads as are appointed by it at its pleasure. It shall have the power to authorize any administrative official or department head to exercise the appointive powers herein given over employees and supervisory personnel, subject to its direction and supervision.

Subd. 5. EMPLOYEES OF THE CITY. The Council shall have the power to appoint all city employees, which power it may exercise through officials and department heads appointed by it, and, subject to applicable law, shall have the power to suspend and remove such employees. It may by ordinance establish a merit system for all or a part of the personnel of the city and thereafter the employment, suspension, and removal of such personnel shall be made by the civil service commission or board established to run such system.

Subd. 6. VOTES REQUIRED FOR APPOINTMENTS. All appointments, except city employees, shall require the affirmative votes of at least five members of the Council.

Sec. 2.09. INDEPENDENT AUDIT. The Council may employ a full time auditor and set up such qualifications for such office as it may deem necessary and desirable for a proper audit of the city. It shall provide for an independent annual audit of all city accounts and may provide for such more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the city government or any of its officers. The Council may, without requiring competitive bids, designate such accountant or firm annually or for a period not exceeding three years, provided that the designation for any particular fiscal year shall be made no later than 30 days after the beginning of such fiscal year. If the state makes such an audit, the Council may accept it as satisfying the requirements of this section.

Sec. 2.10. INVESTIGATIONS. The Council may make investigations into the affairs of the City and the conduct of any city department, office, agency, board or commission, and for such purpose may employ such personnel as it deems necessary therefor. It may subpoena witnesses, administer oaths, take testimony and require the production of evidence. Any person who fails or refuses, without lawful excuse, to obey an order of the Council in the exercise of this investigative power shall be guilty of a misdemeanor.

Sec. 2.11. PROCEDURE.

Subdivision 1. MEETINGS. On the first Monday after the first Tuesday of each January immediately following a general election the Council shall meet for its biennial organizational meeting and the terms of Councilmen whose terms expire shall terminate at the opening of such meeting. The Council shall meet regularly at least twice in every month at such times and places as the Council shall prescribe by resolution at such biennial organizational meeting. Special meetings may be held on the call of the Mayor or of four or more members of the Council, or by decision of the Council made at a regular or special meeting, upon no less than twelve hours' notice to each member. All meetings shall be public; provided, the Council may recess for the purpose of discussing in a closed or executive session limited to its own membership any matter which would tend to defame or prejudice the character or reputation of any person; provided, further, that the general subject matter for consideration shall be expressed in the motion calling for such session and that final action thereon shall not be taken by the Council until the matter is placed on the agenda.

Subd. 2. RULES AND JOURNAL. The Council shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings, which journal shall be a public record.

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

Sec. 2.12. ORDINANCES AND RESOLUTIONS.

Subdivision 1. ACTION REQUIRING AN ORDINANCE. In addition to other acts required by law or by specific provisions of this Charter to be done by ordinance, those acts of the Council shall be by ordinance which:

(1) Adopt or amend an administrative code or establish, alter, or abolish any city department, office or agency;

(2) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;

(3) Levy taxes, except as otherwise provided in Article V with respect to the property tax levied by adoption of the budget;

(4) Grant, renew or extend a franchise;

(5) Regulate the rate charged for its services by a public utility;

(6) Authorize the borrowing of money;

(7) Authorize the conveyance of any lands of the City, provided, however, that leases be excepted from this provision.

(8) Adopt with or without amendment ordinances proposed under the initiative power; and

(9) Amend or repeal any ordinance previously adopted, except as otherwise provided in Article VII with respect to repeal of ordinances adopted under the initiative power or reconsidered under the referendum power.

Acts other than those referred to in this subdivision may be done either by ordinance or by resolution.

Subd. 2. ORDINANCES IN GENERAL.

(a) FORM. Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject which shall be clearly expressed in its title. The en-

acting clause shall be "The City of Willmar hereby ordains . . ." Any ordinance which repeals or amends an existing ordinance or part of the city code shall set out in full the ordinance, sections or subsections to be repealed or amended, and shall indicate matter to be omitted by enclosing it in brackets or by strikeout type and shall indicate new matter by underscoring or by italics.

(b) PROCEDURE. An ordinance may be introduced by any member at any regular or special meeting of the Council. Upon introduction of any ordinance, the City Clerk shall distribute a copy to each Council member, to the Mayor, and to the City Attorney, shall file a reasonable number of copies in the office of the City Clerk and such other public places as the Council may designate, and shall publish the ordinance together with a notice in the official city newspaper setting out the time and place for a public hearing thereon and for its consideration by the Council. The public hearing shall follow the publication by at least seven days, may be held separately or in connection with a regular or special meeting and may be continued from time to time; all persons interested shall have an opportunity to be heard. After the hearing the Council may adopt the ordinance with or without amendment or reject it, but, if it is amended as to any matter of substance, the Council may not adopt it until the ordinance or its amended sections have been subjected to all the procedures hereinbefore required in the case of a newly introduced ordinance. As soon as practicable after adoption of any ordinance, the City Clerk shall have it published as adopted together with a notice of its adoption.

(c) EFFECTIVE DATE. Except as otherwise provided in this Charter, every adopted ordinance shall become effective upon publication, provided, that the Council may provide in the ordinance for a later effective date.

(d) VOTE REQUIRED FOR ADOPTION OF ORDINANCE. Ordinances shall require the affirmative votes of five members of the Council for adoption.

Subd. 3. EMERGENCY ORDINANCES. To meet a public emergency affecting life, health, property or the public peace, the Council may adopt one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its services or authorize the borrowing of money except as provided in Section 5.07 of Article V. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances gen-

erally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least six members of the Council shall be required for adoption, provided, the Mayor may vote affirmatively to provide one of the six votes. After its adoption the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as the Council may specify therein. Every emergency ordinance, except one adopted pursuant to Section 5.07 of Article V shall automatically stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent re-enactment of the ordinance in the manner specified in this subdivision if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this subdivision for adoption of emergency ordinances.

Subd. 4. CODES OF TECHNICAL REGULATIONS. The Council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally except that:

(1) The requirements of Subdivision 2 of this section for distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance;

(2) A copy of each adopted code of technical regulations as well as of the adopting ordinance shall be authenticated and recorded by the City Clerk pursuant to Subdivision 5 of this section; and

(3) The publication of the ordinance shall not be construed as requiring publication of the code of technical regulations, but the publication shall state and identify clearly the code adopted by the ordinance and shall state the location of the place or places where the code is available for inspection by the public.

Copies of any adopted code of technical regulations shall be made available by the City Clerk for distribution or for purchase at a reasonable price.

Subd. 5. AUTHENTICATION AND RECORDING; CODIFICATION; PRINTING.

(a) AUTHENTICATION AND RECORDING. The City Clerk shall authenticate by his signature

and record in full in a properly indexed book kept for the purpose all ordinances and resolutions adopted by the Council.

(b) CODIFICATION. The Council shall maintain and keep current a general codification of all general ordinances and resolutions having the force and effect of law. The general codification shall be adopted by the Council by ordinance and in the publication of the adopting ordinance the code need not be published but the publication shall clearly state the place or places it is available for inspection by the public. The general codification, together with this charter and any amendments thereto, pertinent provisions of the constitution and other laws of the State of Minnesota, and such codes of technical regulations and other rules and regulations as the Council may specify shall be promptly published in bound or loose-leaf form. This compilation shall be known and cited officially as the Municipal Code of Willmar. Copies of the Code shall be furnished to city officers, placed in libraries and public offices and in the courts for free public reference and made available for purchase by the public at a reasonable price fixed by the Council.

