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# HOME RULE CHARTER OF THE CITY OF NEW ULM, MINNESOTA

(2022 REVISION)

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Framed pursuant to Section 4 of Article XII of the Constitution of the State of Minnesota and the State Laws enacted pursuant thereto, by the Board of Freeholders appointed by the District Court of Brown County, Minnesota, on April 6, 1951, and thereafter from time to time amended, as and for a Home Rule Charter for the City of New Ulm.

The City of New Ulm is authorized to exercise all powers legally available to it under the laws and constitution of the State of Minnesota. The City Council, as the elected governing body of the City, shall have the power to enact ordinances or take other official action, in accordance with procedures set forth in this Charter, pertaining to any matter not prohibited or pre-empted by federal or state law or constitution.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

*Amended: Ordinance No. 18-027, 5<sup>th</sup> Series, adopted 12/4/18.*

## NAME, BOUNDARIES, AND SUBDIVISIONS

**Section 1. Name and Boundaries.** The City of New Ulm, in the County of Brown and State of Minnesota, is and shall continue to be a municipal corporation, under the name of "City of New Ulm", with the same boundaries as now are or hereafter may be established.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 2. Wards and Precincts.** The City of New Ulm shall be divided into four wards, with each ward divided into two precincts. The boundaries of said wards and precincts shall be as they now are or may hereafter be established.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 3. Change of Wards and Precincts.** The City Council shall have the power by ordinance to change the boundaries of such wards and precincts and to change the number of precincts in a ward, but shall have no power to change the number of wards.

**CORPORATE POWERS, RIGHTS, AND OBLIGATIONS**

**Section 4. Corporate Powers.** The City of New Ulm, by and in its corporate name, shall have perpetual existence; and, except as herein otherwise provided and except as prohibited by the constitution or statutes of the State of Minnesota, it shall have and exercise all powers, functions, rights, and privileges possessed by it prior to the adoption of this Charter, also all powers, functions, rights, and privileges now or hereafter given or granted by the constitution and the laws of the State of Minnesota to municipal corporations having "Home Rule Charters"; also all powers, functions, rights, and privileges usually exercised by, or which are incidental to, or inhere in, municipal corporations of like power and degree; also all municipal powers, functions, rights, privileges, and immunities of every name and nature whatsoever; and in addition it shall have all the powers and be subject to the restrictions contained in this Charter.

In its corporate name, it may take and hold, by purchase, condemnation, gift, or devise, and lease and convey all such real, personal, or mixed property, within or without its boundaries, as its purposes may require or as may be useful or beneficial to its inhabitants; and it may contract with the county or with other municipalities for such joint services and utilities as may seem desirable, and for all other legitimate purposes.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

*Amended: Ordinance No. 18-027, 5<sup>th</sup> Series, adopted 12/4/18.*

**Section 5. Subsisting Rights and Obligations.** The City of New Ulm shall be the legal successor of the City of New Ulm under its former Charter, and shall be vested with all franchises, rights, and immunities formerly vested in said City, except as herein otherwise provided.

All property and property rights and interests of every kind and nature, formerly vested in said City of New Ulm, or in any board or public official of the same, all taxes and assessments levied in its behalf, and all rights, penalties or forfeitures, accrued or accruing, are vested in and possessed by the City of New Ulm under this Charter; and all previously existing indebtedness, obligations, and liabilities of said City of New Ulm, or any department thereof, no matter in what form or how incurred, together with all interest accrued or to accrue thereon, are assumed by the City of New Ulm. Any subsisting right, lien or demand against the City, or any pending action or proceeding to enforce the same, shall not be prejudiced or affected in any way by this Charter.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 6. Existing Ordinances Continued.** All ordinances, resolutions, rules, and regulations of the City in force when this Charter or amendments to the Charter take effect, and not inconsistent with the provisions thereof, are hereby continued in full force and effect unless and until amended or repealed.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 7. Continuance of Contracts and Initiated Public Work.** All contracts entered into by the City or for its benefit, prior to the taking effect of this Charter or amendments to this Charter, shall continue in full force and effect. All public work begun

## Home Rule Charter of the City of New Ulm, Minnesota (2022 Revision)

prior to its taking effect shall be continued and perfected thereunder. Public improvements for which legislative steps shall have been taken under laws or charter provisions, existing at the time this Charter or amendments to this Charter take effect, may be carried to completion in accordance with such existing laws and charter provisions.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 8. Eminent Domain.** In the exercise of the right of eminent domain for the purpose of acquiring private property, whether inside or outside the corporate limits of the City, the City shall proceed in the manner prescribed by Minnesota Statutes pertaining to such proceedings.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 9. Sale of Real Property.** No real property of the City shall be disposed of except by four-fifths vote of the City Council, and then only in case the said property is no longer needed for public purposes.

**Section 10. Gifts and Bequests.** The City may, through the City Council, receive and accept any gifts, devises, or bequests of real or personal property, and may keep and administer such property for the benefit of the residents of the City in accordance with the terms prescribed by the donor.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 11. City May Use General Laws.** All Minnesota Statutes, now or hereafter enacted, applicable to cities operating under "Home Rule Charters", or applicable to cities of the same class as the City of New Ulm not operating under "Home Rule Charters", shall, if not inconsistent with the provisions of this Charter, apply to the City of New Ulm and be construed as supplementary to the provisions of this Charter.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 12. Construction of This Charter.** The provisions of this Charter shall be construed liberally in favor of the City, to the end that the City may have all necessary powers for the efficient conduct of its municipal affairs, as contemplated by the municipal home rule provisions of the constitution and laws of the State of Minnesota.

The specific mention of particular municipal powers in other sections of the Charter shall not be construed as limiting the powers of the City in the premises to those thus mentioned. All powers of the City, whether express or implied, shall be exercised in the manner prescribed by this Charter, or, if not prescribed therein, then in the manner determined by the City Council.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 13. Charter a Public Act.** This Charter shall be a public act and need not be pleaded or proved in any Court.

## MUNICIPAL ELECTIONS

**Section 14.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 15. Regular Municipal Elections.** Regular municipal elections shall be held biennially in even-numbered years on the same date as the statewide general election, at such places in the various precincts now or hereafter established as the City Council may designate.

