



**CITY OF MARSHALL  
Charter Commission  
A g e n d a  
Wednesday, December 13, 2023 at 5:15 PM  
344 W. Main St., City Hall**

**APPROVAL OF AGENDA**

**APPROVAL OF MINUTES**

- [1.](#) Consider Approval of the Minutes

**OLD BUSINESS**

- [2.](#) Proposed Charter Amendments
- [3.](#) Creation of Bylaws
- [4.](#) Recommendations to Fill Vacancy

**NEW BUSINESS**

**ADJOURN**

**Disclaimer: These agendas have been prepared to provide information regarding an upcoming meeting of the Common Council of the City of Marshall. This document does not claim to be complete and is subject to change.**



## CITY OF MARSHALL AGENDA ITEM REPORT

<b>Presenter:</b>	Chair
<b>Meeting Date:</b>	Wednesday, December 13, 2023
<b>Category:</b>	APPROVAL OF MINUTES
<b>Type:</b>	ACTION
<b>Subject:</b>	Consider Approval of the Minutes
<b>Background Information:</b>	Enclosed are the minutes from the previous meeting.
<b>Fiscal Impact:</b>	
<b>Alternative/ Variations:</b>	Staff encourages Members to provide any suggested corrections to the minutes in writing to City Clerk, Steven Anderson, prior to the meeting.
<b>Recommendations:</b>	That the minutes from the previous meeting be approved as filed with each member and that the reading of the same be waived.

**CITY OF MARSHALL  
CHARTER COMMISSION  
M I N U T E S  
Wednesday, October 18, 2023**

**Members Present:** Marc Klaith, Mike Fox, Nathan Doose, Stephen Davis, Stacy Frost, Larry Magrath, Jill Vroman, and Amanda Schroeder

**Members Absent:** Larry Doom, and Mark Mather

**City Staff:** Sharon Hanson, City Administrator; Pamela Whitmore, City Attorney (via zoom); and Steven Anderson, City Clerk

Meeting called to order at 5:15 by Chairperson Stacy Frost.

**Approval of the Agenda**

Motion made by Vroman, seconded by Davis to approve the agenda as presented. All voted in favor.

**Consider Approval of the Minutes**

Motion made by Klaith, second by Vroman to approve the minutes from the last meeting. All voted in favor.

**Election of Officers**

Attorney Whitmore briefly explained the methodology for electing officers. Vroman nominated Stacy Frost to continue as chair and Nathan Doose as secretary, seconded by Davis. All voted in favor.

**Recommendations to Fill Vacancy**

Commission members questioned who and how a recommendation is made to fill the vacancy from Richard Herder. Whitmore clarified that the recommendation could be made by the commission itself, city staff or city council. The appointment of the vacancy ultimately lies with the Head District Judge, but the judge would typically appoint based on the recommendation of the commission or city council. The only requirement per Statute was that the recommended individual be a qualified voter of the city. No recommendations were made, Doose mentioned that he had an individual in mind that could be brought forward later.

**Creation of Bylaws**

Whitmore told members that statute requires that the commission have by-laws and city staff were unable to locate any by-laws. The by-laws presented were what Whitmore typically saw with other cities that she has worked with and were very standard. Frost suggested that members take time to fully read and understand the by-laws before a vote takes place. The commission tabled the by-laws for a decision at the next meeting.

**Proposed Charter Amendments**

Whitmore informed the commission that she and her staff would go through a city's charter to ensure correct verbiage and contradictions don't occur with state law. Several of the suggested changes to the charter involved he/she pronouns to be changed to gender neutral or titles for an easier read. Under section 2.02 the recommended changes were from changes to special election laws that were passed by the Minnesota Legislature in 2023. Sections 4.02, 5.07, and 5.10 were also the result of special election law changes that were passed that the charter should conform to. Whitmore mentioned that a few parts of the charter could use language/terminology updates to account for technology advances. Such as requiring a physical book of ordinances to be updated for electronic storage. Under section 3.13 Whitmore suggested a change for uncodified ordinances to include a table for reference. Clerk Anderson gave examples of typically seen uncodified ordinances to members such as land purchases. Whitmore cited a Colorado Supreme Court case for the recommendation to changes under section 5.02 The court case was making waves throughout the nation and now allows petitioners to pay individuals for their work going door to door to acquire signatures, but no signor of the petition can accept any reward for signing the petition.

**Updates from City Attorney**

Attorney Whitmore presented a couple of legislative and court decisions that revolve around charter commissions. The commission members asked what an appropriate timeline would be to submit the annual report to the district judge and if the amendments needed to be a part of the report. Whitmore informed the group that it would be advisable to have the annual report include all changes, but it was not required, and the changes could be reflected in the 2024 annual report.

**Adjournment**

Members wished to get together for one more meeting in the upcoming weeks to finalize items that were left undecided. Frost expressed her appreciation to Whitmore for providing more clarity and defining the role of the commission within the functions of the city. At 5:57 PM motion made by Vroman, seconded by Davis to adjourn the meeting. All voted in favor.

Respectfully submitted,  
Nathan Doose, Charter Commission Secretary

<b>Presenter:</b>	Pamela Whitmore
<b>Meeting Date:</b>	Wednesday, October 18, 2023
<b>Category:</b>	NEW BUSINESS
<b>Type:</b>	ACTION
<b>Subject:</b>	Proposed Charter Amendments
<b>Background Information:</b>	<p>The City Attorney, City Administrator and Clerk met in October 2023 and identified various recommended updates to the Charter both to address gender neutrality and to comply with statutory changes that have occurred in the past few years. At the meeting, there will be a detailed overview of the proposed amendments; however, below sets forth a general overview and the reasons for those proposed changes:</p> <ul style="list-style-type: none"> <li>• Deleting his/her, he/she and him/her. Reason for deletion: eliminate preferred personal pronouns in favor of titles or nongendered pronouns.</li> <li>• Amend existing language to comply with statutory changes related to special election dates.</li> <li>• Amend existing language to clarify timing of council resignations and how to proceed if there is a tie on an appointment.</li> <li>• Amend language regarding process and requirements for redistricting of wards to comply with statutory changes.</li> <li>• Amend language regarding voting requirements if a member of the decision-making body joins the meeting remotely via interactive technology to comply with recent statutory changes.</li> <li>• Adding language to provide Council with authority to create a table for non-substantive ordinances, not of a general or permanent nature, that are not otherwise codified in code.</li> <li>• Amend language of 5.02, expenditures for Petitioners, to comply with requirements set forth in a United States Supreme Court decision to allow hiring of individuals to go door to door to try to get signatures on a petition but to still prohibit paying individuals people to actually sign the petition.</li> <li>• Adding language to Section 7.01 to clarify that Council may, through adoption of policy, create authority for the City to identify and expend funds on expenditures that benefit the community as a whole; are directly related to governmental functions; and primarily benefits the public interest (not private interest). This allows the city more flexibility to promote and support its community.</li> </ul>
<b>Fiscal Impact:</b>	None
<b>Alternative/ Variations:</b>	
<b>Recommendations:</b>	Approve proposed changes and make a recommendation that the changes be brought forward to city council.

## **CHARTER**

[CHAPTER 1 NAME, BOUNDARIES, POWERS, AND GENERAL PROVISIONS](#)

[CHAPTER 2 FORM OF GOVERNMENT](#)

[CHAPTER 3 PROCEDURE OF THE COUNCIL](#)

[CHAPTER 4 NOMINATIONS AND ELECTIONS](#)

[CHAPTER 5 INITIATIVE, REFERENDUM, AND RECALL](#)

[CHAPTER 6 ADMINISTRATION OF CITY AFFAIRS](#)

[CHAPTER 7 TAXES AND FINANCE](#)

[CHAPTER 8 PUBLIC IMPROVEMENTS AND SPECIAL ASSESSMENTS](#)

[CHAPTER 9 EMINENT DOMAIN](#)

[CHAPTER 10 FRANCHISES](#)

[CHAPTER 11 PUBLIC OWNERSHIP AND OPERATION OF UTILITIES](#)

[CHAPTER 12 MISCELLANEOUS AND TRANSITORY PROVISIONS](#)

[CHAPTER 13 MARSHALL MUNICIPAL UTILITIES](#)

[SUPPLEMENT HISTORY TABLE](#)

[CHARTER COMPARATIVE TABLE ORDINANCES](#)

**Editor's note(s)**—Printed herein is the Charter of the City of Marshall, Minnesota as approved at referendum on July 22, 1969. Amendments to the Charter are indicated by parenthetical history notes following amended provisions. Amendments through Ord. No. 356 were present in the copy of the Charter furnished to Municipal Code Corporation for publication. The absence of a history note indicates that the provision remains unchanged from the original Charter. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and citations to state statutes have been used. Additions made for clarity are indicated by brackets.

**State law reference(s)**—Home rule charters, Minn. Stat. § 410.04 et seq.

## **CHAPTER 1 NAME, BOUNDARIES, POWERS, AND GENERAL PROVISIONS**

[Section 1.01 Name And Boundaries](#)

[Section 1.02 Powers Of The City](#)

[Section 1.03 Charter A Public Act](#)

### **Section 1.01 Name And Boundaries**

The City of Marshall, in the County of Lyon, and the State of Minnesota, shall, upon the taking effect of this Charter, continue to be a municipal corporation, under the name of the City of Marshall, with the same boundaries as now are or hereafter may be established.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

## **Section 1.02 Powers Of The City**

The City shall possess all the powers possible for a municipal corporation in this State to exercise in harmony with the constitutions of this State and of the United States. It is the intent of this Charter that every power which the people of the City of Marshall might lawfully confer upon themselves as a municipal corporation shall be understood to have been so conferred by specific enumeration in this Charter under the provisions of this Section. This Charter shall be interpreted liberally in favor of the City, and the specific mention of the particular powers in the Charter shall not be interpreted as limiting in any way the generality of the powers possibly conferred.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

## **Section 1.03 Charter A Public Act**

This Charter shall be a public act and neither it nor any ordinance regularly passed by the Common Council need be pleaded or proved in any case. It shall take effect thirty (30) days from and after its adoption by the voters.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

## **CHAPTER 2 FORM OF GOVERNMENT**

[Section 2.01 Form Of Government](#)

[Section 2.02 Boards And Commissions](#)

[Section 2.03 Elective Offices](#)

[Section 2.04 Incompatible Offices](#)

[Section 2.05 Vacancies In The Council](#)

[Section 2.06 The Mayor](#)

[Section 2.07 Salaries](#)

[Section 2.08 Investigation Of City Affairs](#)

[Section 2.09 City Employees, Their Wages, Salaries, Benefits And Regulation](#)

[Section 2.10 Wards](#)

## **Section 2.01 Form Of Government**

The form of government established by this Charter is the "Mayor-Council Plan." The Council shall exercise the legislative power of the City and determine all matters of policy.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

**State law reference(s)**—Permissible charter provisions, Minn. Stat. § 410.16.

## **Section 2.02 Boards And Commissions**

The Council, by ordinance may establish, regulate, and abolish any board, commission, or administrative body which it may determine to be necessary or desirable. Every board,

commission, and body shall possess only that power and authority which the City Council grants, and will function as advisory or independent agency as determined by the Council.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

### **Section 2.03 Elective Offices**

Subd. 1. Mayor.

1. *Qualification.* Mayor must be, at the date of filing for office and during ~~his/her~~ the Mayor's term, a qualified elector of the City of Marshall and shall be elected at large.
2. *Mayor's Term.* The Mayor shall serve for a period of four years and until their successor is elected and qualified. The term shall begin on the first Monday in January after the municipal election.

Subd. 2. Councilmembers.

1. *Qualifications.* Councilmembers must, at date of filing for office and during their term, be a qualified elector of the ward of the City of Marshall for which they seek office or hold office.
2. *Number.* Two councilmembers shall be elected from each ward.
3. *Councilmembers Term.* All councilmembers elected shall serve for a period of four years and until their successor is elected and qualified. The term shall begin on the first Monday in January after the municipal election.