(c) PRINTING OF ORDINANCES AND RESOLUTIONS. The Council shall cause each ordinance and resolution having the force and effect of law and each amendment to this Charter to be printed promptly following its adoption and the printed ordinances, resolutions and charter amendments shall be distributed or sold to the public at reasonable prices to be fixed by the Council. Following publication of the Code and at times thereafter, the ordinances, resolutions and charter amendments shall be printed in substantially the same style as the code currently in effect and shall be suitable in form for integration therein. The Council shall make such further arrangements as it deems desirable with respect to reproduction and distribution of any current changes in or additions to the provisions of the constitution and other laws of the State of Minnesota, or the codes of technical regulations and other rules and regulations included in the code.

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

ARTICLE III

The Mayor

Section 3.01. CHIEF EXECUTIVE OFFICER. The Mayor shall be the chief executive of the City with the powers given him by this Charter and the laws of the State of Minnesota.

Sec. 3.02. ELECTION AND QUALIFICATION. Only qualified voters of the City shall be eligible to hold the office of the Mayor. For the purposes of this section a qualified voter need not have registered. The Mayor shall be elected at the regular city election held every even numbered year by the direct vote of the people for a term of two years to begin on the first Monday after the first Tuesday of the year following his election, but the incumbent Mayor shall continue to serve until his successor has been elected and has qualified.

Sec. 3.03. MAYOR'S MESSAGES TO THE COUNCIL. The Mayor shall, at the beginning of each calendar year, and may at other times, give the Council information as to the affairs of the city and recommend measures he considers necessary and desirable.

Sec. 3.04. POWERS AND DUTIES. The Mayor shall see that all the laws and ordinances are enforced and the peace and order of the City are kept. He shall, in conjunction with the Council, supervise the administration of city affairs. He shall have the following powers and duties:

a) He shall appoint, subject to the approval of five members of the Council, the members of all boards and commissions provided for by this Charter;

b) He shall preside at all Council meetings;

c) He shall prepare or cause to be prepared and submit an annual budget and capital improvements program to the Council;

d) He shall submit or cause to be submitted to the Council and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year;

e) He shall make such other reports as the Council may require concerning the operations of the city departments, offices and agencies, and for this purpose all personnel of the City shall furnish to him such information as he shall request in the discharge of his duty;

f) He shall keep the Council fully advised as to the financial condition and future needs of the City and make such recommendations to the Council concerning the affairs of the City as he deems desirable;

g) 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 of the State for the purposes of martial law.

Sec. 3.05. MAYOR'S POWER TO VETO LEGISLATION. Within 96 hours after the adjournment of any Council meeting the City Clerk shall present to the Mayor the record of proceedings of the meeting and all ordinances and resolutions adopted at the meeting. The Mayor, within seven days of receipt of an ordinance or resolution, shall return it to the City Clerk with or without his approval or with his veto. If the Mayor does not return said ordinance or resolution within seven days after its receipt by him, or returns it without his veto, it shall be considered approved, which fact shall be noted in any publication required thereof. If an ordinance or resolution is vetoed, the Mayor shall attach a written statement explaining the reason for his veto. Ordinances or resolutions vetoed by the Mayor shall be considered at the next regular meeting of the Council, and the Council may pass the ordinance over the veto by the affirmative vote of six of its members. In the publication of an ordinance passed over the Mayor's veto, the publication shall recite the fact of the veto, and the vote by which the veto was overridden. The Mayor's veto power shall extend to disapproving or reducing individual appropriation items in the budget or any ordinance or resolution, except appropriations for auditing or investigating any part of the executive branch. The Mayor shall not have the power to veto any emergency ordinance, nor any ordinance repealing an emergency ordinance.

Sec. 3.06. MAYOR MAY VOTE IN LIMITED INSTANCES. The Mayor shall not be considered a member of the Council, for purposes of a quorum, or otherwise, except that he shall preside at the meetings thereof, and provided, further, in the event that a vote on any motion or resolution by the Council culminates in a tie vote, the Mayor shall have the right to vote on such motion or resolution, and to break the tie. If any appointment to be made by the Council fails by one vote to make the required number of votes for the appointment, the Mayor is authorized to vote for the appointment, and his vote shall thereby be recognized as a vote of the Council making the appointment.

Sec. 3.07. PROHIBITIONS; INCOMPATIBLE OFFICES; FORFEITURE OF OFFICE.

Subdivision 1. PROHIBITIONS AND INCOMPATIBLE OFFICES. Except where authorized by law or this Charter, the Mayor shall not hold any other city office

or city employment during the term of office for which he was elected. He shall not be appointed to or hold any compensated appointive city office or employment which was created or the emoluments of which were increased during the term for which he was elected until one year shall have transpired from the expiration of the term to which he was elected. The Mayor shall not hold any office which is by law or by this Charter incompatible with the office of Mayor and the acceptance of such office shall be a prohibition which shall result in the forfeiture of his office as Mayor.

Subd. 2. FORFEITURE OF OFFICE. The Mayor shall forfeit his office if he (1) lacks at any time during his term of office any qualifications for the office prescribed by this Charter or by law; (2) violates any express prohibition of this Charter; or (3) is convicted of a crime involving moral turpitude. Upon written complaint being filed with the City Clerk alleging that the Mayor has forfeited his right to office and stating the grounds therefor, the Council shall immediately convene and proceed to determine the matter. The procedure for determination, procedure and appeal shall be the same as that provided in Section 2.05 of Article II with respect to a Councilman, except that the sessions of the Council shall be presided over by the Municipal Judge or a duly licensed attorney at law appointed by him.

Sec. 3.08. JUDGE OF QUALIFICATIONS AND ELECTION. The Council shall be the judge of the election and qualifications of the Mayor. In the event of an adverse determination, the Council shall proceed as provided in Section 2.05 of Article II except that the Municipal Judge or a duly licensed attorney at law appointed by him shall preside, and the Mayor shall have the right of appeal therein provided.

Sec. 3.09. MAYOR PRO TEMPORE. At the biennial organization meeting of the Council following a general election, the Council shall elect one of its members as Mayor Pro Tempore, who shall serve, as hereinafter provided, in the temporary absence or disability of the Mayor, and upon the decease, resignation or removal from office of the Mayor shall succeed to the office of Mayor. In the absence or temporary disability of the Mayor, the Mayor Pro Tempore shall have and exercise all of the powers and duties of the Mayor except that he shall not have the power to remove or suspend board and commission members appointed by the Mayor and he shall not have the power of veto. A Councilman elected to the office of Mayor Pro Tempore shall not thereby, even in the absence or temporary disability of the Mayor, lose any of his

powers as Councilman, and shall have the right to vote at all Council meetings at which he presides. Upon his succession to the office of Mayor, his position as Councilman shall thereby cease, and a vacancy thereof exist.

Sec. 3.10. TEMPORARY DISABILITY OF MAYOR. In the event that the Mayor is temporarily disabled or unable to perform the duties of his office and so certifies to the Council, the Mayor Pro Tem shall assume the duties and powers of the office of the Mayor hereinabove provided and shall continue to discharge said duties and hold said powers until the Mayor again assumes the duties and powers of his office. In the event that it becomes apparent to the Council that the Mayor is temporarily disabled or unable to perform the duties of his office and the Mayor fails or refuses to so certify, the Council may by resolution set a hearing on the question as to whether the Mayor is able to discharge his duties and exercise his powers as Mayor. Notice of said hearing shall be served on the Mayor at least 10 days before the date of the hearing and shall be served in the manner of a District Court summons. The Mayor may appear with counsel of his own choosing, whose compensation shall be paid by the City. In the conduct of the said hearing the Mayor Pro Tempore shall not participate, and the Municipal Judge, or a duly licensed attorney at law selected by him, shall preside, but without the right to vote. The decision of the Council shall be made by resolution, which, if adopted, shall be signed by the presiding officer. The resolution shall set forth with particularity the findings of the Council with respect to the disability. It shall require the affirmative vote of at least five members of the Council to adopt a resolution declaring the Mayor temporarily disabled or unable to perform the duties of his office. If the decision of the Council is adverse to him, the Mayor shall have the right to appeal the decision to the District Court of Kandiyohi County, within ten days after the adoption of the resolution. The appeal shall be perfected by serving a copy of the Notice of Appeal on the City Clerk or his deputy and by filing the Notice of Appeal with the Clerk of the District Court. Upon the perfecting of the appeal, the effect of the resolution shall be stayed until final determination by the Court, or until the making of such interlocutory order as the Court shall determine. The Court may hear the matter in or out of term, and there shall be no right of trial by jury. The Council shall have the power at any time in its discretion to adopt a resolution finding the Mayor is no longer temporarily disabled and is able to perform the duties of his office, which resolution shall have the effect of repealing any decision to the contrary previously made and withdrawing the matter from the

District Court and any decision made by the Court with respect thereto, provided, however, that the Council shall not be required to review the matter for a period of three months after expiration of the time for appeal, or, in the case of an appeal, after the decision of the District Court.