At such regular elections there shall be elected the officials provided for in this Charter or that may hereafter be required in lieu thereof by Minnesota Statutes.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 16. Special Elections.** The City Council may by resolution order a special election and fix the time of and provide all means for holding the same. Notice of special elections shall include a statement of the purpose for which the election is to be held, and in all other respects the procedure shall conform as nearly as possible to that herein provided for other municipal elections.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 17. Notice of Elections.** Notice of all elections shall be given by the Finance Director in the manner provided by Minnesota Statutes, Chapter 205, but the failure to give such notice shall not invalidate the election.

*Amended: Ordinance No. 362, adopted 12/18/79.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 18. Nominations for Office.** All candidates for elective offices as provided for in this Charter shall file an affidavit of candidacy with the Finance Director in accordance with Minnesota Statutes, Chapter 205. At least two weeks before the first day to file affidavits of candidacy, the Finance Director shall publish a notice stating the first and last dates on which affidavits of candidacy may be filed, and shall post a similar notice at least ten days before the first day to file affidavits of candidacy.

The affidavit of candidacy for any elective office as provided for in this Charter shall be substantially the same form as required of candidates for State of Minnesota elective offices. The fee to be paid upon filing an affidavit of candidacy for City office shall be \$10.00. In lieu of filing an affidavit of candidacy and payment of the filing fee, a petition nominating a candidate may be filed; such petition must be signed by a number of registered voters residing in the City equivalent to five percent of the total number of votes cast at the last regular municipal election or 250 signatures, whichever is less. In the case of a City Councilor, the signers of the petition must be registered voters residing in the ward from which the candidate is to be elected, and the required percentage of signatures shall be based upon the votes cast in such ward. No person shall sign petitions for more candidates than the number of places to be filled at the election, and should any person do so, that person's signature shall be void and not counted on any petition. All applications for office by petition shall be delivered to the

**Home Rule Charter of the City of New Ulm, Minnesota (2022 Revision)**

Finance Director as provided for in affidavit of candidacy. The Finance Director shall prepare the ballots in the manner provided by Minnesota Statutes.

The signatures on the nomination petition need not all be appended to one paper, but to each separate paper there shall be attached an affidavit of the circulator thereof stating the number of signers of such paper and that each signature appended thereto was made in the circulator's presence and is the genuine signature of the person whose name it purports to be. With each signature shall be stated the street address of the residence of the signer. The form of nomination petition shall be substantially as follows:

**NOMINATION PETITION**

We, the undersigned, are registered voters residing in [the \_\_\_\_\_ Ward of] the City of New Ulm, and do hereby nominate (here use name of nominee), whose residence is \_\_\_\_\_, for the office of \_\_\_\_\_, to be voted for at the election to be held on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, and we individually certify that we have not signed petitions for more candidates than the number of places to be filled at the election.

NAME

STREET NUMBER

_____	_____
_____	_____
_____	_____

I, \_\_\_\_\_, with residence address of \_\_\_\_\_, being duly sworn, depose and say that I am the circulator of the foregoing petition paper containing \_\_\_\_\_ signatures, and that the signatures appended thereto were made in my presence and are the signatures of the persons whose names they purport to be.

Signed \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

If found insufficient by the Finance Director, a nomination petition shall be returned to the person whose name appears as circulator in the petition at the address shown.

A vacancy in a nomination exists when after the primary election any person who is nominated dies, withdraws, or for any other reason ceases to be the nominated candidate for that office. When a vacancy in a nomination occurs, a nomination to fill a vacancy shall be made as follows: The person receiving the next highest number of votes for the office at the primary election shall be the candidate for the office to fill the vacancy. If there is no person who may be nominated as herein provided and a vacancy exists by reason of this fact, the Finance Director shall prepare ballots for the general election which shall be blank and no name on the ballot for the office for which the vacancy exists.

Whenever three or more candidates have filed for any city-wide office, or councilor of any ward, a primary election shall be held, city-wide, or in any particular ward or

## Home Rule Charter of the City of New Ulm, Minnesota (2022 Revision)

wards. The City of New Ulm will hold a primary election, if required, on the same date as the statewide primary election.

In all primaries, the two persons receiving the most votes shall be the nominees for such offices at the regular municipal election.

*Amended: Ordinance No. 315, adopted 4/4/78.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

*Amended: Ordinance No. 18-027, 5<sup>th</sup> Series, adopted 12/4/18.*

**Section 19. State Laws Applicable.** Except as otherwise provided herein, the provisions of Minnesota Statutes, now or hereafter in force, relating to the qualifications of voters, the manner of voting, the duties of election officials, the canvassing of returns, and all other provisions with respect to the conduct of elections, shall, so far as applicable, apply to all municipal elections held under this Charter. The City Council may, by resolution, adopt any method approved by Minnesota Statutes for casting and/or counting votes, whether such method addresses the physical process (e.g., changes in technology) or the determination of how votes are counted (e.g., preference ranking of candidates).

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 20. Tie in Election.** Whenever two or more candidates for an elective office shall receive an equal number of votes for the same office, the election shall be determined by the casting of lots in the presence of the City Council, in such manner as the City Council may direct, and upon reasonable notice to said candidates as to time and place of such determination.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

## FORM OF GOVERNMENT

**Section 21. Elective Offices.** Elective offices of the City shall be a Mayor and five members of the City Council, to be titled City Councilors, all of whom shall be residents and registered voters of the City. Each ward shall elect a Councilor, who shall be a registered voter residing within the ward from which the person is elected, and there shall be elected within and for said City one Councilor-at-large who is a registered voter residing within the City and who shall be the President of the City Council.

*Amended: Ordinance No. 316, adopted 9/21/76.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 22. Boards, Commissions, and Departments.** In addition to the elective officials of the City, there shall be a Board of Health, a Public Utilities Commission, a Human Rights Commission, and a Police Commission, the duties, powers, and form of organization of which shall be as defined herein. There shall also be the following Departments: Fire Department, Police Department, Engineering Department, Human Resources Department and Financial Departments. The City Council may establish by ordinance such additional departments, boards and commissions as it deems appropriate.

## Home Rule Charter of the City of New Ulm, Minnesota (2022 Revision)

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

*Amended: Ordinance No. 18-027, 5<sup>th</sup> Series, adopted 12/4/18.*

*Amended: Ordinance No. 2022-059, adopted 09/06/22.*

**Section 23. Appointive Offices.** There shall be appointed in the manner hereinafter provided a City Manager, a City Attorney, a Finance Director, and such other officials and employees as may be required under this Charter or Minnesota Statutes, or as deemed necessary and appropriate by the City Council.