(Ord. No. 185 2nd series, § 1, 6-2-1986; Ord. No. 352 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 664 2nd series, § 1, 12-4-2012)

#### HISTORY

Amended by Ord. [22-012](#) on 12/13/2022

### **Section 2.04 Incompatible Offices**

No member of the Council shall be appointed City Administrator, nor shall any member of the Council hold any paid municipal office or employment under the City other than as a member of the Council.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

### **Section 2.05 Vacancies In The Council**

A vacancy in the Council shall be deemed to exist in accordance with the provisions of the State Law, and, in addition thereto, in case of continuous absence of the official from the City for more than ninety (90) days, or by reason of failure of any member of the Council, without good cause, to perform any duties of membership in the Council for a period of ninety (90) days. If by resignation, the vacancy automatically occurs when an

incumbent submits a written resignation to the Mayor, City Administrator, or City Clerk, effective on the date specified. If the date is not specified in the resignation, the vacancy is created on the date of submittal. In each such case the Council, by resolution shall declare the vacancy and, if the unexpired term of the vacated Councilmember is less than one hundred eighty (180) days, shall appoint as soon as possible, a person eligible for election from the partially represented ward to serve until the next regular municipal election. In case of a tie vote on the appointment by the Council, the Mayor will cast the deciding vote. If the unexpired term of such Councilmember or Mayor is one hundred eighty (180) days or more, the vacancy shall be filled by special election within the area to be represented. ~~The special election shall be ordered by the Council within thirty (30) days after vacancy is declared and reasonable public notice of the election shall be given.~~ When a special election is required under this Section, the Council must adopt a resolution to set the date for the special election at the first regular meeting occurring after the vacancy; at a special meeting of the Council, occurring after the vacancy automatically occurs; or at the same meeting at which the vacancy is declared. The special election must be held at the earliest date possible under State law related to special elections and candidates must file for office no later than four weeks before the election. If a special election is to occur in the same year as a regular election, the Council may, at its own option, schedule the special election to occur in conjunction with the regular municipal election rather than at the earliest date possible under State law for special elections.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

### **Section 2.06 The Mayor**

The Mayor shall be the presiding officer of the Council, except that the Council shall choose from its members a president pro tem who shall hold office at the pleasure of the Council and shall serve as president in the Mayor's absence and as a mayor in case of the Mayor's disability or absence from the City. The Mayor shall have a vote as a member of the Council. ~~He/She~~ The Mayor shall exercise all powers and perform all duties conferred and imposed upon ~~him/her~~ the Mayor by this Charter, the ordinances of the City and the laws of the State. ~~He/She~~ The Mayor shall be recognized as the official head of the City for all ceremonial purposes, by the courts for the purpose of serving civil process, and by the governor for the purposes of marital law. ~~He/She~~ The Mayor shall study the operations of the City government and shall report to the Council any neglect, dereliction of duty, or waste on the part of any officer or department of the City. In time of public danger or emergency, ~~he/she~~ The Mayor may, with the consent of the Council, take command of the police, maintain order and enforce the law.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

**State law reference(s)**—Permissible Charter provisions, Minn. Stat. § 410.19.

### **Section 2.07 Salaries**

Salaries of the Councilmembers and Mayor shall be discussed as an agenda item at the first council meeting in July of each year. After said discussions, the council shall set and determine said salaries in accordance with the applicable state law.

(Ord. No. 353 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16-1996)

### **Section 2.08 Investigation Of City Affairs**

The Council shall have power to investigate the City's affairs, to subpoena witnesses, to administer oaths, and to compel the inspection of books and papers. The Council shall provide for an audit of the City's accounts at least once a year by the State Department in charge of such work or by a public accountant selected by the Council. The Council may at any time provide for an examination or audit of the accounts of any office or department of the City government and it may cause to be made any survey or research study of any subject of municipal concern.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

### **Section 2.09 City Employees, Their Wages, Salaries, Benefits And Regulation**

The Council shall have complete authority in determining the employment or discharge of all City employees, wages and salaries to be paid to such employees, employee benefits, supervision, and lines of authority, and all other matters of regulation and control.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

### **Section 2.10 Wards**

The Council shall, by ordinance, provide for the establishment of wards, define or change their boundaries, and increase or eliminate the number of wards in the City. No change, increase, or elimination shall be made (i) prior to the Legislature being redistricted in a year ending in one or two; or, unless otherwise provided herein, within three (3) months prior to any election held in the City governmental offices. ~~Within six (6) months following the official certification of the decennial census of the United States and the filing of the census list with the City, the Council shall, by ordinance, re-determine ward boundaries so as to make said wards as nearly equal in population as practical.~~ The wards must be redistricted within 60 days after the Legislature has been redistricted or at least 19 weeks before the state primary election in the year ending in two, whichever is first. After the official certification of the federal decennial or special census, the Council shall either confirm the existing ward boundaries or redefine ward boundaries. Each ward shall be composed of compact, contiguous territory and shall contain as nearly as practicable an equal population. The difference between the ward with the lowest population and the ward with the highest population can be no greater than ten percent of the equal number. If a federal census shows that a ward no longer meets this requirement, the Council must change the ward boundaries to achieve compliance within the time period required by

State law. If a ward boundary change places a ward councilmember's residence in a different ward, the councilmember will continue in office for the remainder of the term.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

## **CHAPTER 3 PROCEDURE OF THE COUNCIL**

[Section 3.01 Council Meetings](#)

[Section 3.02 City Clerk](#)

[Section 3.03 Finance Director](#)

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[Section 3.05 Rules Of Procedure And Quorum](#)

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[Section 3.12 Amendment And Repeal Of Ordinances And Resolutions](#)

[Section 3.13 Revision And Codification Of Ordinances](#)

### **Section 3.01 Council Meetings**

Newly elected members of the council shall assume their duties on the first meeting in January following a regular municipal election. The Council shall meet at such time each month as may be prescribed by ordinance or resolution. The Mayor or any three members of the council may call a special meeting of the council upon at least twelve (12) hours written notice to each member of the council. Such notice shall be delivered personally to each member or shall be left at their usual place of residence with some responsible person. The business to be taken up at any special meeting shall be specifically stated in the notice, and no other business shall be transacted unless all members are present and consent thereto.

All meetings of the Council shall be public, and any citizen shall have access to the minutes and records thereof at all reasonable times.

(Ord. No. 86 2nd series, § 1, 11-3-1980; Ord. No. 356 2nd series, § 1, 3-16-1996)

**Editor's note(s)**—At the direction of the city, as part of Supp. No. 30, § 3.01, was amended to read as set out herein.

### **Section 3.02 City Clerk**

The City Clerk shall be appointed by the City Administrator. The City Clerk, or a person designated by the City Clerk, shall perform the following specific duties:

Subd. 1. Attend all sessions of the City Council.

Subd. 2. Be the official secretary of the City Council.

Subd. 3. Preserve all votes of meetings and proceedings in books kept for that purpose.

Subd. 4. Give or cause to be given notice of all meetings of the City Council.

Subd. 5. Perform also such other duties as may be prescribed by the City Administrator.

Subd. 6. Shall, when authorized by the City Council, give their signature to any instrument requiring it.

Subd. 7. Prepare and maintain in an orderly fashion all ordinances and resolutions passed by the Council.

(Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 379 2nd series, § 1, 11-3-1997; Ord. No. 707 2nd series, § 1, 5-9-2016)

**Editor's note(s)**—Ord. No. 707 2nd series, § 1, adopted May 9, 2016, amended § 3.02, to read as set out herein. Previously § 3.02 was titled "City clerk/finance director."

### **Section 3.03 Finance Director**

The Finance Director shall be appointed by the Council. The Finance Director, or a person designated by the Director, shall perform the following specific duties:

Subd. 1. Attend all sessions of the City Council.

Subd. 2. Perform duties as City Treasurer.

Subd. 3. Perform also such other duties as may be prescribed by the City Administrator.

(Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 665 2nd series, § 1, 12-4-2012; Ord. No. 707 2nd series, § 1, 5-9-2016)

**Editor's note(s)**—Ord. No. 707 2nd series, § 1, adopted May 9, 2016, amended § 3.03, to read as set out herein. Previously § 3.03 was titled "City attorney."

### **Section 3.04 City Attorney**

The Mayor shall nominate to the City Council the person to be appointed as City Attorney for the City of Marshall. The City Council and the Mayor shall vote and confirm said appointment by majority vote. The City Attorney shall serve for a term of two (2) years, ~~his/her~~ **the** term of office to begin on the first regular meeting in January after the municipal election and ~~he/she shall continue in office until their~~ **a** successor is appointed. The City Attorney shall perform legal services for the City under direction of the City Council and is removable at the discretion of the City Council. The City may contract with other

attorneys to perform specific legal services as it deems necessary without discharging the City Attorney. The Marshall Municipal Utilities Commission are hereby authorized to employ the City Attorney in official matters and to pay for their services from their respective funds. The City Attorney may employ such staff and assistants as necessary.

(Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

**Editor's note(s)**—Ord. No. 707 2nd series, § 1, adopted May 9, 2016, amended § 3.04, to read as set out herein. Previously § 3.04 was titled "Rules of procedure and quorum."

#### HISTORY

Amended by Ord. [22-012](#) on 12/13/2022

### **Section 3.05 Rules Of Procedure And Quorum**

The Council shall determine its own rules and order of business. A majority of all members shall constitute a quorum to do business. The Council may by ordinance provide a means by which a majority may compel the attendance of absent members.

(Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

**Editor's note(s)**—Ord. No. 707 2nd series, § 1, adopted May 9, 2016, amended § 3.05, to read as set out herein. Previously § 3.05 was titled "Ordinances, resolutions and motions."

### **Section 3.06 Ordinances, Resolutions And Motions**

Except as in this Charter otherwise provided, all legislation shall be by ordinance. The "yes" and "no" vote on ordinance, resolutions and motions shall be recorded. An affirmative majority vote of a quorum shall be required for the passage of all ordinances and resolutions, unless a super majority is required by this Charter or state law. The vote of each member shall be recorded on each appropriation of money, except for payments of judgments, claims and amounts fixed by statute. All votes taken during a meeting governed by either Minn. Statute 13D.02 or 13D.021 in which one or more councilmembers or the mayor has joined remotely must be conducted by roll call so that each member's vote on each issue can be identified and recorded. Other than emergency ordinances addressed in Section 3.09 herein or the exceptions stated in law, if a city posts ordinances on the city's website, then it must also post proposed ordinances on the website at least ten days before the Council meeting at which the proposed ordinance is scheduled for a final vote. Additionally, Other than emergency ordinances addressed in Section 3.09 herein or the exceptions stated in law, if a city has an electronic notification system, the city must notify any person that has signed up for e-mail notification of proposed ordinances at least ten days before the Council meeting at which the proposed ordinance is scheduled for a final vote.

(Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

**Editor's note(s)**—Ord. No. 707 2nd series, § 1, adopted May 9, 2016, amended § 3.06, to read as set out herein. Previously § 3.06 was titled "Procedure on ordinances."

### **Section 3.07 Procedure On Ordinances**

The enacting clause of all ordinances shall be in the words, "The Common Council of the City of Marshall do ordain." Every ordinance shall be presented in writing. No ordinance except an emergency ordinance shall be passed at the meeting at which it is introduced and at least three (3) days shall elapse between its introduction and final passage.

(Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

**Editor's note(s)**—Ord. No. 707 2nd series, § 1, adopted May 9, 2016, amended § 3.07, to read as set out herein. Previously § 3.07 was titled "Signing and publication of ordinance and resolutions."

### **Section 3.08 Signing And Publication Of Ordinance And Resolutions**

Every ordinance or resolution passed by the Council shall be signed by the Mayor or, in their absence, by the president of the Council, attested by the City Clerk and filed and preserved by said City Clerk. Every ordinance or a summary of said ordinance shall be published in the official newspaper according to State Statute.

(Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

**Editor's note(s)**—Ord. No. 707 2nd series, § 1, adopted May 9, 2016, amended § 3.08, to read as set out herein. Previously § 3.08 was titled "Emergency ordinances."

### **Section 3.09 Emergency Ordinances**

An emergency ordinance is an ordinance necessary for the immediate preservation of the public peace, health, morals, safety or welfare and one in which the emergency is defined and declared in a preamble thereto, and shall be adopted by a vote of at least five (5) members of the Council. No prosecution shall be based upon the provisions of any emergency ordinance until twenty-four (24) hours has passed after the ordinance has been filed with the City Clerk and has been published in the official newspaper or a summary publication has been published according to state statute.

(Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

**Editor's note(s)**—Ord. No. 707 2nd series, § 1, adopted May 9, 2016, amended § 3.09, to read as set out herein. Previously § 3.09 was titled "Procedure on resolutions."

### **Section 3.10 Procedure On Resolutions**

Every resolution shall be presented in writing and read in full before a vote is taken thereon, unless the reading of the resolution is dispensed with by unanimous consent.

(Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

**Editor's note(s)**—Ord. No. 707 2nd series, § 1, adopted May 9, 2016, amended § 3.10, to read as set out herein. Previously § 3.10 was titled "When ordinances and resolutions take effect."