ARTICLE IV

Boards and Commissions

Section 4.01. GENERAL PROVISIONS. There shall be established such boards and commissions as are provided in this Article and the Council may establish or activate such other boards and commissions as may be authorized by law. The Council shall have the authority to establish by ordinance such other advisory or administrative boards as it shall from time to time determine and to regulate and control and abolish the same insofar as permitted by law. The Council shall also have the authority to establish by resolution such committees as it may determine, of its own members or otherwise, and to provide for their regulation and control. Members appointed to boards and commissions established by this Charter shall be appointed as provided in this Charter and otherwise as provided in the ordinance or resolution establishing the board or committee. Members appointed to specific terms shall not be subject to recall or suspension except for cause, and then only upon evidence of malfeasance, misfeasance, or non-feasance presented at a hearing before the appointing power on notice to the member. Vacancies shall be filled by the appointing power. Members shall be residents of the City and shall serve without pay, except as specifically provided in the Charter, ordinance, or resolution establishing the board, commission, or committee. All appointees to boards and commissions shall, before undertaking to serve thereon, file with the City Clerk a written acceptance and oath of office, the forms of which the City Clerk shall provide in his office.

Sec. 4.02. THE PLANNING COMMISSION.

Subdivision 1. MEMBERS, QUALIFICATIONS, TERM. There shall be a City Planning Commission of nine members, appointed for terms of three years in such manner so that the terms of three members expire each year, none of whom shall hold any other office or position in the city government. The Commission shall elect a chairman and a secretary and such other officers as it shall from time to time determine. The officers shall be members of the Commission, provided, that, with the approval of the Council, the Commission may hire a recording secretary to keep the minutes and the records of the Commission, and such recording secretary may, but need not, be a member of the Commission.

Subd. 2. MEETINGS, REPORTS, RELATIONSHIP TO THE COUNCIL. The Commission shall meet at least once a month, at a time and place designated by it and publicly announced, and shall meet with the Council at such times as the Council or the Commission may request. It shall keep a public record of all its actions and shall transmit to the Council promptly after each meeting true copies of its minutes and of all resolutions adopted by it and annually shall prepare and forward a comprehensive report to the Council.

Subd. 3. THE MASTER PLAN; OFFICIAL MAP. The Commission shall review from time to time and report in intervals of not more than five years thereon to the Council any changes or revisions in the master plan and the official map of the city, and it shall promote public interest in and understanding of the same, and of planning, zoning, and the physical development of the city.

Subd. 4. RECOMMENDED CAPITAL IMPROVEMENTS. The Commission shall prepare and submit annually to the Council and to the official or agency charged with the duty submitting the annual budget a recommended capital improvements report, which shall contain recommended capital improvements which in the opinion of the Commission are necessary or desirable in the forthcoming five year period. The report shall include estimated budget requirements for such improvements and it shall contain a priority list and an arrangement of such improvements with respect to the year they are recommended to be begun.

Subd. 5. ZONING ORDINANCE AND CODES. The Commission shall review from time to time the zoning ordinance and the codes of the city, and shall upon request of the Council make report thereon with respect to proposed revisions and amendments.

Subd. 6. PLATTING AND SUBDIVISION CONTROL. No plat or subdivision of any territory of the City shall be approved by the Council until the same shall have been submitted to and approved by the Commission, provided, that in the event that the Commission shall have failed to act thereon within a period of sixty days after the adoption of the motion or resolution submitting or referring it to the commission, it shall be deemed to have been approved as submitted. The Commission shall review from time to time and report thereon to the City Council the platting and subdivision control regulations of the City.

Subd. 7. POWERS TO SECURE INFORMATION AND DATA. The Commission shall have power to require information, to be furnished within a reasonable

time, from other boards, commissions, and officials of the City, and shall have the power to enter upon any land and make examinations and surveys.

Subd. 8. ACQUISITION, SALE, TRANSFER, OR TERMINATION OF PUBLIC LANDS, BUILDINGS, AND PROPERTY. No street, park, public grounds, real estate, ways, streets, alleys or buildings or structures shall be acquired, constructed, extended, sold, transferred, conveyed, vacated or leased for a period in excess of one year, until the same shall have been submitted to and approved by the Commission. In the event that the Commission shall affirmatively disapprove the same, or shall determine to attach conditions thereto, the action thereon shall be by resolution setting forth its findings with respect thereto and its specific reasons for such disapproval. In the event that the Commission shall have failed to act thereon within a period of sixty days after the adoption of the motion or resolution submitting or referring it to the Commission, it shall be deemed to have been approved as submitted.

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

Subd. 10. OVER-RIDING POWER OF THE COUNCIL. Any resolution or other action by the Commission may be overruled by the Council by the affirmative votes of five members of the Council at any time within a period of thirty days from the date of the regu-

lar Council meeting next following the receipt by the City Clerk of the copy of the motion, resolution or action of the Commission in question.

Sec. 4.03. PARK AND RECREATION BOARD. There shall be an advisory board known as the Park and Recreation Board, of five members, appointed for terms of five years and so that the term of one member thereof shall expire each year. The Board shall advise and assist the Council in the development and maintenance of a park and recreation program for the City and its people. The Council shall have the power to merge or consolidate the said Board to have it function as a joint board with a similar board or boards of other governmental or municipal units as it may by ordinance determine. The Board shall have such powers and duties as the Council shall from time to time by ordinance give it.

Sec. 4.04. RICE MEMORIAL HOSPITAL BOARD.

Subdivision 1. MEMBERS, QUALIFICATIONS, TERM, OFFICERS. There shall be a Rice Memorial Hospital Board of five members, appointed for terms of five years in such manner so that the term of one member expires each year, none of whom shall hold any other office or position in the city government. The Board shall elect from its membership a President, Vice President, and a Secretary and such other officers as it shall from time to time determine. The City Clerk shall be the Treasurer of the Board. The Chief of the Medical Staff of Rice Memorial Hospital or a representative appointed from time to time by him may attend all meetings of the Board and participate therein in a consultative capacity.

Subd. 2. POWERS AND DUTIES. The Board shall have, subject to the over-riding power of the Council hereinafter provided, full control, operation, and management of Rice Memorial Hospital and the employment of all personnel in connection therewith, including a Hospital Administrator. It shall have the power to:

a) Sue and be sued, plead and be impleaded, answer and be answered to, appear, prosecute, or defend any action or claim of any kind, whether in contract or tort, in any court, administrative agency, or tribunal of any kind, in the name of the Board;

b) Contract for supplies, materials, equipment, facilities, and labor, subject to such bidding as may be required of municipal corporations by law;

c) Make such by-laws as it may deem necessary for its own meetings, except that it may not set a quorum for its own meeting of less than three members, and adopt and promulgate such rules and regulations for the opera-

tion of the Hospital as it shall from time to time determine to be necessary;

d) In general, to have all the powers which the Council would have in the operation of said Hospital as a municipal hospital, but subject in all respects to the over-riding power of the Council as hereinafter provided.