*Amended: Ordinance No. 362, adopted 12/18/79.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 24. Incompatible Offices.** Neither the Mayor nor any member of the City Council, or Public Utilities Commission (a “local official”) shall hold any paid municipal office or employment under the City; and, until one year after the expiration of that person’s term of office as Mayor or Councilor, such former official may not be appointed to any paid office or employment under the City that was created during that person’s term or the compensation for which was increased during said term, nor shall they influence or attempt to influence the hiring, transfer, suspension, promotion, discharge, reward, discipline or the adjustment of grievances of a related person.

“Related person” shall mean a person in a marital relationship, a domestic partner relationship or other committed relationship with a local official, or in a significant familial relationship with a local official.

“Significant familial relationship” means:

(1) By blood or adoption: parent, child, grandparent, grandchild, brother, sister, half-brother, half-sister, uncle, aunt, nephew, niece, first cousin.

(2) By marriage: husband, wife, stepparent, stepchild, stepbrother, stepsister, brother-in-law, sister-in-law, father-in-law, mother-in-law, son-in-law, daughter-in-law, uncle, aunt, nephew, niece. Divorce or death of a spouse terminates a significant familial relationship by marriage.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

*Amended: Ordinance No. 2022-060, adopted 09/06/22.*

**Section 25. Combining of Offices.** Any two or more of the offices created under this Charter, and made appointive by the City Council, may, in the discretion of the Council, be filled by one and the same person. Additional functions and duties may be assigned by the City Council to departments, commissions, and offices established by this Charter.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 26. Additional Offices, Departments, or Commissions.** The City Council may create and establish additional offices, departments, or commissions, consistent with the general purposes of this Charter. The City Council may, from time to time, modify or eliminate departments, commissions, or offices established by it.

*Amended: Ordinance No. 295, adopted 11/5/74.*

## Home Rule Charter of the City of New Ulm, Minnesota (2022 Revision)

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 27. Functions of the Council.** All powers of the City, both legislative and administrative, unless otherwise delegated by the provisions of this Charter, shall vest in and be exercised by the City Council, subject as herein provided to the initiative, referendum, and recall powers of the people.

Except as otherwise specifically provided in this Charter, the Council shall have complete control over all municipal services, but it shall exercise that control through a City Manager to be appointed by said Council, and shall not itself perform any such service.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 28. Duties and Powers of the Mayor.** The Mayor shall be the chief executive official of the City.

The Mayor shall exercise all powers and perform all duties conferred on that office by this Charter, the ordinances of the City, and Minnesota Statutes.

The Mayor shall have the power to veto all ordinances and resolutions enacted or adopted by the City Council, and all motions passed by the Council involving the expenditure of public funds or the granting of licenses or permits; except that the Mayor's veto power shall not apply to motions approving or ratifying payments already made in accordance with the provisions of this Charter.

The Mayor shall be recognized as the official head of the City for all ceremonial purposes, and by the Governor of the State for the purpose of a declaration of martial law. The Mayor shall study the operation of the City Government and shall report to the Council any neglect, dereliction of duty, or waste on the part of any official or department of the City.

The Mayor shall be an ex officio member of the City Council and shall have the same rights and privileges accorded the members of the Council except those of making motions, seconding motions, offering resolutions, seconding resolutions, or voting thereon.

*Source: Ordinance No. 370, adopted 8/5/80.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 29. Acting Mayor.** In case of the temporary absence of the Mayor from the City or temporary inability to perform the duties of the office, the President of the City Council, or in the event such person is also absent or unable to act, then the Vice-President of the Council, shall exercise the powers and perform the duties of the Mayor during such absence or disability, and while so acting shall be titled "Acting Mayor", and the Acting Mayor's acts in that capacity shall have the same force and validity as if performed by the Mayor.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 30. Terms of Office.** The terms of office for all officials elected at regular municipal elections shall be four years and until their successors are elected and qualified.



## Home Rule Charter of the City of New Ulm, Minnesota (2022 Revision)

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 31. Commencement of Terms.** Unless otherwise specifically provided in this Charter, the terms of all elected officials shall begin on the first day of January following their election.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 32. Vacancies - How Created.** A vacancy in any elective office created under this Charter shall be deemed to exist for any of the following reasons: the death, resignation, removal, or recall of the incumbent; change of an official's residence to a location outside the ward represented by the official, or from the City; conviction of an official while in office of any crime greater than a misdemeanor or of any offense involving a violation of the obligations of the office; failure of an official to take the oath of office; the decision of a competent tribunal declaring an election or appointment void; or the death of a person before taking the office to which the person was elected or appointed, in which case the vacancy shall be deemed to take place at the time when the person's term of office would have begun.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 33. Vacancies - How Filled.** Whenever such a vacancy occurs the City Council shall by resolution declare such vacancy to exist and an eligible person shall forthwith be appointed to fill the same. In the case of a vacancy in the membership of the Council it shall be filled by appointment only until the next regular municipal election, at which time a successor shall be chosen for the balance of the unexpired term. In filling a vacancy in the office of Mayor, the Council shall not appoint one of its own members. Any vacancy resulting from a recall election or from a resignation in consequence of the filing of a recall petition shall be filled in the manner expressly provided in this Charter.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 34. Vacancies in Commissions.** Nothing in the foregoing section shall be construed as applying to vacancies in the membership of commissions appointed under this Charter. Such vacancies shall be filled in the manner specifically provided herein.

**Section 35. Salaries.** The members of the City Council and the Mayor shall receive such salaries as may be fixed by the Council in accordance with law. The City Council may additionally create a contingent fund for the Mayor, in such amount as it may deem proper, to cover legitimate expenses incurred in the Mayor's official capacity. The salaries or compensation of non-unionized employees of the City shall be fixed by the City Manager, subject to approval by the City Council. The salaries or compensation of unionized employees shall be as established through the collective bargaining process set forth in the Minnesota Public Employees Labor Relations Act, including amendments thereto.

*Amended: Ordinance No. 284, adopted 12/19/72.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Home Rule Charter of the City of New Ulm, Minnesota (2022 Revision)**

**Section 36. Removals.** Every person elected to office under this Charter shall be subject to removal by a four-fifths vote of the Council. No such official, however, shall be removed except for cause, nor unless furnished with a written statement of the charges against the official and an opportunity to be heard in person or by counsel.