### **Section 3.11 When Ordinances And Resolutions Take Effect**

A resolution and/or emergency ordinance shall take effect immediately upon its passage or at such later date as is fixed in it. Every ordinance shall take effect at the time of publication or when a summary of said ordinance has been published or at a later date as is fixed therein. Every ordinance and resolution adopted by the voters of the City shall take effect immediately upon public notice of adoption, or at such later time as is fixed therein.

(Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

**Editor's note(s)**—Ord. No. 707 2nd series, § 1, adopted May 9, 2016, amended § 3.11, to read as set out herein. Previously § 3.11 was titled "Amendment and repeal of ordinances and resolutions."

### **Section 3.12 Amendment And Repeal Of Ordinances And Resolutions**

Every ordinance or resolution repealing or amending an existing ordinance or resolution shall give the number, if any, and the title, if any, of the ordinance or resolutions to be repealed or amended. The repeal of an ordinance or resolution, or any part thereof, shall not affect any right reserved, any duty imposed, any penalty incurred or any proceeding commenced under or by virtue of the ordinance or resolution repealed.

(Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

**Editor's note(s)**—Ord. No. 707 2nd series, § 1, adopted May 9, 2016, amended § 3.12, to read as set out herein. Previously § 3.12 was titled "Revision and codification of ordinances."

### **Section 3.13 Revision And Codification Of Ordinances**

The City may revise, rearrange and codify its ordinances with such additions and deletions as may be deemed necessary by the Council. Such ordinance code shall be published in book, pamphlet or continuously revised loose-leaf form and copies shall be made available by the Council at the office of the City Clerk for general distribution to the public free or at a reasonable charge. Publication in such a code shall be a sufficient publication of any ordinance provision not previously published if a notice that copies of

the codification are available at the office of the City Clerk is published in the official newspaper for at least two (2) successive weeks. Ordinances granting franchises, disposing of public property, enacting zoning designations of land, and other ordinances that are not of a general and permanent nature need not be included in the ordinance code. At the Council's discretion, a table of all or some of these ordinances may be included, or their text may be included as appendices.

(Ord. No. 707 2nd series, § 1, 5-9-2016)

**State law reference(s)**—Codification of ordinances, Minn. Stat. § 415.021.

## **CHAPTER 4 NOMINATIONS AND ELECTIONS**

[Section 4.01 The Regular Municipal Election](#)

[Section 4.02 Special Elections](#)

[Section 4.03 Nominations By Elections](#)

[Section 4.04 Procedure At Elections](#)

**State law reference(s)**—Charter provisions to prevail over certain state election laws, Minn. Stat. § 410.21; elections generally, Minn. Stat. chs. 200—211C; municipal elections, Minn. Stat. ch. 205

### **Section 4.01 The Regular Municipal Election**

A regular municipal election shall be held on the first Tuesday after the first Monday of November of every even-numbered year, commencing in 1986, at such place or places as the Common Council may designate. The City Clerk shall have at least two (2) weeks previous notice of the time and place of holding such election and of the members to be elected by publication at least twice in the official newspaper, but failure to give such notice shall not invalidate such election. At said election and subject to the terms set forth herein, there shall be elected members of the Council and, when applicable, Mayor.

(Ord. No. 185 2nd series, § 1, 6-2-1986; Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

### **Section 4.02 Special Elections**

The Council may by resolution order a special election and provide all means necessary for the holding of said election. A notice of a special election shall be given in the official newspaper of the City at least once per week for a two (2) week period prior to the election. The date of the special election will be scheduled to occur either at the next general municipal election or on a date allowed under State law for special elections, with notice to the County Auditor in the manner required by state statute.

(Ord. No. 356 2<sup>nd</sup> series, § 1, 3-16-1996)

### **Section 4.03 Nominations By Elections**

In compliance with the Candidate filing period as defined by Minnesota Statute § 205.13, subd. 1a, an individual who is eligible and desires to become a candidate for an office to be voted for at the election shall file an affidavit of candidacy with the City Clerk. The affidavit shall be in substantially the same form as required of candidates for state offices and shall be furnished by the City Clerk upon request and payment of the proper filing fee to the City Clerk. Once the affidavit has been filed with the City Clerk, the name of the candidate shall be placed on the official ballot without partisan designation. Unless a candidate has filed an affidavit of candidacy and paid a filing fee, ~~his/her~~ [the candidate's](#) name may not be placed upon the official ballot for the municipal election.

(Ord. No. 224 2nd series, § 1, 3-23-1988; Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 552 2nd series, § 1, 7-5-2006; Ord. No. 618 2nd series, § 1, 5-25-2010; Ord. No. 707 2nd series, § 1, 5-9-2016)

**Editor's note(s)**—Ord. No. 618, 2nd series, § 1, adopted May 25, 2010, changed the title of section 4.03 from "Nomination by affidavit" to "Nominations by elections." The historical notation has been preserved for reference purposes.

### **Section 4.04 Procedure At Elections**

The conduct and procedure of all elections shall be governed by applicable statutes, together with supplementary ordinances, if any, passed by the City Council.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

## **CHAPTER 5 INITIATIVE, REFERENDUM, AND RECALL**

[Section 5.01 Powers Reserved By The People](#)

[Section 5.02 Expenditures By Petitioners](#)

[Section 5.03 Further Regulations](#)

[Section 5.04 Initiation Of Measures](#)

[Section 5.05 Form Of Petition And Of Signature Papers](#)

[Section 5.06 Filing Of Petitions And Action Thereon](#)

[Section 5.07 Action Of Council On Petition](#)

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[Section 5.09 Initiation Of Charter Amendments](#)

[Section 5.10 The Referendum](#)

[Section 5.11 Referendum Petitions](#)

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[Section 5.13 The Recall - Councilmember](#)

[Section 5.14 Recall Petitions](#)

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[Section 5.26 Form Of Recall Ballot](#)  
[Section 5.27 Election Procedure](#)  
[Section 5.28 Election Results](#)

**State law reference(s)**—Recall, initiative and referendum authorized, Minn. Stat. § 410.20.

### **Section 5.01 Powers Reserved By The People**

The people of Marshall, Minnesota, reserve to themselves the power, in accordance with the provisions of this Charter, to initiate and adopt any ordinance, except an ordinance appropriating money or authorizing the levy of taxes, to require such an ordinance when passed by the Council to be referred to the electors for approval or disapproval, and to recall elected public officials. Those powers shall be called the initiative, the referendum, and the recall, respectively.

(Ord. No. 354 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16-1996)

### **Section 5.02 Expenditures By Petitioners**

No member of any initiative, referendum, or recall committee, no circulator of a signature paper, and no signer of a signature paper any such paper, or any other person, shall accept or offer any rewards, pecuniary or otherwise, for ~~service~~ signatures rendered in connection with the circulation thereof, but this shall not prevent the committee from paying for legal services or from incurring an expense not to exceed \$150.00 for stationery, copying, printing, and notaries' fees. Any violation of the provisions of this Section is a misdemeanor.

(Ord. No. 354 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16-1996)

### **Section 5.03 Further Regulations**

The Council may provide by ordinance such further regulations for the initiative, referendum and recall, not inconsistent with this Charter, as it deems necessary.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

### **Section 5.04 Initiation Of Measures**

Any five (5) electors may form themselves into a committee for initiation of any ordinance except as prohibited in Section 5.01. Before circulating any petition they shall file a verified copy of their proposed ordinance with the City Clerk together with their names and addresses as members of such committee. They shall also attach a certified copy of the proposed ordinance to each of the signature papers herein described, together with their names and addresses as sponsors therefor.

(Ord. No. 354 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

### **Section 5.05 Form Of Petition And Of Signature Papers**

The petition for the adoption of any ordinance shall consist of the ordinance, together with all the signature papers and affidavits thereto attached. Such petition shall not be complete unless signed by one hundred (100) voters or ten percent (10%) of the total votes cast at the last municipal election, whichever is greater. All the signatures need not be on one signature paper, but the circulator of every such paper shall make an affidavit that each signature appended to the paper is the genuine signature of the person whose name it purports to be. Initiative petition forms shall be provided upon request at the office of the City Clerk.

(Ord. No. 354 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

### **Section 5.06 Filing Of Petitions And Action Thereon**

All the signature papers shall be filed in the office of the City Clerk as the instrument. Within ten (10) days after the filing of the petition, the City Clerk ~~Director~~ shall ascertain by examination the number of electors whose signatures are appended thereto and whether this number is at least one hundred (100). If ~~he/she~~ the City Clerk finds the petition insufficient or irregular, ~~he/she~~ the Clerk shall at once notify one or more of the members of the committee of the fact, certifying the reasons for their finding. The committee shall then be given thirty (30) days in which to file additional signature papers and to correct the petition in all other particulars. If at the end of that period the petition is found to still be insufficient or irregular, the City Clerk shall file it in ~~his/her~~ their office and shall notify each member of the committee of that fact. The final finding of the insufficiency or irregularity of a petition shall not prejudice the filing of a new petition for the same purpose, nor shall it prevent the Council, at its option, from referring the ordinance to the electors at the next regular or any special election.

(Ord. No. 354 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

### **Section 5.07 Action Of Council On Petition**

When the petition is found to be sufficient, the City Administrator shall so certify to the Council at its next meeting, stating the number of petitioners, and the Council shall at once read the ordinance and refer it to an appropriate committee of the Council, which may be a committee of the whole. The committee of Council, shall thereupon provide for one or more public hearings upon the ordinance, after the holding of which the ordinance shall be finally acted upon by the Council not later than sixty-five (65) days after the date upon which it was submitted to the Council by the City Administrator. If the Council fails to pass the proposed ordinance, or passes it in a form different from that set forth in the petition and unsatisfactory to the petitioners, the proposed ordinance shall be submitted by the Council to the vote of the electors at the next regular municipal election; but if the number of signers of the petition is equal to at least two hundred (200) voters, the Council shall call a special election upon the measure. Such special election shall be held ~~not less than thirty (30) nor more than forty five (45) days from date of final action on the ordinance by the Council or after the expiration of sixty five (65) days from the date of submission to the Council when there has been no final action;~~ at the earliest date possible under State law for special elections, unless that date is less than thirty (30) days from the date of final action on the ordinance by the Council, and if so then the earlier of (i) the next available date for special elections under state law ~~but if a~~ or (ii) the regular election ~~is to occur within three (3) months, the Council may submit the ordinance at the election.~~ If the Council passes the proposed ordinance with amendments and at least four-fifths (4/5) of the committee of petitioners do not express their dissatisfaction with such amended form by a statement filed with the City Clerk within ten (10) days of the passage thereof by the Council, the ordinance need not be submitted to the electors.

(Ord. No. 354 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

### **Section 5.08 Initiative Ballots**

The ballots used when voting upon any such proposed ordinance shall state the substance of the ordinance and shall give the voters the opportunity to vote either "yes" or "no" on the question of adoption. If a majority of the electors voting on any such ordinance vote in favor of it, it shall thereupon become an ordinance of the City. Any number of the proposed ordinances may be voted upon at the same election but the voter shall be allowed to vote for or against each separately. In case of inconsistency between two initiated ordinances approved at one election, the one approved by the higher percentage of electors voting on the question shall prevail to the extent of the inconsistency.

(Ord. No. 354 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16-1996)

### **Section 5.09 Initiation Of Charter Amendments**

Nothing in this Charter shall be construed as in any way affecting the right of the electors under the constitution and statutes of Minnesota to propose amendments to this Charter.

(Ord. No. 354 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16-1996)

### **Section 5.10 The Referendum**

If prior to the date when an ordinance takes effect a petition signed by qualified electors of the City equal in number to one hundred fifty (150) or fifteen percent (15%) of the total votes cast at the last municipal election, whichever is greater, is filed with the City Clerk requesting that any such ordinance be repealed or be submitted to a vote of the electors, the ordinance shall thereby be prevented from going into operation. The Council shall thereupon reconsider the ordinance at its regular meeting, and either repeal it or by "yes" and "no" vote reaffirm its adherence to the ordinance as passed. In the latter case the Council shall ~~immediately~~ order a special election to be held thereon, or submit the ordinance at the next regular municipal election, pending which the ordinance shall remain suspended. If ordering a special election, the special election shall be held at the earliest date possible under State law for special elections. If a majority of the electors voting thereon is opposed to the ordinance, it shall not become effective, but if a majority of the electors voting thereon favors the ordinance, it shall go into effect immediately or on the date therein specified.

(Ord. No. 354 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

### **Section 5.11 Referendum Petitions**

The requirements laid down in Sections 5.04 and 5.05 above as to the formation of committees for the initiation of ordinances and as to the form of petitions and signature papers shall apply to the referendum as far as possible but with such verbal changes as may be necessary. A referendum petition shall be available upon request at the office of the City Clerk.