Subd. 3. FISCAL ACCOUNTING. The Secretary, or a person or persons designated by him in writing, approved by the Board and bonded in the amount determined by the Board, shall collect all funds received in the operation of the said Hospital and shall deposit the same in the City Treasury to the account of the said Hospital. The Secretary shall keep, or cause to be kept, a complete set of books and accounts, and make report thereon as required by and to the Board, the Mayor, and the Council. All such monies shall be kept and retained in the Hospital account by the City Clerk and disbursed only upon appropriate orders signed by the President and the Secretary and the City Clerk. All proceeds from the sale of bonds and revenue warrants shall be collected and deposited by the City Clerk and shall be disbursed only upon appropriate orders of the Mayor, the City Clerk, and the President of the Board. The financial records of the Hospital shall be open to inspection at all times by the Mayor and the Council, and shall be subject to the provisions of Sections 2.09 and 2.10 of Article II.

Subd. 4. PARTICIPATION BY OTHER AGENCIES. In the event that any other agency of government, or other agency, shall determine to participate in the operation and management of the Rice Memorial Hospital, the Council shall have the power to act upon the same, and the Council may provide, in its discretion, by ordinance, for representation on the Board of such agency or agencies. The Council shall have the power, by ordinance, to change the manner, mode, and type of operation of said Hospital so as to permit the participation thereon of the said other agencies, provided, however, that this subdivision shall not permit the transfer of any incidents of ownership from the City nor the control thereof to be vested in any agency other than the Board, subject to the over-riding power of the Council, without the approval of the voters in a referendum thereon submitted at any general or special election with at least six weeks published notice thereof.

Subd. 5. OVER-RIDING POWER OF THE COUNCIL. The Council shall have the power to overrule, by the affirmative vote of at least five members thereof, any decision, motion, resolution, rule, regulation, or order

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

Sec. 4.05. MUNICIPAL UTILITIES COMMISSION.

Subdivision 1. MEMBERS, QUALIFICATIONS, TERM, OFFICERS. There shall be a Municipal Utilities Commission, of five members, appointed for terms of five years in such manner so that the term of one member expires each year, none of whom shall hold any other office or position in the city government. The Commission shall elect from its membership a President, a Vice-President, and a Secretary and such other officers as it shall from time to time determine. The City Clerk shall be the Treasurer of the Commission.

Subd. 2. POWERS AND DUTIES. The Commission shall have, subject to the over-riding power of the Council hereinafter provided, full control, operation, and management of the electrical generating and transmission and water utilities of the City and such other utilities as it may acquire, the full power of ownership and control of which in the City is hereby confirmed, and the employment of all personnel in connection therewith, including a Superintendent. It shall have the power to:

a) Sue and be sued, plead and be impleaded, answer and be answered to, appear, prosecute or defend any action or claim of any kind, whether in contract or tort, in any court, administrative agency, or tribunal of any kind, in the name of the Commission;

b) Contract for supplies, materials, equipment, facilities, and labor, subject to such bidding as may be required of municipal corporations by law;

c) Make such by-laws as it may deem necessary for its own meetings, except that it may not set a quorum for its own meetings of less than three members, and adopt and promulgate such rules and regulations for the operation of utilities of the City committed to its control as it shall from time to time determine to be necessary;

d) Control, operate and manage the waterworks system, the steam heating system, and the electric light and power plant of the City, provided that this power shall not extend to the sanitary sewage system, the storm sewer system, or the municipal disposal plant of the City;

e) Determine upon the qualifications of the Superintendent, provided, however, that he shall at the minimum hold a degree in electrical engineering and be registered as a professional engineer under Chapter 326 of Minnesota Statutes;

f) Have and exercise the power of eminent domain;

g) Fix and establish, after appropriate hearings, rates for water, electric light and power, steam heat and other utility services sold by it;

h) In general, to have all the powers which the Council would have in the operation of said utilities as publicly owned utilities, but subject in all respect to the over-riding power of the Council as hereinafter provided.

Subd. 3. FISCAL ACCOUNTING. The Secretary, or person or persons designated by him in writing, approved by the Commission and bonded in the amount determined by the Commission, shall collect all funds received in the operation of the utilities under the control of the Commission and shall deposit the same in the City Treasury to the account of the said Commission. The Secretary shall keep, or cause to be kept, a complete set of books and accounts, and make report thereon as required by and to the Commission, the Mayor and the Council. All such monies shall be kept and retained in the Municipal Utilities Commission Account by the City Clerk and disbursed only upon appropriate orders signed by the President and the Secretary and the City Clerk. All proceeds from the sale of bonds and revenue warrants shall be collected and deposited by the City Clerk and shall be disbursed only upon appropriate orders of the Mayor, the City Clerk, and the President of the Commission. The financial records of the Commission shall be open to inspection at all times by the Mayor and the Council, and shall be subject to the provisions of Sections 2.09 and 2.10 of Article II.

Subd. 4. PARTICIPATION BY OTHER UTILITIES. The Commission shall have the power to enter into contracts and arrangements with other utility services, generating sources, owners of transmission lines, and government agencies, for the sale, purchase, exchange, transmission, acquisition and disposal of electric power and standby arrangements in connection therewith, subject to the over-riding power of the Council hereinbelow

provided, provided, however, that this subdivision shall not permit the transfer of any incidents of ownership from the City nor the control thereof as to any utility service owned by the City without the approval of the voters in a referendum thereon submitted at any general or special election with at least six weeks published notice thereof.

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

ARTICLE V

Financial Procedures

Section 5:01. FISCAL YEAR. The fiscal year of the City shall be the calendar year.

Sec. 5.02. SUBMISSION OF BUDGET AND MESSAGE. On or before the first day of September of each year, the Mayor shall submit to the Council the budget for the ensuing fiscal year and an accompanying message. The budget message shall explain the proposed budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the City for the ensuing year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues, together with the reasons for such changes, summarize the City's debt position and include such other material as the Finance Committee of the Council deems desirable. Prior to the submission of the proposed budget and budget message, notice thereof shall be published at least ten days prior to the meeting at which it shall be presented and shall state the time and place of said meeting and shall state that said proposed budget is on file in the office

of the City Clerk and open to inspection. At least one copy of the proposed budget and of the proposed capital program shall be filed with the City Clerk upon the publication of the notice and shall be kept available for public inspection until the budget and capital program are adopted.

Sec. 5.03. THE BUDGET. The budget shall provide a complete financial plan of all City funds and activities for the ensuing year, and, except as required by law or this Charter, shall be in such form as the Council deems desirable or may require. The total of proposed expenditures shall not exceed the total of estimated income.

Sec. 5.04. CAPITAL PROGRAM. The Mayor shall prepare or cause to be prepared and submitted to the Council a five-year capital program at least three months prior to the final date for submission of the proposed budget.

Sec. 5.05. ADOPTION OF THE ANNUAL BUDGET AND CAPITAL PROGRAM. The budget and capital program shall be the principal item of business at the first regular monthly meeting of the Council in September, and the Council shall hold subsequent meetings from time to time until all the estimates have been considered. The meeting shall be conducted so as to give interested citizens a reasonable opportunity to be heard. The Council shall adopt the budget and capital program not later than September 30 and the adoption shall be by resolution.

Sec. 5.06. PUBLIC RECORDS. Copies of the budget and the capital program as adopted shall be public records and shall be available for inspection by the public at the offices of the City Clerk.

Sec. 5.07. AMENDMENTS AFTER ADOPTION.