The Council shall fix the time and place for a hearing on such charges, of which not less than ten days' notice shall be given to the official to be removed, and shall have power to arrange the mode of hearing, to compel the attendance of witnesses and the production of documentary evidence, to administer oaths, and to hear testimony and arguments.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 37. Powers Reserved to Voters.** There is reserved to the voters of the City the power, in accordance with the provisions of this Charter, to initiate and adopt ordinances and resolutions, to require measures passed by the City Council to be referred to the electorate for approval or disapproval, and to recall elected public officials. Such powers shall be known respectively as the initiative, referendum, and recall.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 38. Oaths of Office.** Every person elected or appointed to office under this Charter shall, before entering upon the performance of the duties of the office, take and subscribe an oath of office, in the form prescribed by Minnesota Statutes, and shall cause the same to be filed with the Finance Director.

*Amended: Ordinance No. 362, adopted 12/18/79.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 39. Conflicts of Interest.** A conflict of interest is present when an elected or appointed official, in the discharge of that official's official duties, would be required to take an action or make a decision regarding a matter in which the official has a personal financial interest, or is otherwise so personally interested in such matter that the official cannot act in the public interest. For purposes of this section, a personal financial interest is any interest which shall yield, directly or indirectly, a material monetary or other benefit to the official, excluding such circumstances when the official's financial interest is no greater than that of another member of the official's business classification, profession or occupation.

Any elected or appointed official who has a conflict of interest on a matter shall refrain from voting on or otherwise participating in any actions or decisions regarding such matter. In such cases, a public disclosure shall be made as follows: (a) in the case of the Mayor or any Councilor, the interested official shall advise the City Council of the nature of the official's conflict of interest prior to City Council consideration of the matter giving rise to the conflict, and a notation regarding such conflict of interest shall be entered in the City Council minutes which relate to such matter; (b) in the case of a member of a commission or board of the City, the interested member shall advise the other members of such commission or board of the nature of the member's conflict of interest prior to consideration of the matter giving rise to the conflict, and a notation

## Home Rule Charter of the City of New Ulm, Minnesota (2022 Revision)

regarding such conflict of interest shall be entered in the minutes of such commission or board relating to such matter.

In the case of a sale, lease or contract in which an elected or appointed official with authority to take part in any manner in the making of the transaction has a personal financial interest, neither the City Council nor any commission or board of the City shall approve such transaction except as allowed by law.

*Amended: Ordinance No. 2022-061, adopted 09/06/22.*

### INITIATIVE, REFERENDUM AND RECALL

**Section 40. Initiative Petitions.** Any proposed legislation, in the form either of an ordinance or resolution, may be submitted to the City Council by a petition asking for its adoption by the Council, or, in case of unfavorable action by the Council, for its submission to approval by the voters.

Any five registered voters may form themselves into a committee for the initiation of such a petition by filing with the Finance Director a copy of the proposed ordinance or resolution, approved as to form by the City Attorney, together with their names and addresses as members of the committee. Thereupon the Finance Director shall furnish them with uniform blanks in the form of signature papers for circulation among the voters.

*Amended: Ordinance No. 362, adopted 12/18/79.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 41. Signature Papers and Affidavits.** Each signature paper shall contain or have attached thereto a copy of the proposed ordinance or resolution and a statement signed by the members of the committee setting forth that they are the sponsors thereof. The signatures affixed to each of such signature paper shall be in ink or indelible pencil and shall be accompanied by the street address of the residence of the signer. Signers of the petition shall be registered voters who reside in the City. At the end of the list of signers there shall be an affidavit by the circulator of the paper to the effect that each signature appended thereto is the genuine signature of the person whose name it purports to be and that it was made in the presence of the affiant. When presented for filing, the signature papers shall be treated collectively as one instrument to be known as the initiative petition.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 42. Filing of Petition.** To proceed with an initiative petition, the signature papers must be filed with the Finance Director within ninety days of the date on which the signature papers were furnished to the committee, and must contain a number of signatures by registered voters equal to at least ten percent of the total number of votes cast at the last preceding general municipal election.

Within ten business days after the filing of the petition, the Finance Director shall ascertain whether it is signed by the required number of registered voters and otherwise conforms to requirements, and shall endorse thereon a certificate of the result of the examination. If the certificate shows that the number of signatures to the petition is insufficient or that there are other irregularities, the committee sponsoring the petition

## Home Rule Charter of the City of New Ulm, Minnesota (2022 Revision)

shall be notified of the fact and given thirty days in which to file additional papers and to correct any irregularities.

If at the end of that period the petition is found to be still irregular or insufficient, the Finance Director shall file the same with a second certificate endorsed thereon, showing the results of the final examination. Thereupon no further proceeding need be taken, except that the Finance Director shall inform the City Council of the filing of such insufficient petition, the nature and purpose thereof, and the number of signatures actually appended thereto.

The final finding of the insufficiency or irregularity of a petition shall not prejudice the initiation of a new petition for the same purpose, nor shall it prevent the City Council, if it so desires, from acting with reference thereto in the same manner as if the petition had been in all respects regular and sufficient.

*Amended: Ordinance No. 362, adopted 12/18/79.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 43. Procedure of the Council.** If the certificate of the Finance Director shows that the petition is sufficient, the proposed ordinance or resolution shall be presented to the City Council at its next regular meeting. The Council shall thereupon consider the same, and shall take final action thereon within thirty days after its submission to the Council by the Finance Director.

If the Council fails to adopt the proposed measure, the proposed measure shall be submitted by the Council to the voters at the next regular municipal election.

If, however, the number of signatures to such petition by registered voters is at least twenty percent of the total number of votes cast at the last preceding regular municipal election, the Council shall call a special election for submission of the measure, to be held not less than thirty, nor more than forty-five, days thereafter, unless a regular municipal election is to occur within three months, in which case the proposal may be submitted at such regular election.

If the City Council passes the proposed resolution or ordinance with amendments, the proposed measure need not be submitted to the voters unless four-fifths of the sponsoring committee submit objections to the amended measure, filed in writing with the Finance Director within ten days after the adoption thereof by the Council.