(Ord. No. 354 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16 1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

### **Section 5.12 Referendum Ballots**

The ballots used in any referendum election shall conform to the rules laid down in Section 5.08 of this Charter for initiative ballots.

(Ord. No. 354 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16-1996)

### **Section 5.13 The Recall - Councilmember**

Any five (5) electors from a ward may form themselves into a committee for the purpose of bringing about the recall of any member elected in said ward to the City Council on the grounds of misfeasance or malfeasance in office by petition. The committee shall certify to the City Clerk the name of the City Councilmember whose removal is sought, a

statement of the grounds for removal in not more than two hundred fifty (250) words, and their intention to bringing about the recall. A copy of this certificate shall be attached to each signature paper and no signature paper shall be put into circulation previous to such certification.

(Ord. No. 354 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

#### **Section 5.14 Recall Petitions**

The petition for the recall of any councilmember shall consist of a certificate identical with that filed with the City Clerk together with all the signature papers and affidavits thereto attached. All the signatures need not be on one signature paper but the circulator of every paper shall make an affidavit that each signature appended to the paper is the genuine signature of the person Whose name it purports to be. Recall petition forms shall be provided by request at the office of the City Clerk.

(Ord. No. 354 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

#### **Section 5.15 Filing Of Petition**

Within thirty (30) days after the filing of the original certificate, the committee shall file the completed petition in the office of the City Clerk. The City Clerk shall examine the petition within the next ten (10) days, and if ~~he/she~~ the City Clerk finds it irregular in any way or finds that the number of signatures is less than ten (10%) percent of the electors that voted in said ward at the last general election or 250 voters, whichever is greater, ~~he/she~~ the City Clerk shall notify one or more members of the committee. The committee then shall be given ten (10) days in which to file additional signature papers and to correct the petition in all other respects, but they may not change the statement on the grounds upon which the recall is sought. If at the end of that time the City Clerk finds the petition still insufficient or irregular, ~~he/she~~ the City Clerk shall notify all the members of the committee to that effect and shall file the petition in their office. No further action shall be taken thereon.

(Ord. No. 354 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

#### **Section 5.16 Recall Election**

If the petition or amended petition is found sufficient, the City Clerk shall transmit it to the Council without delay, and shall also officially notify the member sought to be recalled of the sufficiency of the petition and of the pending action. The Council shall at its next regular meeting by resolution, provide for the holding of a special recall election not less than thirty (30) nor more than forty-five (45) days after such meeting, but if any other

election is to occur within sixty (60) days after such meeting, the Council may in its discretion, provide for the holding of the recall election at that time.

(Ord. No. 354 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

### **Section 5.17 Procedure At Recall Election**

The City Clerk shall include with the published notice of the election the statement of the grounds for the recall and also, in not more than five hundred (500) words, the answer of the member concerned in justification of their conduct in office.

(Ord. No. 354 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

### **Section 5.18 Form Of Recall Ballot**

Unless the member whose removal is sought resigns within ten (10) days after the receipt by the Council of the completed recall petition, the form of the ballot at such election shall be as near as may be:

"Shall \_\_\_\_\_ be recalled?" The name of the member whose recall is sought being inserted in the blank, and the electors shall be permitted to vote separately "yes" or "no" upon this question.

(Ord. No. 354 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16-1996)

### **Section 5.19 Election Procedure**

The election shall be held, certified and canvassed according to Minnesota Statutes regulating municipal elections.

(Ord. No. 354 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16-1996)

### **Section 5.20 Election Results**

If a majority of those voting on the question of recall vote in favor of the recall, the member shall immediately cease to be a member of the board. If a majority of those voting on the question of recall vote not to recall the councilmember they [the councilmember] shall have the right to serve out their [the] term to which they were [the councilmember was] elected. If a councilmember is recalled or resigns, the council at its next meeting shall call for a special election to fill the remaining term of the recalled councilmember according to Chapter 4 of the City Charter. The recalled or resigned councilmember shall not be allowed to file for the election to fill the vacancy created by the recall election or the resignation.

(Ord. No. 354 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16-1996)

### **Section 5.21 The Recall - Mayor**

Any five (5) electors from the City at large may form themselves into a committee for the purpose of bringing about the recall of the Mayor of the City on the grounds of misfeasance or malfeasance in office by petition. The committee shall certify to the City Clerk the name of the Mayor whose removal is sought, a statement of the grounds for removal in not more than two hundred fifty (250) words, and their intention to bringing about the recall. A copy of this certificate shall be attached to each signature paper and no signature paper shall be put into circulation previous to such certification.

(Ord. No. 354 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

### **Section 5.22 Recall Petitions**

The petition for the recall of the Mayor of the City shall consist of a certificate identical with that filed with the City Clerk together with all the signature papers and affidavits thereto attached. All the signatures need not be on one signature paper but the circulator of every paper shall make an affidavit that each signature appended to the paper is the genuine signature of the member whose name it purports to be. Recall petition forms shall be provided by request at the office of the City Clerk.

(Ord. No. 354 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

### **Section 5.23 Filing Of Petition**

Within thirty (30) days after the filing of the original certificate, the committee shall file the completed petition in the office of the City Clerk. The City Clerk shall examine the petition within the next ten (10) days, and if ~~he/she~~ the City Clerk finds it irregular in any way or finds that the number of signatures is less than the greater of ten (10%) percent of the electors that voted in said last whole city election or 500 voters, ~~he/she~~ the City Clerk shall notify one or more members of the committee. The committee then shall be given ten (10) days in which to file additional signature papers and to correct the petition in all other respects, but they may not change the statement of the grounds upon which the recall is sought. If at the end of that time the City Clerk finds the petition still insufficient or irregular, ~~he/she~~ the City Clerk shall notify all the members of the committee to that effect and shall file the petition in their office. No further action shall be taken thereon.

(Ord. No. 354 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

### **Section 5.24 Recall Election**

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

(Ord. No. 354 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

### **Section 5.25 Procedure At Recall Election**

The City Clerk shall include with the published notice of the election the statement of the grounds for the recall and also, in not more than five hundred (500) words, the answer of the mayor concerning justification of their conduct in office.

(Ord. No. 354 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

### **Section 5.26 Form Of Recall Ballot**

Unless the mayor whose removal is sought resigns within ten (10) days after the receipt by the Council of the completed recall petition, the form of the ballot at such election shall be as near as may be: "Shall \_\_\_\_\_ be recalled?" The name of the mayor whose recall is sought being inserted in the blank, and the electors shall be permitted to vote separately "yes" or "no" upon this question.

(Ord. No. 354 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16-1996)

### **Section 5.27 Election Procedure**

The election shall be held, certified and canvassed according to Minnesota Statutes regulating municipal elections.

(Ord. No. 354 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16-1996)

### **Section 5.28 Election Results**

If a majority of those voting on the question of recall vote in favor of the recall, the mayor shall immediately cease to be mayor of the City. If a majority of those voting on the question of recall vote not to recall the mayor, ~~he/she~~ **the Mayor** shall have the right to serve out ~~his/her~~ **the** term to which ~~he/she~~ **the Mayor** was elected. If a mayor is recalled or resigns, the council at its next meeting shall call for a special election to fill the remaining term of the recalled mayor according to Chapter 4 of the City Charter. The

recalled or resigned mayor shall not be allowed to file for the election to fill the vacancy created by the recall election or the resignation.

(Ord. No. 354 2nd series, § 1, 3-16-1996; Ord. No. 356 2nd series, § 1, 3-16-1996)

## **CHAPTER 6 ADMINISTRATION OF CITY AFFAIRS**

Section 6.01 Departments Of Administration

Section 6.02 The City Administrator

Section 6.03 Duties Of City Administrator

Section 6.04 Departments Of Administration

Section 6.05 Purchases And Contracts

Section 6.06 Contracts How Let

### **Section 6.01 Departments Of Administration**

The Council shall create such departments, divisions and bureaus for the administration of the City's affairs as it may deem necessary, and from time to time, alter their powers and organizations.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

### **Section 6.02 The City Administrator**

The Council shall appoint a City Administrator and delegate to ~~him/her~~ the City Administrator whatever powers, ministerial or administrative, they deem necessary for the proper administration of City affairs, in addition to the specific duties set out in Section 6.03. ~~He/she~~ The City Administrator shall be the chief administrative officer of the City. ~~He/she~~ The City Administrator shall be so chosen by the Council solely on the basis of ~~his/her~~ training, experience and administrative qualifications and need not be a resident of the City at the time of ~~his/her~~ the appointment. ~~He/She~~ The City Administrator shall be appointed for an indefinite period of time and may be removed by the Council at any time. The Council may designate some properly qualified person to perform the duties of the City Administrator during ~~his/her~~ the City Administrator's absence or disability or while the office of the City Administrator is vacant.

(Ord. No. 564, § 1, 4-21-1975; Ord. No. 356 2nd series, § 1, 3-16-1996)

### **Section 6.03 Duties Of City Administrator**

The City Administrator shall be directly responsible to the City Council for the proper administration of all affairs of the City, and to that the City Administrator shall perform the following specific duties:

Subd. 1. See that this Charter and the laws, ordinances and resolutions of the City are enforced;

Subd. 2. Under direction of the Council, exercise control over the departments and divisions of the City administration as provided by this Charter;

Subd. 3. Attend all meetings of the Council, unless excused, with the right to take part in discussion but not to vote. They shall, however, be excluded from any meeting of the Council at which their removal is considered, unless their presence is requested by a majority vote of the Council;

Subd. 4. Keep the Council advised of the financial condition and needs of the City and submit annually to the Council an administrative budget which shall be compiled from the various department budget requests;

Subd. 5. Prepare an administrative code incorporating details of administrative policies and procedures. They shall from time to time recommend amendments to the administrative policies of such code for approval by the City Council. The City Administrator may establish and amend as deemed appropriate administrative procedures in the administrative code without Council approval;

Subd. 6. Perform such other duties as may be prescribed by this Charter or by the law or required by the City Administrator by ordinances and resolutions adopted by the Council.

(Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 675 2nd series, 7-9-2013; Ord. No. 707 2nd series, § 1, 5-9-2016)

#### **Section 6.04 Departments Of Administration**

There shall be such other offices subordinate to the City Administrator as the Council may create by ordinance. The Council may by ordinance establish, modify or abolish offices and may combine the duties of various offices as it deems fit.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

#### **Section 6.05 Purchases And Contracts**

The City Administrator shall be the chief purchasing agent of the City. All policies and procedures for City purchases and related contracts for supplies, materials, equipment, services or the like shall be prescribed by a formal policy approved by the City Council by majority vote and be in strict compliance with the laws of the State of Minnesota then in effect. All contracts, bonds and instruments of any kind to which the City is a party, except checks drawn on the City, shall be signed by the Mayor or President Pro Tem in ~~his/her~~ the Mayor's absence and attest by the City Clerk or City Administrator in ~~his/her~~ the absence of the City Clerk on behalf of the City and shall be executed in the name of the City.

(Ord. No. 564, § 1, 4-21-1975; Ord. No. 86 2nd series, § 1, 11-3-1980; Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 653 2nd series, § 1, 4-10-2012; Ord. No. 707 2nd series, § 1, 5-9-2016)

### **Section 6.06 Contracts How Let**

All contracts for the sale or purchase of supplies, materials, equipment or the rental thereof, or the construction, alteration, repair or maintenance of real or personal property, shall be let by the council, upon the recommendation of the City Administrator, in strict compliance with the laws of the State of Minnesota then in effect.