Subdivision 1. SUPPLEMENTAL APPROPRIATIONS. If during the fiscal year the Mayor certifies that there are available for appropriation revenues in excess of those estimated in the budget, the Council by resolution may make supplemental appropriations for the year up to the amount of such excess.

Subd. 2. CONTINGENCY FUND. The Council shall be authorized to include in the budget a fund which shall be called a contingency fund in an amount not to exceed 10% of the budget, excluding such contingency fund. In the event that any appropriation from any other fund shall be, in the judgment of the Council, insufficient to meet the demands of the City with respect to the program or budget item affected and provide for the orderly

administration of the City, the Council by a vote of six members thereof may transfer out of the contingency fund to such other fund such sums as it shall determine shall be reasonably necessary to effect the purpose.

Subd. 3. REDUCTION OF APPROPRIATIONS. If at any time during the fiscal year it appears to the Council that the revenues available will be insufficient to meet the amount appropriated, the Council shall then take such further action as it deems necessary to prevent or minimize any deficit for that purpose and may by resolution reduce one or more appropriations.

Subd. 4. TRANSFER OF APPROPRIATIONS. The Council may by resolution transfer part or all of any unencumbered appropriation balance from one department, office or agency to another.

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

Subd. 6. LIMITATIONS; EFFECTIVE DATE. No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

Sec. 5.08. LAPSE OF APPROPRIATIONS. Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned; the purpose of any such appropriation shall be deemed abandoned if three years pass without any disbursement, or encumbrance, of the appropriation.

Sec. 5.09. ADMINISTRATION OF BUDGET.

Subdivision 1. WORK PROGRAMS AND ALLOTMENTS. At such time as the Council shall specify, each department, office or agency shall submit work programs for the ensuing fiscal year showing the requested allotments of its appropriation by periods within the year. The Council shall review and authorize such allotments with or without revision as early as possible in the fiscal year. Such allotments may be revised during the year, if desirable, and shall be revised in accordance with any supplemental, emergency, reduced or transferred appropriations made pursuant to this article.

Subd. 2. PAYMENTS AND OBLIGATIONS PROHIBITED. No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the Council or its designee first certify that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this Charter shall be void and any payment so made illegal; such action shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligation, and he shall also be liable to the City for any amount so paid. However, except where prohibited by law, nothing in this Charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds, or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, provided that such action is made or approved by ordinance.

ARTICLE VI

Nominations and Elections

Section 6.01. REGULAR MUNICIPAL ELECTION. The regular municipal election shall be held on the first Tuesday after the first Monday in November of each even numbered year.

Sec. 6.02. PRIMARY ELECTION. On the second Tuesday in September preceding any regular municipal election (or at such other time as the Council may by resolution or ordinance designate) an election of nominees, designated as the "primary election", shall be held for the selection of candidates for all elective offices of the City of Willmar to be filled at said regular election.

Sec. 6.03. SPECIAL ELECTIONS. The Council may call special elections in the manner provided by law.

Sec. 6.04. CONDUCT OF ELECTIONS. All city elections shall be held and conducted and the votes canvassed in the manner provided by law.

ARTICLE VII

Initiative, Referendum, and Recall

Section 7.01. POWERS RESERVED BY THE PEOPLE. The people of the City of Willmar reserve to themselves the power of the initiative, the referendum and recall, to be exercised in accordance with and as limited by the provisions of this Article.

Sec. 7.02. LIMITATIONS. Neither the initiative nor the referendum power shall extend to the budget, the capital program, appropriations, salaries or wages. Emergency ordinances shall not be subject to referendum.

Sec. 7.03. COMMITTEES. The exercise in each instance of the powers in this Article reserved shall be by a committee or not less than five registered voters of the City. None of the members of such committee shall accept any remuneration for the services performed on such committee, but the committee and its members shall be entitled to be reimbursed for and to expend a reasonable amount of legal services, supplies, printing and notarial fees. The City shall not be liable for the payment of any expenditures for or on behalf of the committee and the Council shall not make any appropriation therefor, except for the cost of any election that may result from the actions of such committee.

Sec. 7.04. FILING OF CERTIFICATES OF INTENT. Before any petition is circulated, the committee shall file with the City Clerk a Certificate of Intent, which certificate shall contain a true copy of the measure proposed to be circulated, the names and addresses of the members of the committee, the names and addresses of circulators other than committee members, a statement that the members of the committee and the circulators are registered voters of the City at the time the certificate is filed, and that the petition has not been circulated. Each member of the committee shall verify under oath the statements in the certificate. If any statement in the certificate is found to be false, the petition shall be void and of no effect. The committee may subsequent to the filing of the certificate file an addendum thereto certifying additional circulators and the fact that they are registered voters of the City at the time of the filing of the addendum, which addendum must be verified in the manner of the certifi-

cate. The City Clerk shall forthwith check whether the committee members and the circulators are registered voters and endorse his findings on the certificate or the addendum, as the case may be.

Sec. 7.05. **THE INITIATIVE OR REFERENDUM MEASURE.** Any resolution or ordinance proposed for the initiative shall be set forth in such form as is consistent with the forms of resolutions and ordinances in current use at the time the same is filed and shall conform to the provisions of law, this Charter, and any ordinance or resolution governing the formulation of resolutions and ordinances. If the effect of the resolution is to repeal any resolution previously adopted by the Council, it shall identify such resolution and specify the amendment or repeal thereof or any part thereof affected. Proposals for ordinances shall be formulated in accordance with the provisions of Section 2.12 of Article II of this Charter. Any referendum proposal shall specify clearly the motion, resolution or ordinance sought to be repealed, setting the same out in full, indicating the date of adoption, and the date of publication, if the same has been published.

Sec. 7.06. **THE RECALL MEASURE.** The committee seeking the recall of any official elected under the provisions of this Charter shall formulate in clear and concise language a statement, not more than 250 words, of its reasons for proposing the recall, and which shall state that it intends to bring about his recall.

Sec. 7.07. **THE PETITION.** The petition in each instance shall consist of the complete text of the measure, appropriate spaces for the signature and the street address of the persons signing the same, and the affidavit of the circulator that each signature thereon is genuine, was affixed by the person whose signature it purports to be, and that it was signed in the presence of the circulator verifying the same. The signatures verified by any circulator whose name does not appear on the Certificate of Intent or on an addendum thereto shall not be counted. Each signature page on the petition shall contain on the top thereof in prominent letters the words: **I HAVE READ THE MEASURE ATTACHED HERETO AND KNOW THE IMPORT THEREOF.** It shall be permissible for more than one set to be circulated, but each set shall contain all of the above required elements and before filing all sets shall be combined and filed as one document.

Sec. 7.08. **QUALIFICATIONS, NUMBER OF SIGNATURES REQUIRED.** Only voters who are properly registered to vote on the rolls of the City Clerk at the time the petition is filed shall be counted as qualified to sign

the petition and for the determination of the required number of signatures. Recall petitions may be signed only by registered voters entitled to vote for the office holder whose recall is proposed. No petition for initiative or referendum shall be valid unless it shall be signed by at least 15% of the total number of registered voters on file in the office of the City Clerk at the time of the filing of the petition. No petition for recall shall be valid unless it shall be signed by at least 25% of the total number of registered voters entitled to vote for the office holder whose recall is proposed, on file in the office of the City Clerk at the time of the filing of the petition.