*Amended: Ordinance No. 362, adopted 12/18/79.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 44. Initiative Ballots - Effect of Vote.** The ballots used in voting upon any such proposed measure shall state briefly the substance thereof and shall give the voter the opportunity to vote either "For the Measure" or "Against the Measure". If a majority of the persons voting on any such measure vote in favor thereof, it shall thereupon become an ordinance or resolution of the City, as the case may be. Any number of proposed measures may be voted upon at the same election, and if there is more than one, the voter shall be allowed to vote for or against each separately.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Home Rule Charter of the City of New Ulm, Minnesota (2022 Revision)**

**Section 45. Initiation of Charter Amendments.** Nothing contained in this Charter shall be construed as in any way affecting the right of the voters under the Constitution and Minnesota Statutes to propose amendments to this Charter.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 46. Referendum.** Any ordinance or resolution passed by the City Council, excepting emergency ordinances and resolutions as defined in this Charter and ordinances and resolutions making the annual tax levy, determining the annual budget, and providing for local improvements and special assessments, shall be subject to a referendum vote of the voters of the City, if at any time before the taking effect of such ordinance or resolution as herein provided, there is filed with the Finance Director a petition, signed by registered voters equal in number to fifteen percent of the total number of votes cast at the last preceding general municipal election, requesting the City Council to repeal or amend such ordinance or resolution as proposed in said petition or submit it to the voters of the City for their approval or rejection.

*Amended: Ordinance No. 362, adopted 12/18/79.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 47. Referendum Petitions.** The rules and regulations for the presentation and filing of referendum petitions shall conform as nearly as possible to the rules and regulations prescribed herein for the form and manner of signing initiative petitions, the filing, examination, certification, and sufficiency thereof, and their presentation to the Council by the Finance Director.

*Amended: Ordinance No. 362, adopted 12/18/79.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 48. Action by the Council.** When a referendum petition asking for the repeal or amendment of any ordinance or resolution is presented to the City Council, the Council shall reconsider the said ordinance or resolution and either repeal or amend the same as requested in the petition, or reaffirm the measure as originally adopted. In the latter case the City Council shall immediately order an election for the submission of the repeal or amendment of said measure to the voters of the City, such election to be held not less than thirty nor more than forty-five days thereafter; provided, that if any other municipal, state or primary election is to occur within sixty days after such meeting, the Council may provide for the holding of such referendum election at that time.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

*Amended: Ordinance No. 18-027, 5<sup>th</sup> Series, adopted 12/4/18.*

**Section 49. Referendum Ballots - Effect of Vote.** The ballots to be used in any referendum election shall conform, as near as may be, to the form prescribed herein for ballots in initiative elections. If a majority of the persons voting on the question of repeal or amendment vote to repeal or amend the ordinance or resolution, it shall not go into effect, except as amended; but if a majority of the persons voting thereon favor the measure as adopted by the City Council, the measure shall go into effect immediately, or on the date therein specified if later than the date of the election.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 50. Suspension of Ordinances and Resolutions Pending Referendum.** Whenever any referendum petition is filed as herein provided, the subject ordinance or resolution shall be suspended from taking effect during the pendency of the proceedings.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 51. Blanks for Petitions.** The Finance Director shall provide and keep on file at all times forms to be used in the circulation of initiative and referendum petitions.

*Amended: Ordinance No. 362, adopted 12/18/79.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 52. Recall Petitions.** Any five registered voters residing in the City may form themselves into a committee for the purpose of bringing about the recall of an official elected from the City at large. Any five registered voters residing in an individual ward may form themselves into a committee for the purpose of recalling the Councilor representing that ward.

Such committee shall certify to the Finance Director the name of the official whose removal is desired, a statement in not more than two hundred fifty words of the grounds for removal, and their intention to bring about the recall of that official. Thereupon the Finance Director shall furnish the committee with uniform blanks in the form of signature papers for circulation among the voters.

*Amended: Ordinance No. 362, adopted 12/18/79.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 53. Signature Papers and Affidavits.** Each signature paper shall contain, or have attached thereto, a copy of the certificate filed with the Finance Director, and no signatures shall be collected prior to such certification. Each signature paper shall also contain a statement, signed by the members of the committee, setting forth that they are the sponsors of the recall petition.

The signatures affixed to each signature paper shall be in ink or indelible pencil and shall be accompanied by the street address of the residence of the signer. Signers of the petition shall be registered voters who reside in the City or, in the case of a petition for recall of a City Councilor, within the ward represented by that Councilor. At the end of the list of signers there shall be an affidavit by the circulator of the paper to the effect that each signature appended thereto is the genuine signature of the person whose name it purports to be and that it was made in the presence of the affiant. The signature papers when presented for filing shall be treated collectively as one instrument to be known as the recall petition.

*Amended: Ordinance No. 362, adopted 12/18/79.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

*Amended: Ordinance No. 18-027, 5<sup>th</sup> Series, adopted 12/4/18.*

**Section 54. Filing of Petition.** Within thirty days after the filing of the original certificate, the committee shall present the completed petition for filing in the office of the Finance

## Home Rule Charter of the City of New Ulm, Minnesota (2022 Revision)

Director. The Finance Director shall examine the same within the next ten business days, and if the Finance Director finds it irregular in any way, or finds that the total number of registered voters who have signed the petition and who reside within the City or ward, as the case may be, is less than twenty-five percent of the total number of votes cast in the City or ward, as the case may be, at the last preceding regular municipal election, the Finance Director shall so notify all members of the committee, and the committee shall then be allowed a period of ten days in which to present additional signature papers and to correct the petition in all other respects; provided, however, that the committee shall not be permitted to change in any way the statement of the grounds upon which the recall is sought. If at the end of that time the Finance Director finds the petition still insufficient or irregular, the committee shall be notified to that effect and the Finance Director shall file the petition with a certificate of findings endorsed thereon. No further action need then be taken thereon.

*Amended: Ordinance No. 362, adopted 12/18/79.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 55. Recall Election.** If the petition or amended petition is found sufficient, the Finance Director shall transmit it to the City Council without delay, and shall also officially notify the person sought to be recalled.

If the official sought to be recalled resigns within ten days after the receipt by the City Council of the recall petition, the vacancy shall be filled in the manner provided in this Charter for the filling of vacancies in all elective offices, and no recall election need be held.