(Ord. No. 564, § 1, 4-21-1975; Ord. No. 356 2nd series, § 1, 3-16-1996)

## **CHAPTER 7 TAXES AND FINANCE**

[Section 7.01 Council To Control Finances](#)

[Section 7.02 Fiscal Year](#)

[Section 7.03 System Of Taxation](#)

[Section 7.04 Board Of Equalization](#)

[Section 7.05 Preparation Of The Annual Budget](#)

[Section 7.06 Passage Of The Budget](#)

[Section 7.07 Enforcement Of The Budget](#)

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[Section 7.09 Emergency Appropriation In Budget](#)

[Section 7.10 Disbursements - How Made](#)

[Section 7.11 Funds To Be Kept](#)

[Section 7.12 Accounting Procedure](#)

[Section 7.13 City Indebtedness](#)

[Section 7.14 Tax Anticipation Certificates](#)

[Section 7.15 Emergency Debt Certificates](#)

[Section 7.16 Fees Shall Be Paid To The City Government](#)

[Section 7.17 Utility Commissions](#)

**State law reference(s)**—Municipal finance, Minn. Stat. chs. 426—435; taxation, Minn. Stat. chs. 270—298.

### **Section 7.01 Council To Control Finances**

The Council shall have full authority over the financial affairs of the City, and shall provide for the collection of all revenues and other assets, the auditing and settlement of accounts, and the safekeeping and disbursement of public monies, and on the exercise of keeping and disbursement of public monies, and in the exercise of a sound discretion shall make appropriations for the payment of all liabilities and expenses. The council may establish a public expenditure policy (“Policy”) to identify certain types of expenditures as furthering a public purpose and being within the city’s authority on which to expend city funds. The

Policy shall not limit the authority of the city to make expenditures otherwise authorized by law. If adopted, the council shall review the Policy periodically and update it as needed. In establishing, reviewing, and approving the Policy, the council shall consider whether the expenditures to be authorized by the Policy: 1) benefits the community as a whole; 2) are directly related to governmental functions; and 3) primarily benefits the public interest, not a private interest. In establishing, reviewing, and approving the Policy, the council shall consider the opinion of the city attorney and statewide sources of authority, which may include judicial determinations, Minnesota Attorney General opinions, and findings of the Office of the State Auditor. Expenditures related to any of the following activities shall be deemed authorized if the Policy expressly provides authorization: international, cultural, and economic development programs; community events, festivals, and celebrations; miscellaneous employee benefits; employee recognition; and funding for conference attendance. The council may also provide specific authorization regarding any other expenditure.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

### **Section 7.02 Fiscal Year**

The fiscal year of the City shall be as determined by State Statutes then in effect.

(Ord. No. 86 2nd series, § 1, 11-3-1980; Ord. No. 356 2nd series, § 1, 3-16-1996)

**State law reference(s)**—Fiscal year, Minn. Stat. § 494.696.

### **Section 7.03 System Of Taxation**

Subject to the State constitution, and except as forbidden by it or by State legislation, the Council shall have full power to provide by ordinance for a system of local taxation. In the taxation of real and personal property as such, the City shall conform as fully as possible to the general State law as to the assessment of such property and the collection of such taxes.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

### **Section 7.04 Board Of Equalization**

The Council shall constitute a Board of Equalization to equalize assessments of property for taxation purposes according to law.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

**State law reference(s)**—Equalization of assessments, Minn. Stat. ch. 274.

### **Section 7.05 Preparation Of The Annual Budget**

The classification of accounts used in the budget must conform to the classification of accounts used in reporting the actual results. The budget, together with any other related supporting documents, shall be provided in a reproducible format and there shall be sufficient copies for each member of the Council, for the Finance Director, and copies be available for inspection by the public, at the City Hall and the Public Library.

(Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 653 2nd series, § 1, 4-10-2012; Ord. No. 707 2nd series, § 1, 5-9-2016)

### **Section 7.06 Passage Of The Budget**

The annual budget shall be approved and adopted by a majority of the Council and shall set forth in detail, the complete financial plan of the City for the ensuing fiscal year. It shall indicate the sums to be raised and from what sources, and the sums to be spent and for what purposes. The total sum appropriated shall be less than the total estimated revenue by a safe margin. The Council shall, by resolution, adopt a budget within the statutory limits. The Council shall follow the procedures as established by the State Legislature for the adoption of municipal budgets. At the beginning of the fiscal year, the sums fixed in the budget resolution shall be and become appropriated for the several purposes named in the budget resolution and no other.

(Ord. No. 86 2nd series, § 1, 11-3-1980; Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

**State law reference(s)**—Publication of summary budget statement, Minn. Stat. § 471.6965.

### **Section 7.07 Enforcement Of The Budget**

It shall be the duty of the City Council to enforce strictly the provisions of the budget. The City Administrator shall not approve any order upon the City for any expenditure unless an appropriation has been made therefor in the budget resolution, nor for any expenditure covered by the budget resolution unless there is sufficient unexpended balance left after deducting the total encumbrances. No officer or employee of the City shall place any order or make any purchase except for a purpose and to the amount authorized in the budget resolution. Any obligation incurred by any person in the employ of the City for any purpose not authorized in the budget resolution or for any amount in excess of the amount therein authorized shall be the personal obligation upon the person incurring the expenditure.

(Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

### **Section 7.08 Alterations In The Budget**

After the budget resolution has been adopted, the Council shall have no power to increase the amounts fixed in the budget resolution, by the insertion of new items or otherwise, beyond the estimated revenues, unless the actual receipts exceed the estimates and when not beyond the actual receipts. The Council may, at any time, by resolution approved by a majority of its members, reduce the sums appropriated for any purpose by the budget resolution, or by a vote of five (5) members authorize the transfer of sums from unencumbered balances of appropriations in the budget resolution to other purposes.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

### **Section 7.09 Emergency Appropriation In Budget**

The Council may include an emergency appropriation to any other appropriation, [which] shall be made only by a vote of at least five (5) members of the Council, and shall be used only for the purpose designated by the Council.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

### **Section 7.10 Disbursements - How Made**

Disbursement of City funds shall be made by the City Administrator and/or the Finance Director specifying the purpose for which the disbursement is made and the fund from which it is drawn. No such disbursements shall be issued until there is money to the credit of the fund from which it is to be paid, sufficient to pay it, together with all outstanding encumbrances upon the fund. No disbursement shall be issued until the claim to which it relates has been supported by an itemized bill, payroll, or time sheet approved and signed by the responsible City officer who vouches for its correctness and reasonableness. The Council may by ordinance, make further regulations for the safekeeping and disbursement of the funds of the City.

(Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 653 2nd series, § 1, 4-10-2012; Ord. No. 707 2nd series, § 1, 5-9-2016)

### **Section 7.11 Funds To Be Kept**

Subd. 1. There shall be maintained in the office of the Finance Director a general fund for the payment of such expenses as the Council may deem proper. Into this fund shall be paid all monies levied for this fund and all monies not required to be placed in some other fund.

Subd. 2. There shall be maintained in the office of the Finance Director a special revenue fund established in the City of Marshall to permanently dedicate the \$2,000,000 unrestricted funds from the 2009 sale of the hospital. The purpose of the fund shall be to support special programs or capital projects for the betterment of the City of Marshall. The initial principal \$2,000,000, as well as future private or public contributions to the

fund, may not be withdrawn. The Mayor and City Council shall be responsible for all investments, withdrawals, and spending of the unrestricted funds. The Mayor and Council may create policies and procedures related to the appropriate oversight and management of such fund.

Subd. 3. There shall also be maintained in the office of the Finance Director such other funds, or division of funds, as the budget shall require or the City Administrator and Council shall direct. There shall also be maintained in the office of the Finance Director such other funds or division of funds as are required by law, ordinance or resolution.

(Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 653 2nd series, § 1, 4-10-2012; Ord. No. 707 2nd series, § 1, 5-9-2016)

### **Section 7.12 Accounting Procedure**

The Council may prescribe and enforce proper accounting methods, forms, blanks, and other devices consistent with the law, the Charter, and the ordinances adopted in accord therewith.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

### **Section 7.13 City Indebtedness**

Except as provided in Section 7.14 and 7.15, no obligations shall be issued to pay current expenses, but the Council may issue and sell obligations for any other municipal purpose in accordance with law and within the limitations prescribed by law. Except in the case of obligations for which an election is not required by this Charter or by State law, no such obligations shall be issued and sold without the approval of the majority of the electors of the City voting on the question at a general or special election [according to Chapter 4 of the City Charter](#).

(Ord. No. 356 2nd series, § 1, 3-16-1996)

### **Section 7.14 Tax Anticipation Certificates**

The Council may issue certificates of indebtedness in anticipation of the collection of taxes levied for any fund and not yet collected if it follows the procedures established by state statutes. The total amount of certificates issued against any fund for any year with interest thereon until maturity shall not exceed seventy percent (70%) of the total current taxes for the fund uncollected at the time of issuance. Such certificates shall be issued on such terms and conditions as the Council may determine, but they shall become due and payable not later than one (1) year following the date of their issuance. The proceeds of the tax levied for the fund against which tax anticipation certificates are issued, and the full faith and credit of the City, shall be irrevocably pledged for the redemption of the certificates in the order of their issuance against the fund.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

**State law reference(s)**—Tax anticipation certificates authorized, Minn. Stat. § 410.325.

### **Section 7.15 Emergency Debt Certificates**

If in any year the receipts from taxes or other sources should for some unforeseen cause become insufficient for the ordinary expenses of the City, or if any calamity or other public emergency should subject the City to the necessity of making extraordinary expenditures, the Council may by ordinance issue and sell on such terms and in such manner as the Council determines, emergency debt certificates to run not to exceed two (2) years. A tax sufficient to pay principal and interest on such certificates with the margin required by law shall be levied as required by law. The ordinance authorizing an issue of such emergency debt certificates shall state the nature of the emergency and be approved by at least five (5) members of the Council. It may be passed as an emergency ordinance.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

### **Section 7.16 Fees Shall Be Paid To The City Government**

All fees received by any officer or employee shall belong to the city.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

### **Section 7.17 Utility Commissions**

The Marshall Municipal Utilities Commission shall be governed by Minn. Stat. ch. 453.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

## **CHAPTER 8 PUBLIC IMPROVEMENTS AND SPECIAL ASSESSMENTS**

[Section 8.01 Power To Make Improvements And Levy Assessments](#)

[Section 8.02 Local Improvements, Regulations](#)

**State law reference(s)**—Special assessments, Minn. Stat. ch. 429.

### **Section 8.01 Power To Make Improvements And Levy Assessments**

The City shall have the power to make any and every type of public improvement not forbidden by the laws of this State and to levy special assessments for all or any part of the cost of such improvements as are of a local character, pursuant to the laws of the State of Minnesota.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

## **Section 8.02 Local Improvements, Regulations**

All proceedings for construction and improvements to be paid for by special assessment against benefited property may be instituted by the procedures according to the statutes of the State of Minnesota.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

## **CHAPTER 9 EMINENT DOMAIN**

[Section 9.01 Power To Acquire Property](#)

[Section 9.02 Proceedings In Acquiring Property](#)

[Section 9.03 City May Abandon Proceedings](#)

[Section 9.04 City May Take Entire Plant](#)

**State law reference(s)**—Right of eminent domain, Minn. Stat. § 465.01.

### **Section 9.01 Power To Acquire Property**

The City may acquire by purchase, gift, devise or condemnation any property, corporeal or incorporeal, either within or without its corporate boundaries which may be needed by the City for any public use or purpose or as may be useful or beneficial to its inhabitants. Easements for slopes, fills, sewers, building lines, poles, wires, pipes and conduits for water, gas, heat and power may also be acquired by gift, devise, purchase or condemnation, in the manner provided by law.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

### **Section 9.02 Proceedings In Acquiring Property**

The necessity for the taking of any property by the City shall be determined by the Council and shall be declared by a resolution which shall describe such property as nearly as may be and state the use to which it is to be devoted. In acquiring property by exercising the power of eminent domain, the City shall proceed according to the laws of this State, except as otherwise provided in this Chapter.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

### **Section 9.03 City May Abandon Proceedings**

The City may, by resolution of the Council at any stage of the condemnation proceeding or at any time within thirty (30) days after final determination thereof, abandon such proceedings as to all or any part of the property sought to be acquired and shall pay all reasonable costs and expenses thereof, including fees of counsel.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

### **Section 9.04 City May Take Entire Plant**

If the City condemns a public utility which is operated at the time of the commencement of the condemnation proceedings as one property or one system, it shall not be necessary in the condemnation proceedings or any of the proceedings of the Council, to describe or treat separately the different kinds of property composing such system; but all of the property, lands, articles, franchises and rights which comprise such system may, unless otherwise ordered by the Court, be treated together as one property and an award for the whole property in one lump sum may be made by the commissioners or other body assessing the damages on condemnation. This does not prevent the City, when the plant and property are separable into distinct parts, from acquiring only such part or parts thereof as may be necessary in the public interest.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

## **CHAPTER 10 FRANCHISES**

[Section 10.01 Franchises Required](#)

[Section 10.02 Term](#)

[Section 10.03 Public Hearing](#)

[Section 10.04 Power Of Regulation Reserved](#)

[Section 10.05 Renewals Or Extensions](#)