Sec. 7.09. **FILING OF PETITION, DETERMINATION OF VALIDITY.** Upon the filing of the petition the City Clerk shall endorse thereon the date and hour of filing and shall thereupon freeze the registered voters register, which shall not have the names of registered voters removed from nor added thereto until the determination shall have been made that the number of valid signatures thereon are sufficient or insufficient as provided herein. Thereupon, the petition shall forthwith be referred to the City Attorney who shall examine the same for form and validity but without considering any questions of sufficiency of signatures nor of the validity of the signatures thereon. The City Attorney shall within five days return the petition with his findings with respect thereto and his conclusion that it is or is not a valid and legal petition, without reference to the question of the required number of signatures and to the validity of the signatures on the petition. If the City Attorney determines that the petition is invalid, that shall end the matter, unless the committee shall appeal to the District Court as hereinafter provided. If the City Attorney determines the petition to be valid, the City Clerk, a registered voter appointed by the Mayor, and a registered voter appointed by the committee, shall inspect the petition and make determination thereon as to the sufficiency of the number of signatures thereon and the validity of each signature. The findings of a majority of the City Clerk and the registered voters so appointed shall be conclusive, subject only to appeal to the District Court as hereinafter provided.

Sec. 7.10. **APPEAL TO DISTRICT COURT.** If the committee is dissatisfied with the decision of the City Attorney, or of the majority of the City Clerk and the appointed registered voters, it may appeal to the District Court of Kandiyohi County. The appeal must be perfected within ten days of the filing of the decision from which the appeal is made. The appeal shall be perfected upon the service of the notice of appeal on the City Clerk

or his Deputy in the manner of the service of a district court summons and the filing of the notice with proof of service with the Clerk of District Court. The Court shall summarily determine the matter after hearing, on such notice as the Court shall determine, and shall remand the same to the City Clerk with its findings and conclusion either confirming or overruling the decision appealed from.

Sec. 7.11. PROCEDURE AFTER DETERMINATION. If the petition is finally determined to be valid and to contain the required number of valid signatures, the City Clerk shall present the same to the Council at its next meeting. The Council shall thereupon proceed to consider the matter and to make provision for the further proceedings hereinafter provided.

Sec. 7.12. COUNCIL PROCEDURE ON INITIATIVE PETITIONS. The Council shall forthwith refer the petition to an appropriate committee, which shall consider the matter and report the same back to the Council, which shall act on the same within 65 days after the submission of the same to the Council. If the Council shall adopt the measure as submitted or with such amendments as are certified by a majority of the committee to be agreeable to it, the proceedings shall be considered terminated, and the Council may not again consider amendment or repeal of the measure until one year shall have transpired from the date of its adoption. If the Council shall reject the measure or adopt it in such form as is not certified as agreeable to a majority of the committee, the Council shall thereupon certify the measure proposed by the committee to be voted on at a special election called in accordance with the provisions of law for holding special elections, provided that if the Council action on the measure shall occur within one year prior to the next ensuing general or primary election or special election called for other purposes, the same may be certified for a vote at such election.

Sec. 7.13. COUNCIL PROCEDURE ON REFERENDUM PETITIONS. On receipt of the petition, the Council shall lay the measure on the table until the next regular meeting thereof, at which time the Council shall determine whether it shall sustain the committee and take the action required thereon, or stand on its original decision. If the Council determines to stand on its decision, it shall certify the matter to be voted on at a special election called in accordance with the provisions of law for holding special elections, provided that if the Council action on the measure shall occur within one year of the next ensuing general or primary election or special election called for

other purposes, the same may be certified for a vote at such election. The filing of the referendum petition shall suspend the action of the Council as to which the referendum petition is addressed until the matter shall have been decided at the election.

Sec. 7.14. COUNCIL PROCEDURE ON RECALL PETITIONS. On the determination of the validity of the recall petition, the City Clerk shall forward a copy of the same to the official whose recall is the subject of the petition, and shall present the petition to the Council at its next meeting. The Council shall immediately proceed to set the matter up for a vote on the issue of recall at a special election called for that purpose in the precincts in which registered voters are entitled to vote for the office in question, unless a general, primary, or special election shall have been set within a period of sixty days from the receipt of the Council of the petition, in which case the matter shall be voted on at such election. The official subject to recall may present to the Council a statement of not more than 500 words answering the charges contained in the petition, and both the statement of the committee and the answer of the official shall be published in the call for the election.

Sec. 7.15. ELECTION BALLOTS. The Council shall formulate the election ballot in all instances, which ballot shall be printed in the call for the election. The ballot shall succinctly and clearly state the essentials of the measure to be voted on and the question shall be framed so as to be capable of understanding by the voter, and the measure in the case of the initiative and referendum petitions shall be published once at least ten days before the election.

Sec. 7.16. REGULATIONS BY THE COUNCIL. The Council may by ordinance make such detailed provisions as it may determine to be necessary to provide for effecting the provisions of this Article. Such regulations shall not be inconsistent with the letter and the spirit of this Article, and if it conflicts therewith the provisions of this Article shall control.

Sec. 7.17. LIMITATIONS AS TO TIME. No petition for referendum shall be valid unless the Certificate of Intent with respect thereto shall have been filed within 15 days of the adoption of the motion or resolution and within 15 days of the publication of an ordinance. The filing of the Certificate of Intent shall suspend the action of the Council for a period of 30 days. If the petition for a referendum is not filed with the City Clerk within said 30 day period, it shall not be valid for any purpose. If a petition

for initiative or recall is not filed within a period of 90 days from the date of the filing of the Certificate of Intent, it shall be conclusively deemed to have been abandoned and shall not be valid for any purpose.

ARTICLE VIII

Franchises

Section 8.01. FRANCHISE REQUIRED. No municipal corporation, governmental agency, or political subdivision, other than the City, and no person, corporation, association, or other agency or group, shall place in, on or over any public street, alley, or public property of any kind any utility service, communication line or tube, transportation facility, or other service, of permanent or semi-permanent nature, without first having obtained a franchise from the City.

Sec. 8.02. POWER OF THE COUNCIL. Only the Council shall have the power to grant franchises. The Council may impose such regulations, and make the franchise subject to such terms, in addition to those herein set forth, as it in its discretion may determine. The franchise privilege and the power of the Council to grant the same shall always be subject to the paramount right of the public in the public streets, alleys and other public property of the City, and the Council shall have the right and the power to regulate and control the exercise by the franchise holder of the franchise privilege, however or whenever acquired.

Sec. 8.03. LIMITATIONS. No franchise shall be granted for a term longer than 25 years. A franchise may be transferred upon adoption by the Council of a resolution approving the transfer. Such resolution may be adopted only upon an affirmative showing, satisfactory to the Council, by the proposed transferee, of moral and financial responsibility, and the execution and filing with the Clerk of an instrument, duly acknowledged, setting forth that the transferee accepts and agrees to perform all of the terms and conditions of the franchise. A franchise may not be granted by emergency ordinance.

Sec. 8.04. PROCEDURE FOR GRANT OF FRANCHISE. Application for franchises shall be made upon such forms as may be prescribed by the Council and prepared by the City Clerk under its direction. The ordinance shall contain all the terms and conditions of the franchise. The procedure for the adoption of franchise ordinances shall be the same as for other ordinances, except that before its adoption by the Council it shall be published once each week for two successive weeks, the last publication

of which must be at least one week before it is adopted. The ordinance shall not be in effect until the grantee shall have filed with the City Clerk written acceptance of the same and all its terms and conditions.