If the official does not resign within the stated time, the City Council shall at its next meeting provide for a special recall election in the City or the appropriate ward, to be held not less than thirty nor more than forty-five days thereafter; provided, that if any other municipal, state, or primary election is to occur within sixty days after such meeting, the Council may provide for the holding of the recall election at that time.

At such election the official whose removal is sought shall be deemed to be a candidate and that person's name shall be placed on the ballot without any further act on that person's part. Other candidates shall be nominated in the manner provided in this Charter for the nomination of candidates for elective offices.

*Amended: Ordinance No. 362, adopted 12/18/79.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 56. Procedure at Recall Election.** The notice for the election shall contain the committee's statement of the grounds upon which the recall is sought, and also a statement of not more than five hundred words by the official, if such a statement is submitted by the incumbent in writing to the Finance Director not less than fourteen days prior to the recall election. The election itself shall be conducted, to the extent possible, in accordance with the usual procedure in municipal elections.

The ballot to be used at such election shall contain the names of all candidates nominated for the office in which it is desired to create a vacancy, including the name of the official whose recall is sought. If the incumbent fails at such election to receive the highest number of votes, the incumbent shall be deemed removed from office, and the

## Home Rule Charter of the City of New Ulm, Minnesota (2022 Revision)

candidate receiving the highest number of votes shall be deemed the successor in office for the unexpired term.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 57. Recall Limitations.** No recall petition shall be filed against any official within six months of the beginning of that official's current term, and none within six months of the end of an official's term.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 58. Blanks for Petitions.** The Finance Director shall provide and keep on file at all times forms to be used in the circulation of recall petitions.

*Amended: Ordinance No. 362, adopted 12/18/79.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

## COUNCIL PROCEDURE

**Section 59. Regular Meetings.** On the first Tuesday after the first Monday in January in each year, the City Council shall hold what shall be known as the annual meeting. Other regular meetings shall be held on the first and third Tuesday of each month.

*Amended: Ordinance No. 284, adopted 12/19/72.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 60. Special Meetings.** Special meetings, including emergency meetings, may be held at any time upon call of the Mayor, or at the request of any three members acting through the Mayor, and if for any reason the Mayor refuses to act upon such request, then upon the call of members themselves. Notice of special meetings and emergency meetings shall be given in accordance with the requirements of Minnesota Statutes.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 61. Rules of Procedure and Quorum.** The Council shall determine its own rules and order of business, and shall keep minutes of its proceedings. A majority of City Councilors shall constitute a quorum for the transaction of business, but a lesser number may adjourn a meeting.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 62. Meetings to be Public.** All meetings of the City Council shall be public except as otherwise specifically authorized by Minnesota Statutes, and any person shall have access to the minutes or records thereof during regular City business hours.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 63. Organization.** At the next annual meeting following a regular municipal election, the newly elected Councilors shall be sworn into office. The Council shall choose one of its members as Vice-President, who shall preside at all meetings of the



## Home Rule Charter of the City of New Ulm, Minnesota (2022 Revision)

Council in the absence of the President and perform such other duties as may be required by the provisions of this Charter.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 64. Appointments.** At the annual meeting each year, the Council shall appoint a City Attorney and such other officials as are, or may be, required under the provisions of this Charter, Minnesota Statutes, or the ordinances of the City, and whose appointment is not specifically delegated to some other authority. The Mayor shall at these meetings make such nominations for appointments as authorized by this Charter and which require confirmation by the City Council.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 65. Ordinances, Resolutions and Motions.** The final vote upon all ordinances or resolutions, and upon all amendments thereto, shall be by ayes and nays, and the vote of each Councilor shall be recorded in the minutes. The votes of at least three Councilors shall be required for the passage of all ordinances, resolutions, and motions, except as otherwise provided in this Charter. Every ordinance or resolution enacted or adopted by the Council shall be signed by the President of the Council, attested by the Finance Director, and approved by the Mayor, and shall be filed with the Finance Director immediately after its passage.

*Amended: Ordinance No. 362, adopted 12/18/79.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 66. Procedure on Ordinances.** The enacting clause of all ordinances passed by the Council shall be in the words: "Be it Ordained by the City Council of the City of New Ulm". Every ordinance shall be presented in writing. Every ordinance, other than emergency ordinances, shall be considered by the City Council at two meetings, and not voted on until the second meeting. At least three days shall elapse between the first and second consideration of the ordinance. The ordinance shall be posted on the City's web site at least ten days before the City Council meeting at which the ordinance is scheduled for a final vote. If the City does not have an electronic notification system, notice of the proposed ordinance must be posted in the same location as other public notices are posted at least ten days before the City Council meeting at which the ordinance is scheduled for a final vote.

If the City has an electronic notification system, it must notify a person of the notification procedure at the time the person applies for a new business license or renewal, and must notify any person that has signed up for e-mail notification of proposed ordinances at least ten days before the City Council meeting at which the proposed ordinance is scheduled for a final vote.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

*Amended: Ordinance No. 18-027, 5<sup>th</sup> Series, adopted 12/4/18.*

**Section 67. Emergency Ordinances and Resolutions.** An emergency ordinance or resolution is an ordinance or resolution for the immediate preservation of the public peace, health, or safety, in which the emergency is defined or declared in a preamble

## Home Rule Charter of the City of New Ulm, Minnesota (2022 Revision)

thereto, separately voted upon, and agreed to by at least three members of the Council, as recorded by ayes and nays.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 68. Procedure on Resolution.** Every resolution shall be presented in writing before a vote is taken thereon, unless the presentation in writing thereof is waived by unanimous consent and its content is stated on the record before such vote.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

*Amended: Ordinance No. 2022-062, adopted 09/06/22.*

**Section 69. Signing and Approval.** Every ordinance or resolution enacted or adopted by the Council shall be presented by the Finance Director to the Mayor for approval or disapproval within two business days after its passage. The Mayor shall, within five business days after passage by the Council, indicate in writing thereon either approval or disapproval of the ordinance or resolution, and return such ordinance or resolution, together with reasons for disapproval, if any, to the Finance Director.

Upon the return of any such ordinance or resolution that is disapproved by the Mayor, the measure shall be returned to the City Council for reconsideration, and if upon such reconsideration it is approved by the Council by a four-fifths vote of its membership, the measure shall take effect as if approved by the Mayor.

If an ordinance or resolution is not returned by the Mayor within five business days after passage by the City Council, it shall take effect as if approved by the Mayor.