**State law reference(s)**—Charter may provide for regulation of franchises, Minn. Stat. § 410.09.

### **Section 10.01 Franchises Required**

Except as otherwise provided by law, no person, firm or corporation shall place or maintain any permanent or semi-permanent fixtures in, over, or under any street or public place for the purpose of operating a public utility or for any other purposes, without a franchise therefor from the City. A franchise shall be granted only by ordinance, which shall not be an emergency ordinance. Every ordinance granting a franchise shall contain all the terms and conditions of the franchise. The grantee shall bear the costs of publication of the franchise ordinance and shall make a sufficient deposit with the City Clerk/Finance Director to guarantee publication before the ordinance is passed.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

### **Section 10.02 Term**

No exclusive or perpetual franchise shall ever be granted. No franchise for a term exceeding twenty (20) years shall be effective until approved by a majority of the electors voting thereon.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

### **Section 10.03 Public Hearing**

Before any franchise ordinance is adopted or any rates, fares, or prices to be charged by a public utility are fixed by the Council, the Council shall hold a public hearing on the matter. Notice of such hearing shall be published at least once in the official newspaper not less than ten (10) days prior to the date of the hearing.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

### **Section 10.04 Power Of Regulation Reserved**

Subject to any applicable law the Council may by ordinance reasonably regulate and control the exercise of any franchise, including the maximum rates, fares, or prices to be charged by the grantee. No franchise value shall be included in the valuation of the grantee's property in regulating utility rates, fares, or prices under any applicable law, ordinance, or regulation or in proceedings for municipal acquisition of the grantee's property by purchase or eminent domain.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

### **Section 10.05 Renewals Or Extensions**

Every extension, renewal or modification of any existing franchise or of any franchise granted hereafter shall be subject to the same limitations and shall be granted in the manner as a new franchise.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

## **CHAPTER 11 PUBLIC OWNERSHIP AND OPERATION OF UTILITIES**

### **Section 11.01 Acquisition And Operation Of Utilities**

#### **Section 11.02 Rates And Finances**

#### **Section 11.03 Purchase In Bulk**

#### **Section 11.04 Lease Of Plant**

#### **Section 11.05 Public Utility: Discontinuance**

### **Section 11.01 Acquisition And Operation Of Utilities**

The City may own and operate any gas, water, electric, telephone, television transmission service, digital communications or other public utility for supplying its own needs for utility

services or for supplying utility service to private consumers or both. The Marshall Municipal Utilities shall have the exclusive jurisdiction, control and management of all of the City's municipal water, light, power and electric operations, but not other public utilities pursuant to action of the Marshall Municipal Utilities Commission and the City Council pursuant to City Charter Section 13.01, Subd. 1. The City and the Marshall Municipal Utilities may construct all facilities reasonably necessary for those purposes and may acquire any existing utility property for those purposes.

(Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 380 2nd series, § 1, 11-3-1997)

### **Section 11.02 Rates And Finances**

In regards to the utility services provided by the City of Marshall, the City of Marshall's rates and finances shall be made upon recommendations of the City Administrator to the City Council and the City Council shall set any rates and provide for any finances based upon resolution of the City Council. The City Council may fix rates, fares and prices for municipal utilities but such rates, fares and prices shall be just and reasonable. The City Council may also prescribe the time and manner in which payments for such services shall be made and may make such other regulations as may be necessary and prescribe penalties for violating such regulations. The Marshall Municipal Utilities shall fix its rates for the utility services that it provides pursuant to City Charter Section 13.04, Subd. 6. In like manner, the Marshall Municipal Utilities may prescribe the time and manner in which payments for such services shall be made and may make such other regulations as may be necessary and prescribe penalties for violation of such regulations.

(Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 380 2nd series, § 1, 11-3-1997)

### **Section 11.03 Purchase In Bulk**

The City or the Marshall Municipal Utilities may, in lieu of providing for the local production of said utility, purchase the same in bulk and resell them to local consumers at such rates as they may fix.

(Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 380 2nd series, § 1, 11-3-1997)

### **Section 11.04 Lease Of Plant**

The City may, if the public interests will be served thereby, contract with any responsible person, partnership, corporation or other entity for the operation of any utility plant owned by the City, upon such rentals and conditions as it may deem necessary but such contract shall be embodied in and let only by an ordinance approved by at least five (5) members of the City Council and subject to popular referendum. Such ordinance shall not be an emergency ordinance. In no case shall such contract be for a longer term than ten (10) years. Any leasing of a plant which generates a public utility regulated by the Marshall Municipal Utilities shall only be leased pursuant to Chapter 13 of the City Charter.

(Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 380 2nd series, § 1, 11-3-1997)

### **Section 11.05 Public Utility: Discontinuance**

No public utility owned by the City shall be sold or otherwise disposed of by the City unless the full terms of the proposition of sale or other dispositions are embodied in an ordinance approved by sixty percent (60%) of the electors voting thereon at a general or special election according to Chapter 4 of the City Charter. Marshall Municipal Utilities authority to cease to operate or sell, lease or abandon any of their utilities shall be regulated by Chapter [section] 13.05 of the City Charter.

(Ord. No. 574, § 1, 9-15-1975; Ord. No. 355 2nd series, § 1, 3-16-1996; Ord. No. 380 2nd series, § 1, 11-3-1997)

## **CHAPTER 12 MISCELLANEOUS AND TRANSITORY PROVISIONS**

[Section 12.01 Official Publications](#)

[Section 12.02 Oath Of Office](#)

[Section 12.03 City Officers Not To Be Interested In Contracts](#)

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[Section 12.10 Pending Condemnations And Assessments](#)

[Section 12.11 Ordinance To Make Charter Effective](#)

[Section 12.12 Forms Prepared By City Clerk](#)

### **Section 12.01 Official Publications**

The Council shall annually designate a local newspaper as provided by the laws of Minnesota, as its official newspaper.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

### **Section 12.02 Oath Of Office**

Every officer of the City shall before entering upon the duties of ~~his/her~~ their office, take and subscribe an oath of office in substantially the following form: "I do solemnly swear (or affirm) to support the Constitution of the United States and of this state and to discharge faithfully the duties devolving upon me as (Mayor, Councilmember, City Administrator, etc.) of the City of Marshall to the best of my judgment and ability."

(Ord. No. 356 2nd series, § 1, 3-16-1996)

### **Section 12.03 City Officers Not To Be Interested In Contracts**

Except as otherwise permitted by law, no officer of the City who is authorized to take part in any manner in any contract with the City shall voluntarily have a personal financial interest in such contract or personally benefit financially therefrom.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

#### **Section 12.04 Official Bonds**

The City Administrator, Finance Director and such officers or employees of the City as may be provided for by ordinance shall each before entering upon the duties of their respective office or employment, give a corporate surety bond to the City in such form and in such amount as may be fixed by the Council as security for the faithful performance of their official duties and the safekeeping of the public funds. Such bonds may be either individual or blanket bonds in the discretion of the Council. They shall be approved by the City Council, and approved as to form by the City Attorney, and filed with the City Clerk. The provisions of the laws of the State relating to official bonds not inconsistent with this Charter shall be complied with and the premiums on such bonds shall be paid by the City.

(Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

#### **Section 12.05 Sales Of Real Property**

No real property of the City shall be disposed of except by ordinance. The proceeds of any sale of such property shall be used as far as possible to retire any outstanding indebtedness incurred by the City in the purchase, construction, or improvement of this or other property used for the same public purpose. If there is no such outstanding indebtedness, the Council may by resolution designate some other public use for the proceeds.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

#### **Section 12.06 Power To Vacate**

The Council may by ordinance, approved by at least five (5) members of the Council, vacate any street, alley, thoroughfare, public grounds, easement or any other interest in real estate, or any part thereof, dedicated to the public use and located within the City. Such vacating may be made only after published notice and an opportunity for affected property owners and the public to be heard, and upon such further terms and by such procedure as the Council by ordinance may prescribe. A notice of completion of such proceedings shall be filed with the proper county officers in accordance with law.

(Ord. No. 564, § 1, 4-21-1975; Ord. No. 356 2nd series, § 1, 3-16-1996)

#### **Section 12.07 City To Succeed To Rights And Obligations Of Former City**

The City shall succeed to all the property, rights, and privileges, and shall be subject to all the legal obligations of the City under any former charter or statute.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

### **Section 12.08 Statutes Not Affected By Charter**

All general laws and statutes of the State applicable to all cities operating under home rule charters, or applicable to cities of the same class as the City of Marshall, whether operating under home rule charters of otherwise and not inconsistent with the provisions of this Charter, shall apply to the City of Marshall, and shall be construed as supplementary to the provisions of this Charter.

(Ord. No. 356 2nd series, § 1, 3-16-1996)

### **Section 12.09 Existing Ordinances Continued**

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

(Ord. No. 356 2nd series, § 1, 3-16-1996)

### **Section 12.10 Pending Condemnations And Assessments**

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

(Ord. No. 356 2nd series, § 1, 3-16-1996)

### **Section 12.11 Ordinance To Make Charter Effective**

The Council shall by ordinance make such regulations as may be necessary to carry out and make effective the provisions of this Charter.

(Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

### **Section 12.12 Forms Prepared By City Clerk**

Forms for nomination, initiative, referendum and recall as required in Chapters 4 and 5 herein shall be prepared by the City Clerk and available at that office upon request.

(Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 707 2nd series, § 1, 5-9-2016)

**Editor's note(s)**—Ord. No. 707 2nd series, § 1, adopted May 9, 2016, amended § 12.12, to read as set out herein. Previously § 12.12 was titled "Forms prepared by city clerk/finance director."

## **CHAPTER 13 MARSHALL MUNICIPAL UTILITIES**

[Section 13.01 Marshall Municipal Utilities Commission](#)

[Section 13.02 Organization Of Commission](#)

[Section 13.03 Organization Of Departments](#)

[Section 13.04 Powers And Duties Of The Commission](#)

[Section 13.05 General Provisions](#)

### **Section 13.01 Marshall Municipal Utilities Commission**

Subd. 1. Commission Generally. There is hereby created the Marshall Municipal Utilities Commission which shall have exclusive jurisdiction, control and management of all of the City's municipal water and electric operations. The City Council may also, upon the request of the Marshall Municipal Utilities Commission, grant to them the nonexclusive right to operate any gas, telephone, television transmission service, digital communications or other public utility for supplying its own needs for utility service or for supplying utility service to private consumers or both. The Marshall Municipal Utilities Commission may construct all facilities reasonably needed for those purposes.

Subd. 2. Specific Circumstances. Marshall Municipal Utilities shall have the authority to determine when it requires the need to purchase wholesale water or electricity. If Marshall Municipal Utilities determines they cannot serve water or electricity at retail and wishes to allow another entity to supply a portion of the utility customer base Marshall Municipal Utilities shall request and recommend the City Council grant a limited franchise to the alternate retail utility supplier.

(Ref. of 11-5-1980; Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 380 2nd series, § 1, 11-3-1997; Ord. No. 691, 10-14-2014)

### **Section 13.02 Organization Of Commission**

Subd. 1. Number of Commissioners. The Commission shall consist of five commissioners, to whom may be added, at the discretion of the Mayor, either the Mayor, or the City Administrator, or a representative of the Council, as an ex officio member without vote.

Subd. 2. Commission Generally. The commission members shall be appointed pursuant to a resolution made by the mayor, and such appointment confirmed by the council on or about the second regular meeting in May of each year. The term of each appointee shall be for a period of five years, which term shall be stated at the time of the person's appointment. Any person appointed to fill an unexpired term shall be deemed to be serving a complete term within the meaning of this section if the unexpired term thereof is 915 days or more on the effective date of his or her appointment. New appointees shall

assume office on June 1, May 31 being the date of expiration of the term, provided, however, that all appointees to the commission shall hold office until their successor is appointed and qualified. All vacancies shall be filled in the same manner as for the expired term, but the appointment shall be only for the unexpired term. No person who holds any other compensated City office or who is an employee of the City government shall be a commissioner. No one employed by Marshall Municipal Utilities can be considered for a Commission seat. The Chair member and Vice Chair member shall be chosen from and by the commission members normally at its first regular meeting in June of each year to serve for the next year until the new Chair member and Vice Chair member are appointed. If a commission member misses three meetings a year without being excused prior to the meeting, such member shall be removed therefrom at the end of the appointment year. Any commission member may be removed by the City Council for misfeasance, malfeasance or nonfeasance in office and their position filled as any other vacancy. All commission members shall profess a belief in the desirability of municipal utility ownership and operation and all commission members shall be resident electors of the City. No commissioner shall serve for more than two consecutive terms.