Sec. 8.05. CONDITIONS. All franchises shall be subject to the following conditions, which shall be incorporated in the text of the ordinance granting the same:

1) The grantee shall be subject to all the terms and conditions set forth in the ordinance granting the franchise and to all provisions of law, this charter, and the ordinances of the City that may be applicable to the operation of the franchise privilege;

2) The grantee shall in no case claim or pretend to exercise any power to fix fares, rates, charges, or penalties but all fares, rates, charges and penalties shall in all cases be fixed and determined as provided in this Article;

3) The Council shall have the right to require reasonable extensions of the public service system operated by the grantee under the franchise and to make such rules and regulations as may be required to secure adequate and proper service and to provide adequate accommodations for the public;

4) The grantee shall not issue any capital stock on account of the franchise or the value thereof, and the grantee shall have no right to receive, upon condemnation proceedings brought by the City to acquire the public utility exercising such franchise, any return on account of the franchise or its value;

5) Every grant in the franchise of permission to construct facilities in, on or over the public streets, alleys, or other public property shall be subject to the conditions that the same be done in such manner so that the same shall be in as good condition as before and such further conditions as the Council may impose;

6) Every grant in the franchise of permission to construct such facilities shall be subject to the condition that the Council shall have the power to require such alterations therein, or relocation or rerouting thereof, as the Council may at any time deem necessary for the safety, health or convenience of the public, without cost to, or reimbursement by, the City;

7) The grantee shall file with the City Clerk, within a period of three months after the close of its fiscal year, a statement, subscribed and sworn to by some officer or person who knows the facts, setting forth in detail for the fiscal year just closed the then actual cost of the plant or business operated by such grantee, the actual encumbrances, debts, and obligations thereon, if any, the

amount of stock issued and to whom, the gross earnings, the expenses, the net income, and the total amount of outstanding stock of said grantee;

8) The failure of the grantee to obey the provisions of the law, this Charter, or the ordinances of the City, or the violation of any of the terms and conditions set forth in or embraced within the franchise or the ordinance granting the same shall be a sufficient cause for the forfeiture, cancellation, and revocation of the franchise by resolution of the Council.

Sec. 8.06. REGULATION OF RATES AND CHARGES. All franchise holders 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 fare, rate, charge, or penalty to be charged by the grantee 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 grantee and the Council at public hearings. In the event that the grantee and the Council shall fail to reach agreement by negotiation, either party may request that the matter be referred to a board of arbitration. The party requesting arbitration shall file, with the City Clerk, its request for arbitration, which shall contain the name and address of its representative on the board of arbitration. The other party shall name its representative within a period of thirty days following receipt of notice of the filing of the request for arbitration by the other. The two representatives so chosen shall select a third arbitrator, who shall be the chairman of the board of arbitration. In the event that the two arbitrators selected by the parties shall fail within the period of 30 days after the naming of the last arbitrator to agree on the third arbitrator, that fact shall be certified to the City Clerk, who shall thereupon forthwith forward a request to the Governor of the State of Minnesota to appoint the third arbitrator. After the selection of the arbitrators the proceedings shall proceed in accordance with the provisions of the Minnesota Arbitration Act and the decision of the board of arbitration shall be final, subject to such right of appeal as is provided in the said Act. Each party shall pay the fees and necessary disbursements of its representative on the board of arbitration and shall share

equally in the payment of the fees and necessary disbursements of the third arbitrator. The fare, rate, charge, or penalty fixed, either by negotiation or arbitration, shall be in force for such term as is provided in the franchise or by prior agreement of the parties, but in no event shall the period exceed five years, provided, further, the parties may at any time, by mutual consent, revise any prior agreement or arbitration determination made.

Sec. 8.07. ADDITIONAL PROCEDURES, FILING FEES. The Council may by ordinance establish such additional procedures not inconsistent with the provisions of this Article to effectuate more fully the provisions of this Article, and it may by resolution or ordinance prescribe a filing fee to be paid upon the filing of the application to cover the costs of processing the application and acting thereon.

ARTICLE IX

General Provisions

Section 9.01. PROCEDURE FOR VACATING STREETS, UTILITY EASEMENTS, AND PUBLIC GROUNDS.

Subdivision 1. POWER IN THE COUNCIL. The Council shall have exclusive power to vacate streets, alleys, roads, highways, parkways, public grounds, and utility easements within the City.

Subd. 2. POWER TO INITIATE. The proceedings to vacate may be initiated by a majority of the owners of land or by the owners of a majority of the land measured in feet fronting on the easement, abutting on the street, alley, road, highway, parkway, or public ground, or in, on or through which the utility easement exists, or by resolution of the Council.

Subd. 3. PROCEEDINGS ON INITIATION BY THE COUNCIL. If the Council determines to proceed on its own initiative, it shall cause to be prepared a resolution to which shall be attached a map of the area proposed to be vacated and of the area extending out therefrom in all directions a distance of 600 feet and a list of the property owners within the said total area, together with their addresses and the legal descriptions of the property owned by each of such owners. The resolution may be introduced at any regular or special meeting of the Council, but no further action shall be taken thereon until the report from the Planning Commission shall have been received or the time for the consideration of the same by the Planning Commission shall have expired. Upon the introduction of the resolution, the Clerk shall promptly transmit two copies thereof; together with copies of the

map and the list of property owners and any other appendix thereto attached, to the Planning Commission. The Planning Commission shall consider the same, and may hold hearings thereon, and shall return one copy thereof, together with its resolution containing its findings and its report thereon, within sixty days, or such further time as the Council may permit, from the date of the introduction of the Council resolution. If the Planning Commission shall fail to so make its report within said period, it shall be deemed to have approved the same as submitted.

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

Subd. 5. PROCEEDINGS AFTER INITIATION. Upon the report and resolution of the Planning Commission, or, in the event the Planning Commission shall fail to act within the period provided, at the end of the said period, the Council shall at its next regular meeting take up the matter. If the Planning Commission shall have disapproved the proposed vacation, or shall have attached conditions thereto or altered the area of the proposed vacation, the Council shall determine whether it shall

proceed further by over-ruling the Planning Commission.

Subd. 6. NOTICE AND HEARING. If the Council determines to proceed, it shall adopt a resolution setting the matter for a hearing at a regular meeting, which resolution shall clearly describe the area proposed to be vacated, and shall cause said resolution to be published once each week for two successive weeks next following the week in which said resolution is adopted and shall cause a copy of the said resolution to be mailed to each of the property owners owning property within 600 feet in all directions of the area proposed to be vacated contained in said resolution, which mailing shall be made at least 10 days before the hearing. At the hearing proof by affidavit of publication and of mailing shall be filed as a part of the record of the proceedings. Opportunity shall be given to all who desire to be heard at the said hearing, and the hearing may be adjourned from time to time. Neither the failure to mail nor the failure to receive said notice shall invalidate the proceedings, provided the Council may take such action as it shall in its discretion determine to afford any objecting property owner a hearing.

Subd. 7. APPEAL. Any person aggrieved by the resolution of vacation shall have the right to appeal to the District Court of Kandiyohi County, within 10 days of the adoption of the resolution. The appeal shall be perfected by serving Notice of Appeal on the City Clerk in the manner of the service of a district court summons and filing the same with proof of service with the Clerk of District Court. Thereupon the City Clerk shall forward to the District Court all of the documents in the proceeding, and the same shall be considered by the Court as upon a petition in the nature of a writ of certiorari. The Court may affirm, over-rule, or modify the resolution, and upon making its determination shall remand the same, with the documents, to the City Clerk, together with a certified copy of its order.

Subd. 8. FILINGS AND RECORDING. After the expiration of the time for appeal, if there is no appeal, or upon the receipt of the certified copy of the order of the District Court, in the event of Appeal, and the area or any part thereof is by said resolution or order vacated, the City Clerk shall prepare and cause to be filed and recorded the notice required by Section 117.19, Minnesota Statutes.

Subd. 9. DENIAL OF ACCESS. No proceedings for the vacation of any street, alley, road, highway, parkway or public ground shall be had or continued if it shall result in any platted lot, or tract under one ownership, at

the time the petition is filed or the resolution initiating the proceedings is adopted, being deprived of access to a street or public road or highway unless and until the owner of such lot or tract shall have filed a consent thereto, containing a description of each such lot or tract and a statement that he is the owner thereof, duly acknowledged and witnessed in form so as to be acceptable for recording in the office of the Register of Deeds, with the City Clerk, who upon filing the notice provided for in Subdivision 8 herein, shall file the same for record with the Register of Deeds.