*Amended: Ordinance No. 362, adopted 12/18/79.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 70. Publication of Ordinance.** Except as provided hereafter, every adopted ordinance shall be published at least once in the official paper of the City within fifteen days after such approval. In the case of lengthy ordinances or ordinances including charts or maps, if the City Council determines that publication of the title and a summary of an ordinance would clearly inform the public of the intent and effect of the ordinance, the Council may by a four-fifths vote of its members direct that only the title of the ordinance and a summary be published, with notice that a printed copy of the complete ordinance is available for inspection during regular office hours at the office of the Finance Director. Every adopted ordinance shall be recorded by the Finance Director in a record kept for that purpose, and the affidavit of publication thereof shall be recorded therewith, and the record of said ordinance and affidavit of publication thereof, or a certified copy thereof, shall be deemed sufficient evidence of such adoption and publication.

*Amended: Ordinance No. 362, adopted 12/18/79.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 71. Mayor's Veto of Motions.** A motion passed by the Council involving the expenditure of public funds or the granting of licenses or permits shall be subject to the veto of the Mayor; except that the Mayor's veto power shall not apply to motions

## Home Rule Charter of the City of New Ulm, Minnesota (2022 Revision)

approving or ratifying payments already made in accordance with the provisions of this Charter.

If not vetoed by the Mayor and returned to the Finance Director within five days after its passage, a motion shall have the same effect as if expressly approved by the Mayor. A vetoed motion shall be reconsidered by the Council, and if upon reconsideration it is passed by a four-fifths vote of its membership, the motion shall have the same effect as if approved by the Mayor.

*Amended: Ordinance No. 362, adopted 12/18/79.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 72. When Ordinances and Resolutions Take Effect.** Emergency ordinances and resolutions, and ordinances and resolutions determining the annual budget, making the annual tax levy, providing for local improvements and/or special assessments, approving the sale of bonds, accepting donations or grants, and making accounting or budgetary transfers shall take effect immediately upon their passage and approval, and publication in case of ordinances.

All other ordinances and resolutions enacted by the Council shall take effect thirty days after the date of their passage and approval, and publication in case of ordinances, unless a later date is fixed therein, in which event they shall take effect at such later date. Ordinances and resolutions adopted by the voters of the City pursuant to an initiative shall take effect at the time fixed therein, or, if no such time is designated therein, then immediately upon the adoption thereof.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 73. Reconsideration of Council Vote.** No vote of the City Council shall be reconsidered or rescinded at a subsequent meeting unless there is present at such meeting as large a number of Councilors as were present when the original vote on the measure was taken.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 74. Official Paper.** At the annual meeting each year, the City Council shall designate a legal newspaper as the official newspaper of said City, in which shall be published all ordinances and other proceedings and notices required to be published by this Charter, the ordinances of the City, or Minnesota Statutes; provided, that the City Council may order the publication of such ordinances, notices, and advertisements as may be of general importance in such other newspapers as the Council may direct. The Council shall give priority to its designation of this legal newspaper to a newspaper published in the City.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

*Amended: Ordinance No. 18-027, 5<sup>th</sup> Series, adopted 12/4/18.*

## CITY OPERATIONS

**Section 75. City Manager - Powers and Duties.** The City Manager shall be appointed by the City Council for an indefinite period and may be removed by the Council in accordance with the terms of a valid employment contract, if any, or as an at-will

## Home Rule Charter of the City of New Ulm, Minnesota (2022 Revision)

employee in the absence of a valid employment contract. In the event of removal or resignation of the City Manager, the Council shall immediately take steps to appoint a successor. The City Manager shall be the chief administrative official of the City, and shall supervise and direct the administration of the City's affairs except as otherwise provided in this Charter, and shall be responsible to the City Council for the faithful discharge of duties. The City Manager shall be subject to all of the provisions of this Charter, and to such rules and regulations consistent therewith as may from time to time be adopted by the City Council. The City Manager shall have the following powers and duties:

(1) To attend all meetings of the City Council with the right to take part in its discussions, but without a vote; provided, that the City Council may in its discretion exclude the City Manager from meetings at which that person's removal is considered.

(2) To be the purchasing agent of the City, with power and authority to make purchases for it and to enter into contracts in its behalf, subject to such rules, regulations, and directions as may from time to time be prescribed by the City Council.

(3) To audit and approve in writing all bills and accounts before orders are drawn for their payment.

(4) To make such suggestions and recommendations to the City Council from time to time as necessary or appropriate for the efficient administration of the City's affairs; and the City Council may, whenever it deems fit to do so, refer any question or matter to the Manager for investigation and report.

(5) To keep the City Council fully advised as to the financial condition and needs of the City, and prepare and submit to the City Council the annual budget of the City.

(6) To see that all contracts entered into by the City for public improvements or other purposes are faithfully and honestly performed by the contractor, and that all street and other work ordered or authorized by the City Council is properly performed.

(7) To appoint and remove employees of the City except as otherwise specifically provided in this Charter. Appointment and removal of department head positions shall be subject to the approval of the City Council. All appointments shall be on the basis of merit and fitness and shall be without definite term.

(8) To perform such other duties as may be prescribed by this Charter, or assigned by the City Council not inconsistent with the provisions of this Charter. During the absence or disability of the City Manager, the duties of that office shall be performed by a qualified person designated by the City Manager, or, in the event the City Manager is unable to or fails to designate such a person, by the City Council.

*Amended: Ordinance No. 316, adopted 9/21/76.*

*Amended: Ordinance No. 315, adopted 4/4/78.*

*Amended: Ordinance No. 362, adopted 12/18/79.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 76. Purchases.** All sales or purchases of supplies, materials, equipment or the rental thereof shall be made in conformity with the Minnesota Uniform Municipal Contracting Law, including amendments thereto.

*Amended: Ordinance No. 284, adopted 12/19/72.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 77. Requisitions.** Orders and purchases for or on behalf of the City shall be made in accordance with procedures approved by the City Manager.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 78. Finance Director - Powers and Duties.** The Finance Director shall have the following duties and powers and any other duties and powers established for city clerks and/or city treasurers by Minnesota Statutes:

(1) To act as the chief accounting official of the City and all departments thereof. The Finance Director shall keep a complete set of records showing in detail all of the business and financial affairs and transactions of the City, such records to be maintained in accordance with generally accepted accounting principles for units of local government.