Subd. 3. Compensation of Commissioners. Any changes to the compensation paid to commission members shall be approved by a majority vote of the City Council. All compensation paid to the commission members shall be paid exclusively from the revenues of Marshall Municipal Utilities. In addition to compensation established by the City Council, Marshall Municipal Utilities has the right to reimburse commission members for actual expenses incurred in carrying out their duties as commissioners including, but not limited to, meals and travel expenses.

Subd. 4. Commission Meetings. The commission shall establish a regular monthly schedule of meetings. Special meetings may be held as required following appropriate notice. The commission shall adopt rules for the conduct of its meetings. No action shall be taken by the commission except by the affirmative vote of at least three commissioners, who shall constitute a quorum.

Subd. 5. Errors and Omissions. The commission shall hold harmless and indemnify its commissioners, general manager, agents and employees to the full extent permitted by law, including, but not limited to, all liabilities, expenses and losses incurred by its commissioners, general manager, agents and employees in connection with acts of error or omissions, other than willful violations of laws, committed within the scope of their duties, and shall defend, at the commission's expense, all claims and suits in connection therewith.

(Ref. of 11-5-1980; Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 380 2nd series, § 1, 11-3-1997; Ord. No. 691, 10-14-2014)

### **Section 13.03 Organization Of Departments**

Subd. 1. Division of Commission. Within Marshall Municipal Utilities there shall be separate divisions for the electric and water operations, as well as any other service or

public utility for which it provides services to consumers. Separate funds and accounts shall be kept for each division as required by the uniform systems of accounts for electricity and water as promulgated by the State of Minnesota, the Federal Energy Regulatory Commission, or as suggested by the American Water Works Association (AWWA), or other governmental regulatory authority. Each division shall be operated independently of the others, except insofar as the commission determines joint operations to be advisable and economical. Expenses incurred in joint operations shall be equitably prorated among the divisions by the commission.

Subd. 2. Policy. The commission shall establish written policies to govern its operations to include such areas as employee duties, customer rates, services, rules and termination procedures, expenditures of funds and other appropriate policies.

Subd. 3. General Manager. The General Manager shall be qualified by training and experience for the overall management of Marshall Municipal Utilities. The salary of the General Manager shall be fixed by the commission and the General Manager shall have such authority as delegated to him or her by the commission. The General Manager shall determine the number of employees necessary for the operation of Marshall Municipal Utilities and shall fix their duties and compensations subject to the approval of the commission. The General Manager shall have control of all actual construction and repairs, the immediate management and operation of the water and electric systems, as well as any other system or service operated by the utilities, and shall have responsibility for the enforcement and execution of all rules and regulations, programs, plans and decisions made or adopted by the commission. The General Manager shall maintain suitable, permanent records regarding actions taken through his or her office. The General Manager shall prepare plans and specifications, take bids and let contracts, subject to the approval of the commission.

Subd. 4. Other Employees. There shall be such other employees of the commission as may be provided by the commission. The employees shall be appointed and removed by the General Manager subject to the approval of the commission.

Subd. 5. Surety Bonds. The commission may require surety bonds for any of the officers and employees of the commission in such amounts as the commission deems necessary. The premiums for said bonds shall be paid by the commission in the same manner as any other operating expense.

Subd. 6. Employee Benefits. The commission may contribute to the cost of pension, retirement, life and accident and health insurance programs for the employees of the commission.

(Ref. of 11-5-1980; Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 380 2nd series, § 1, 11-3-1997; Ord. No. 691, 10-14-2014)

### **Section 13.04 Powers And Duties Of The Commission**

Subd. 1. Real Estate and Contracts. The commission in the efficient and economical operation of Marshall Municipal Utilities both inside and outside the City limits, may a) sell its products and services to public and private corporations and to other consumers; b) construct plants, transmission lines, and other facilities; c) purchase real estate and franchises; and d) enter into all easements, contracts, leases and agreements in furtherance thereof. The City Council shall approve contracts for periods exceeding ten (10) years.

Subd. 2. Extensions of Services. The commission may adopt regulations governing extensions of services of Marshall Municipal Utilities both inside and outside the City limits. The regulations shall provide the conditions under which the extensions shall be made to render them compensatory and shall provide that each extension project shall, when completed, become the property of Marshall Municipal Utilities whether on public or private property.

Subd. 3. Joint Operations with Others. The commission may enter into contracts and agreements with any public or private corporation or any individual, both inside and outside the boundaries of the City and state, a) for the joint use of property belonging to Marshall Municipal Utilities or to the other contracting parties or jointly to both parties; and b) for the joint acquisition of real and personal property, rights and franchises and the joint financing, construction and operation of plants, buildings, transmission lines and other facilities.

Subd. 4. Eminent Domain. Chapter 9 of the City Charter shall control all matters of eminent domain. Marshall Municipal Utilities is authorized to use eminent domain when they determine it is necessary.

Subd. 5. Use of Thoroughfares for Utility Installations. The Commission may use the ground over, under or along any road, railroad, highway, street, sidewalk, thoroughfare, alley or waterway in the operation of Marshall Municipal Utilities, but shall in all cases be subject to the applicable general regulations of the City, and shall cause the surface of the public right-of-way to be restored to its usual conditions after any construction.

Subd. 6. Rates. The commission shall fix rates to be charged for water, electricity and other services sold and services rendered by the commission. Rates shall be fair, reasonable and compensatory and shall be uniform for all consumers within the same class; but different rate schedules may be applied to different classes of consumers as determined by the commission. Rates within the City limits may be less but shall be no greater than for the same class of consumers outside the City limits. Rates shall be sufficient to pay all operating and maintenance expenses of each respective utility operation and all bond interest and redemption costs of the respective utility operations. The commission may require reasonable deposits as security for the payment of charges for utility services and may provide for the return of the deposit when satisfactory consumer credit has been established. Public notification and a hearing shall be held by the commission thirty (30) days prior to implementing any new rate, or modifying an existing rate.

Subd. 7. Authority for Expenditures. No money shall be drawn from the funds of Marshall Municipal Utilities nor shall any obligation for the expenditure of money be incurred except in conformity with authorization by the commission. No claim against the commission shall be paid unless evidenced by proper documentation approved by the general manager or by some other employee to be designated by him or her.

Subd. 8. Bond Issues. Subject to applicable state laws, the commission may authorize the issuance and sale of bonds necessary to finance the acquisition, construction, improvement and extension of the Marshall Municipal Utilities, including facilities owned or operated jointly with others. Subject to applicable state laws and City Council approval, the commission may authorize the issuance and sale of bonds.

Subd. 9. Short Term Indebtedness. The commission may borrow money and may issue negotiable notes that are due and payable within one year from the revenues of the commission or a division thereof as evidence of the indebtedness. The action of the commission may be made by resolution which may be adopted at the same meetings at which introduced and shall take effect immediately upon adoption.

Subd. 10. Public Information Expenditures. The commission may authorize reasonable expenditures to acquaint the public with the operations, programs and plans of the commission, and to encourage conservation.

Subd. 11. Investment of Surplus Funds. The commission may invest surplus funds of the commission in securities which are legal and in accordance with State Statute.

Subd. 12. Accounting Reports. The commission, in addition to the reports and accounting it may otherwise be required by law to make, shall furnish the City Council with its annual financial report which shall include a balance sheet and statement of operations, showing the financial condition of the commission and each separate division, prepared according to generally accepted public utility accounting principles. The funds and accounts of the commission shall be audited annually by a certified public accountant, and the audit shall be open to public inspection.

Subd. 13. Payment to General Fund in Lieu of Taxes. Any changes to the annual payment made to the City general fund by Marshall Municipal Utilities in lieu of taxes shall be approved by majority vote of the commission and the City Council.

Subd. 14. Rates the City pays Marshall Municipal Utilities for water and electric services shall be the same as any other consumer within the same customer class for the facility receiving utility service.

(Ref. of 11-5-1980; Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 380 2nd series, § 1, 11-3-1997; Ord. No. 691, 10-14-2014)

### **Section 13.05 General Provisions**

Subd. 1. Disposition of Marshall Municipal Utilities. The City shall have no authority to cease to operate or to sell, lease, abandon or otherwise dispose of the Marshall Municipal electric and water facilities that are owned and under the control of the commission without the approval of sixty percent (60%) of the votes cast by participating voters of the City of Marshall as determined by general election or a special election held for that purpose. If the Marshall Municipal Utilities desires to cease to operate any other public utility service other than the water and electric utility that it is providing to the public, it must request the City Council of the City of Marshall for permission to cease to operate said public utility. Upon a majority vote of the City Council in favor of such a resolution, Marshall Municipal Utilities may cease to operate any other public utility that it operates.

Subd. 2. Existing Obligations. Contracts and obligations relating to Marshall Municipal Utilities of the City incurred prior to the taking effect of this Charter shall not be impaired and shall be binding upon Marshall Municipal Utilities.

Subd. 3. Repeal of Prior Charters and Ordinances. All ordinances and parts of ordinances, including prior charters inconsistent with any provisions of this Charter are hereby repealed.

Subd. 4. Separability of Provisions. The sections and subdivisions of this Charter are declared to be separable, and in the event any one or more sections, subsections, or parts thereof be declared unconstitutional, it shall not affect the validity of other provisions of this Charter.

Subd. 5. This chapter of the City Charter shall control all matters relating to the Marshall Municipal Utilities Commission.

(Ref. of 11-5-1980; Ord. No. 356 2nd series, § 1, 3-16-1996; Ord. No. 380 2nd series, § 1, 11-3-1997; Ord. No. 691, 10-14-2014)

**SUPPLEMENT HISTORY TABLE**

The table below allows users of this Code to quickly and accurately determine what ordinances have been considered for codification in each supplement. Ordinances that are of a general and permanent nature are codified in the Code and are considered "Included." Ordinances that are not of a general and permanent nature are not codified in the Code and are considered "Omitted."

By adding to this table with each supplement, users of this Code of Ordinances will be able to gain a more complete picture of the Code's historical evolution.

<b>Ord. No.</b>	<b>Date Adopted</b>	<b>Included/Omitted</b>	<b>Supp. No.</b>
621	7-27-2010	Included	18

622	7-27-2010	Included	18
623	7-27-2010	Omitted	18
624	7-27-2010	Omitted	18
625	7-27-2010	Included	18
626	8-9-2010	Omitted	18
627	8-24-2010	Omitted	18
628	12-28-2010	Omitted	18
629	12-28-2010	Omitted	18
630	1-25-2011	Included	19
631	2-22-2011	Included	19
632	3-8-2011	Omitted	19
633	3-8-2011	Omitted	19
634	4-26-2011	Included	19
635	4-26-2011	Included	19
636	4-26-2011	Included	19
637	5-24-2011	Omitted	19
638	5-24-2011	Omitted	19
639	6-28-2011	Omitted	19
640	7-12-2011	Included	20
641	7-26-2011	Omitted	20

642	9-13-2011	Omitted	20
643	10-25-2011	Omitted	20
644	10-25-2011	Omitted	20
645	12-27-2011	Included	20
646	12-27-2011	Included	20
647	12-27-2011	Included	20
648	2-14-2012	Omitted	21
649	2-28-2012	Omitted	21
650	3-27-2012	Included	21
651	3-27-2012	Omitted	21
652	3-27-2012	Included	21
653	4-10-2012	Included	21
654	4-24-2012	Included	21
655	5-22-2012	Included	21
656	5-22-2012	Included	21
657	5-22-2012	Included	21
658	5-22-2012	Included	21
659	5-22-2012	Omitted	21
660	6-26-2012	Omitted	21
661	6-26-2012	Omitted	21

662	10-9-2012	Omitted	22
663	10-9-2012	Omitted	22
664	12-4-2012	Included	22
665	12-4-2012	Included	22
667	12-18-2012	Included	22
668	12-18-2012	Included	22
669	12-18-2012	Included	22
670	1-8-2013	Included	23
671	4-09-2013	Included	23
672	4-09-2013	Included	23
673	5-28-2013	Included	23
674	5-28-2013	Included	23
675	7-9-2013	Included	24
676	7-9-2013	Included	24
677	7-23-2013	Omitted	24
678	9-10-2013	Included	24
679	9-24-2013	Included	24
680	9-24-2013	Included	24
681	9-24-2013	Included	24
682	11-12-2013	Included	24

683	12-10-2013	Included	24
684	12-17-2013	Omitted	24
685	1-28-2014	Included	25
686	6-10-2014	Included	25
687	6-10-2014	Included	25
688	7-22-2014	Included	26
689	8-11-2014	Omitted	26
690	9-9-2014	Included	26
691	10-14-2014	Included	26
692	2-24-2015	Included	27
693	4-28-2015	Included	27
694	5-12-2015	Included	27
695	5-26-2015	Included	27
696	5-26-2015	Included	27
697	6-23-2015	Omitted	27
698	7-14-2015	Omitted	28
699	9-9-2015	Included	28
700	9-9-2015	Included	28
701	10-13-2015	Included	28
702	11-24-2015	Included	28