Sec. 9.02. PERSONAL FINANCIAL INTEREST. Any city official, Councilman, board or commission member, or employee, who has a substantial financial interest, direct or indirect or by reason of ownership of stock in any corporation, in any contract with the City or in the sale of any land, material, supplies or services to the City or to a contractor supplying the City, shall make known that interest and shall refrain from voting upon or otherwise participating in his capacity as a city officer or employee in the making of such sale or in the making of or performance of such contract. Anyone who wilfully conceals such a substantial financial interest or wilfully violates the requirements of this section shall be guilty of malfeasance in office or position and shall forfeit his office or position. Violation of this section with the knowledge express or implied of the person or corporation contract-with or making a sale to the City shall render the contract or sale voidable by the Council.

Sec. 9.03. PROHIBITIONS. The following activities shall be prohibited:

1) No person shall be appointed to or removed from, or in any way favored or discriminated against with respect to any city position or appointive position because of race, sex, political or religious opinions or affiliations.

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

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

Any person who by himself or with others willfully violates any of the provisions of this section shall be guilty of a misdemeanor.

Sec. 9.04. OATH OF OFFICE. Every Councilman, elected or appointed official, and board and commission member shall, before entering upon the duties of his office take and subscribe an oath of office in the following form: "I do solemnly swear (or affirm) that I will support the Constitutions of the United States and of the State of Minnesota, and that I will discharge faithfully the duties devolving upon me as (name of office) of the City of Willmar to the best of my judgment and ability."

Sec. 9.05. CORPORATE NAME; BOUNDARIES. The corporate name of the City shall be City of Willmar. Its boundaries shall be as presently existing and as added to from time to time by annexation proceedings pursuant to law.

Sec. 9.06. AMENDMENTS TO CHARTER. Amendments to this Charter shall be made as provided by law.

Sec. 9.07. SEPARABILITY. If any provision of this Charter is held invalid or is by provision of law made of no effect, the other provisions of this Charter shall not be affected thereby. If the application of this Charter or any of its provisions to any person or circumstance is held invalid, the application of this Charter and its provisions to other persons or circumstances shall not be affected thereby.

ARTICLE X

Transitional Provisions

Section 10.01. OFFICERS AND EMPLOYEES.

Subdivision 1. RIGHTS AND PRIVILEGES PRESERVED. Nothing in this Charter except as otherwise specifically provided shall affect or impair the rights or privileges of persons who are city officers or employees at the time of its adoption.

Subd. 2. CONTINUANCE OF OFFICE OR EMPLOYMENT. Except as specifically provided by this Charter, if at the time this Charter takes full effect a city officer or employee holds any office or position which is or can be abolished by or under this Charter, he shall continue in such office or position until the taking effect of some provision in or under this Charter directing that he vacate the office or position. If this Charter provides that the Council may by ordinance make such change as will abolish such office or position, he shall continue in such office or position until such ordinance is in effect.

Subd. 3. PERSONNEL SYSTEM. An employee holding a city position at the time the Council shall have adopted a merit system under the provisions of this Charter and at the time such ordinance takes effect, who was serving in that same or a comparable position at the time of the adoption of this Charter, shall not be subject to competitive tests as a condition of continuance in the same position but in all other respects shall be subject to the personnel system so established by ordinance.

Sec. 10.02. DEPARTMENTS, OFFICES AND AGENCIES.

Subdivision 1. TRANSFER OF POWERS. If a city department, office or agency is abolished by this Charter, the powers and duties given it by law shall be transferred to the city department, office or agency designated in this Charter, or, if the Charter makes no provision, designated by the Council.

Subd. 2. PROPERTY AND RECORDS. All property, records and equipment of any department, office or agency existing when this Charter is adopted shall be transferred to the department, office or agency assuming its powers and duties, but, in the event that the powers or duties are to be discontinued or divided between units or in the event that any conflict arises regarding a transfer, such property, records or equipment shall be transferred to one or more departments, offices or agencies designated by the Council.

Sec. 10.03. PENDING MATTERS. All rights, claims, actions, orders, contracts and legal or administrative proceedings shall continue except as modified pursuant to the provisions of this Charter and in each case shall be maintained, carried on or dealt with by the city department, office or agency appropriate under this Charter, or, if there is a conflict as to which department, office or agency is to continue, maintain or deal with it, as determined by the Council.

Sec. 10.04. EMINENT DOMAIN. The power of eminent domain shall continue in full force and effect and shall not be abrogated by the adoption of this charter and any proceedings pending in connection therewith shall be carried on in accordance with law, if applicable, otherwise as provided in the Charter in effect at the time of adoption of this Charter.

Sec. 10.05. STATE AND MUNICIPAL LAWS. All city ordinances, resolutions, orders and regulations which are in force when this Charter becomes fully effective are repealed to the extent that they are inconsistent or interfere with the effective operation of this Charter or of

ordinances or resolutions adopted pursuant thereto. All laws which are by their provisions to be effective only if they do not conflict with provisions of the city charter or there is no charter provision on the subject and which are inconsistent with or interfere with the effective operation of this Charter or of the ordinances or resolutions adopted pursuant thereto are superseded by this Charter. All laws which are permissive in nature and which do not interfere with the operation of this Charter or of ordinances or resolutions adopted pursuant thereto shall not be affected by the adoption of this Charter. All laws which are designed to be operative in conjunction with or as related to the charter provisions of the charter of this City shall be construed as though they were enacted at or after this Charter was adopted, notwithstanding that they were enacted prior to the adoption of this Charter.

Sec. 10.06. ORDINANCES AND RESOLUTIONS INCONSISTENT WITH THIS CHARTER. The Council shall expressly repeal all ordinances and resolutions which are in conflict with this Charter and either repeal or amend ordinances and resolutions which are inconsistent herewith or which in their interpretation may lead to conflicting positions. Failure to expressly repeal shall not be construed to abrogate the provisions of Section 10.05.

Sec. 10.07. EFFECTIVE DATE OF THIS CHARTER. The effective date of this Charter, upon ratification by the registered voters of Willmar, shall be the first Monday after the first Tuesday in January, A.D. 1969.

Sec. 10.08. SCHEDULE AS TO ELECTIONS. The Council members and the Mayor who are elected at the general election held in 1968 shall be deemed to have been elected to the positions provided for in this Charter, and the Mayor and the Council shall assume the full powers provided for them by this Charter on the first Monday after the first Tuesday in January, A.D. 1969.

Sec. 10.09. COUNCILMEN HOLDING OVER. Councilmen who were elected in the general election held in 1966 or to fill vacancies in positions held by such Councilmen shall hold over and they shall assume the duties and prerogatives under this Charter on the first Monday after the first Tuesday in January, A.D. 1969, the same as Councilmen elected in 1968.

Sec. 10.10. TEMPORARY ORDINANCES. At its meeting on the first Monday after the first Tuesday in January, A.D. 1969, or at any meeting within 60 days thereafter, the Council may adopt temporary ordinances to deal with cases in which there is an urgent need for

prompt action in connection with the transition of government and in which the delay incident to the appropriate ordinance procedure would probably cause serious hardship or impairment of effective city government. Every temporary ordinance shall be plainly labelled as such but shall be introduced in the form and manner prescribed for ordinances generally. A temporary ordinance may be considered and may be adopted with or without amendment or rejected at the meeting at which it is introduced. After adoption of a temporary ordinance, the Council shall cause it to be published as prescribed for other adopted ordinances. A temporary ordinance shall become effective upon adoption or at such later time preceding automatic repeal under this section as it may specify, and the referendum power shall not extend to any such ordinance. Every temporary ordinance, including any amendments made thereto after adoption, shall automatically stand repealed as of the 91st day following the date on which it was adopted, and it shall not be readopted, renewed or otherwise continued except by adoption in the manner prescribed in Article II for ordinances of the kind concerned.