703	12-8-2015	Included	28
704	12-22-2015	Included	28
705	12-22-2015	Omitted	28
706 2nd series	3-8-2016	Omitted	29
707 2nd series	5-9-2016	Included	29
708 2nd series	6-28-2016	Omitted	29
709 2nd series	7-12-2016	Omitted	30
710 2nd series	7-26-2016	Included	30
711 2nd series	8-8-2016	Included	30
712 2nd series	9-13-2016	Included	30
713 2nd series	9-13-2016	Omitted	30
714 2nd series	10-11-2016	Omitted	30
715 2nd series	11-1-2016	Omitted	30
716 2nd series	1-10-2017	Included	31
717 2nd series	2-28-2017	Omitted	31
718 2nd series	4-11-2017	Included	31
719 2nd series	5-9-2017	Included	31
720 2nd series	5-9-2017	Included	31
721 2nd series	7-11-2017	Included	32
722 2nd series	8-8-2017	Included	32

723 2nd series	8-8-2017	Included	32
724 2nd series	9-12-2017	Included	32
725 2nd series	1-23-2018	Included	33
726 2nd series	3-13-2018	Included	33
727 2nd series	4-24-2018	Included	33
728 2nd series	4-24-2018	Included	33
729 2nd series	5-22-2018	Omitted	33
730 2nd series	9-25-2018	Omitted	34
731 2nd series	12-11-2018	Included	34
732 2nd series	1-8-2019	Included	34
733 2nd series	2-12-2019	Included	35
734 2nd series	2-12-2019	Included	35
735 2nd series	2-12-2019	Included	35
736 2nd series	4-23-2019	Included	35
737 2nd series	5-14-2019	Included	35
738 2nd series	9-10-2019	Included	36
739 2nd series	9-10-2019	Included	36
740 2nd series	9-10-2019	Included	36
741 2nd series	9-24-2019	Included	36
743 2nd series	10-22-2019	Included	36

744 2nd series	10-22-2019	Included	36
745 2nd series	11-12-2019	Omitted	36
746 2nd series	11-26-2019	Included	36
747 2nd series	12-10-2019	Included	36
748 2nd series	12-10-2019	Included	36
749 2nd series	6-23-2020	Included	37
750 2nd series	6-23-2020	Included	37
751 2nd series	7-14-2020	Included	38
752 2nd series	7-14-2020	Included	38
753 2nd series	7-28-2020	Included	38
754 2nd series	7-28-2020	Included	38
755 2nd series	11-10-2020	Included	38
21-001	1-26-2021	Included	38
21-002	4-27-2021	Included	39
21-003	8-24-2021	Included	39
21-004	10-12-2021	Included	39

**CHARTER COMPARATIVE TABLE ORDINANCES**

This table shows the location of the sections of the basic Charter and any amendments thereto. Unless followed by an asterisk (\*) or otherwise indicated, all ordinances are second series.

<b>Ord. No.</b>	<b>Date</b>	<b>Section</b>	<b>Section this Charter</b>
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564*	4-21-1975	1	6.02
			6.05, 6.06
			12.06
574*	9-15-1975	1	11.05
86	11-3-1980	1	3.01
			6.05
			7.02
			7.06
185	6-2-1986	1	2.03
			4.01
224	3-23-1988	1	4.03
352	3-16-1996	1	2.03
353	3-16-1996	1	2.07
354	3-16-1996	1	5.01, 5.02
			5.04—5.28
355	3-16-1996	1	11.05
356	3-16-1996	1	1.01—1.03
			2.01—2.10
			3.01—3.12
			4.01—4.04

			5.01—5.03
			5.05—5.13
			5.15—5.28
			6.01—6.06
			7.01—7.17
			8.01, 8.02
			9.01—9.04
			10.01—10.05
			11.01—11.04
			12.01—12.12
379	11-3-1997	1	3.02
380	11-3-1997	1	11.01—11.05
552	7-5-2006	1	4.03
618	5-25-2010	1	4.03
653	4-10-2012	1	6.05
			7.05
			7.10, 7.11
664	12-4-2012	1	2.03
665	12-4-2012	1	3.03
675	7-9-2013		6.03

691	10-14-2014		13.01—13.05
707 2nd series	5-9-2016	1	3.02—3.12
		Added	3.13
			4.01
			4.03
			5.04—5.07
			5.10, 5.11
			5.13—5.17
			5.21—5.25
			6.03
			6.05
			705—7.07
			7.10, 7.11
			12.04
			12.11, 12.12

<b>Presenter:</b>	Pamela Whitmore
<b>Meeting Date:</b>	Wednesday, December 13, 2023
<b>Category:</b>	OLD BUSINESS
<b>Type:</b>	ACTION
<b>Subject:</b>	Creation of Bylaws
<b>Background Information:</b>	Minnesota Statutes Section 410.05, subd. 2 states that “The charter commission . . . shall make rules, including quorum requirements, with reference to its operations and procedures.” (see attached example). Staff did not find any existing, current bylaws.
<b>Fiscal Impact:</b>	None
<b>Alternative/ Variations:</b>	
<b>Recommendations:</b>	Approve bylaws for the Charter Commission.

**DRAFT BYLAWS  
CHARTER COMMISSION  
CITY OF MARSHALL**

Article 1. General.

The Marshall Charter Commission ("Commission") was established and exists under the provisions of Minnesota Statutes, Chapter 410. The name of the Commission is the "Home Rule Charter Commission of Marshall, Minnesota".

Article 2. Mission.

The mission of the Marshall Charter Commission is to oversee the City's Charter which defines the parameters within which City government can operate. As an independent body, the Charter Commission will represent citizen viewpoints and consider and recommend appropriate revisions to the Charter which balance the best interests of city government and the citizens.

Article 3. Duties.

The Commission must act upon voters' petitions and City Council recommendations for amendment to the City of Marshall Charter. The Commission may also periodically review the Charter and propose amendments on its own volition.

Article 4. Members.

Section 1. Term. Except for initial appointments, members will be appointed for four-year terms until their successors are appointed and qualify. Any vacancies are filled by appointment by the chief judge for the unexpired term.

Section 2. Oath of Office. Within 30 days of appointment, Commission appointees must file a written acceptance and oath of office with the Administrator of the Lyon County District Court.

Section 3. Termination for Absences. If a member is absent from four consecutive meetings without excuse, the Commission's Secretary must submit a certificate setting forth the facts to the Chief Judge who will issue an order for removal.

Section 4. Number of Members. The Commission will be composed of not less than seven and no more than 15 members, with the number set by the Court through appointment upon review of eligible names submitted by the City Council or the Charter Commission. Pursuant to Minnesota Statute §410.05, the Charter commission members shall hold office for the term of four years, and until their successors are appointed and qualify.

Section 5. Member Requirements. All members must reside and be registered to vote in the City of Marshall.

Section 6. The offices of the Commission are at the Marshall City Hall for purposes of official Commission business.

Article 5. Meetings.

Section 1. Annual Meetings. The annual meeting of the Commission will be held in November of each year on a date selected by the Commission at the preceding annual meeting. The principal items of business at the annual meeting will be the election of officers and preparation of the annual report.

Section 2. Other Meetings. Meetings other than the annual meeting will be held upon the call of the Chair or any three members or pursuant to a schedule adopted by the Commission. No meeting may be held without notice being sent to each member one week in advance and must be posted at least three days prior to the date of the special meeting. Notice of special meetings may be provided to Commission members by email if a member has provided an email address. No business may be considered at a special meeting other than as designated in the meeting notice. The Commission must meet whenever a Charter amendment is proposed by either valid voters' petition, Council recommendation or its own volition in the manner allowed by statute.

Section 3. Open Meetings. All meetings of the Commission must be open to the public except as otherwise provided by law.

Section 4. Quorum; Manner of Acting. A majority of qualified and acting members constitutes a quorum for purposes of conducting the Commission's business and exercising its powers. If the Commission lacks a quorum, a smaller number of members may convene as a subcommittee if desired and report their discussions to the full Commission.

Section 5. Agendas. An agenda for each meeting will be prepared by the City Clerk in cooperation with the Chair of the Commission. The agenda, along with supporting documentation, must be sent to each Commission member one week prior to the date of the meeting.

Section 6. Meetings will be held at the Marshall City Hall, or such other place as designated by the Chair.

Section 7. Order of Business.

The order of business will be:

1. Call to order by the chair.
2. Roll call.
3. Approval of minutes.
4. Report of officers.
5. Report from members or committees.
6. Unfinished business.
7. New business.
8. Adjournment.

The order of business may be changed at a meeting by a majority vote of the Commission members present.

Section 8. Manner of Voting. The vote on questions coming before the Commission must be entered upon the minutes of the meeting. When a quorum is present, action may be taken by the Commission by majority vote.

Section 9. Nomination. Nominations from the floor are in order at any election.

Article 6. Officers.

Section 1. Election. Officers of the Commission will consist of the Chair, the Vice Chair, and the Secretary. The officers will be elected for a one-year period commencing at the annual meeting. If there is no quorum at the annual meeting, the election will be held at the next meeting at which a quorum is present.

A. Chair. The Chair will preside over all meetings of the Commission. If the Chair and Vice Chair are absent from the same meeting, the Commission members present will designate one of themselves to serve as Chair. The Chair will also perform all duties usually performed by chairs of similar organizations including executing documents pertaining to the Commission's business, establishing, and appointing committees, representing the Commission before the City Council, and other duties that may be authorized by the Commission members.

B. Vice Chair. The Vice Chair will perform all the duties of the Chair in the absence of the Chair.

C. Secretary. The Secretary will undertake the duties conferred on the Secretary by law and by the Commission members.

Section 2. Compensation; Expenses. The members of the Commission receive no compensation, but the Commission may employ an attorney, or other personnel to assist in amending or revising the City Charter, and the reasonable compensation and the cost of printing the charter or any amendments, when so directed by the Commission, will be paid by the City. The amount of reasonable and necessary Commission expenses will be paid by the City in accordance with Minnesota Statutes, section 410.06, as amended.

Section 3. Vacancies in Officers. If the office of the Chair, Vice-Chair, or Secretary becomes vacant pursuant to Minnesota Statutes, section 410.05 or by other provisions of law, the Commission must elect a successor from its membership at the next regular meeting, or at a special meeting called for that purpose, for the unexpired term of the office.

Article 7. Administrative Support. The City Clerk or designee will assist the Secretary, send written notices and agendas of all meetings to the Commission members, and keep a file of the Commission's records.

Article 8. Reports to Council.

The Commission's Secretary will provide copies of all minutes and reports of the Commission to the City Council to keep them apprised of the Commission's actions.

Article 9. Annual Report.

By December 31 of each year, the Commission must submit an annual report of its activities to the Chief Judge of the Fifth Judicial District. A copy must also be filed with the City Clerk.

Article 10. Parliamentary Procedure.

The proceedings of the Commission will be conducted in general accordance with Roberts Rules of Order, as revised. Except as prohibited by law, the Commission may, by majority vote, waive any procedural or parliamentary rules.

Article 11. **Commission Bylaws.** The purpose of these bylaws is to guide and aid in the conducting of the Commission's business. These bylaws will be interpreted consistently with the requirements of Minnesota Statutes, chapter 410. The Commission will review the bylaws at least once every two years and may be amended by a majority vote of the Commission.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

By \_\_\_\_\_  
Chair

Attest:

\_\_\_\_\_  
Secretary

<b>Presenter:</b>	Steven Anderson
<b>Meeting Date:</b>	Wednesday, December 13, 2023
<b>Category:</b>	NEW BUSINESS
<b>Type:</b>	ACTION
<b>Subject:</b>	Recommendations to Fill Vacancy
<b>Background Information:</b>	<p>A vacancy exists on the Charter Commission. Pursuant to Minnesota Statutes Section 410.05, subd. 2, the Chief Judge of the Fifth Judicial District appoints a vacancy from list provided by City/Charter Commission.</p> <p>James Zmeskal at 805 Elaine Avenue has expressed interest in being appointed to the vacant position. Mr. Zmeskal had previously served on the Charter Commission from 2010 – 2018.</p> <p>Charter members are welcome to bring forward additional names for consideration.</p>
<b>Fiscal Impact:</b>	None
<b>Alternative/ Variations:</b>	
<b>Recommendations:</b>	Provide names of individuals to be recommended for appointment to the Charter Commission.