(2) To keep the corporate seal of the City and all papers and records of the City except as otherwise provided in this Charter.

(3) To receive and safely keep all moneys and funds belonging to or under control of the City or any department thereof, including the moneys and funds of the Public Utilities Commission, and any other commission or board of the City.

(4) To be the clerk of the City Council, attend all of its meetings, and keep an accurate record of all proceedings, which shall be the official minutes of the City Council; all proceedings shall be electronically recorded, and such recordings shall be maintained for a time period in accordance with the data retention policy adopted by the City Council.

(5) To keep an accurate and detailed record of all moneys and property belonging to the City or any department or commission thereof, and to pay all orders out of the particular fund on which they are drawn.

(6) a. To sign all bonds, certificates of indebtedness, warrants, or other evidences of indebtedness at any time issued by the City, and affix the corporate seal thereto, and to sign in behalf of the City any and all contracts authorized by the City Council.

b. To be the custodian of and to safely keep all bonds, certificates of indebtedness, warrants, and other securities owned or held by the City or any of its departments, or by the Public Utilities Commission or any other commission or board of the City.

(7) To deposit all moneys received by the City or any department or commission thereof, in a bank or depository designated by the City Council. All moneys shall be deposited in the name of the City of New Ulm.

(8) Upon request, to prepare and certify under the corporate seal of the City copies of City documents and records, for which a reasonable charge may be made.

(9) To administer oaths and affirmations and to take acknowledgements.

(10) To promptly notify all officials of their election or appointment.

(11) To report the name of any person elected or appointed to any office, who neglects to file the oath of office, to the Council at its next meeting after such default.

(12) To present to the City Council a report, on a monthly basis or as otherwise directed by the City Council, setting forth in detail and classified as to funds, all moneys received and paid out in behalf of the City since the last report, the balance to the credit of each fund, and the balance on deposit in each City depository. At the end of each

## Home Rule Charter of the City of New Ulm, Minnesota (2022 Revision)

fiscal year a similar report shall be presented to the City Council, showing in detail all receipts and disbursements of the City for the fiscal year then ending. All of said reports shall be in such form as may be prescribed by the City Council. The Finance Director shall also make such other and further reports as may from time to time be required by the City Council.

(13) To have such other powers and duties as may be elsewhere provided in this Charter or as may hereafter be prescribed by the City Council or by the City Manager.

*Source: Ordinance No. 316, adopted 9/21/76.*

*Amended: Ordinance No. 362, adopted 12/18/79.*

*Amended: Ordinance No. 85-035, 2nd Series, adopted 11/5/85.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 79. Assistant Finance Director.** The City Manager shall have the power to appoint an Assistant Finance Director who shall, in the absence of the Finance Director, have the same duties and powers as the Finance Director.

*Amended: Ordinance No. 362, adopted 12/18/79.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 80. City Attorney.** The City Attorney shall be a person who has been admitted to practice in the Courts of the State of Minnesota for at least three years prior to appointment. The City Attorney shall be the legal advisor of and attorney for the City and all departments and officials thereof in matters related to their official powers and duties. The City Attorney shall attend all meetings of the City Council; give advice in writing, when so requested, to the Council, the City Manager, or any board or commission; prosecute or defend, as the case may be, all suits or cases to which the City may be a party; prosecute offenses against the ordinances or regulations of the City and such offenses against the laws of the State of Minnesota as may be required of the municipality by law; draft contracts, bonds, and other instruments in writing in which the City is concerned and approve the form and correctness thereof; draft all ordinances; and perform such other duties of a legal nature as the City Council may from time to time require.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 81. City Assessor.** The Assessor shall have and possess all of the authority, rights, powers, and duties of assessors under Minnesota Statutes, now or hereafter enacted. In lieu of appointing a City Assessor, the City Council may contract with the county or other appropriate entity to provide such services for the City.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 82. Board of Health.** The Board of Health shall be comprised of three residents of the City, one of whom shall be designated as Health Officer of the City and executive head of the Board. The Health Officer shall be a licensed practicing physician, and shall receive as compensation for services such salary as the City Council may determine at the time of appointment. All members of the Board shall be appointed by

## Home Rule Charter of the City of New Ulm, Minnesota (2022 Revision)

the Mayor, with the approval of the Council. Board members shall hold office for a period of one year or until their successors are duly appointed and qualified.

The Board shall enforce the ordinances of the City pertaining to sanitary conditions and the public health, and shall perform all duties prescribed for municipal health boards and health officials by the laws of the State of Minnesota, and in the performance of such duties they may exercise all the powers conferred by said laws.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 83. Public Records.** Records of the City shall be open to inspection by members of the public in accordance with the provisions of the Minnesota Government Data Practices Act, including any amendments thereto.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 84. Investigation of City Affairs.** The Council and any official formally authorized by it, shall have power to make investigations into the City's affairs, to subpoena witnesses, administer oaths, and compel the production of documents, records, and other evidence.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 85. Audits.** As soon as practicable after the close of each fiscal year an independent audit shall be made of all accounts of all City officials and departments by a certified public accountant selected by the City Council and having no personal interest, direct or indirect, in the financial affairs of the City or any of its officials; but if such an audit is required to be made by state officials under the provisions of any law for the inspection and audit of municipal accounts, the City Council may accept such audit by state officials as fulfilling the requirements of this section for an independent annual audit. The City Council may at any time provide for an examination or audit of the accounts of any official or department of the City.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 86. Service of Process.** Whenever any suit or action is commenced against the City, all and every process and notice whatsoever affecting the City shall be served upon the Mayor, or, in the Mayor's absence, upon the Finance Director, and it shall be the duty of the official so served to forthwith inform the City Council thereof.

*Amended: Ordinance No. 362, adopted 12/18/79.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 87. Police Department.** The Police Department of the City shall consist of a Chief of Police and other police officers in such numbers as the City Council may from time to time determine.

The City Manager shall have the power to appoint the Chief of Police and other police officers with the participation of the Police Commission as provided in Section 88, and to remove them as appropriate, in accordance with contractual and other legal requirements; provided, however, that removal shall be subject to confirmation by a majority vote of the Police Commission. Disciplinary action other than removal shall be determined and implemented by the Chief of Police and/or City Manager.

## Home Rule Charter of the City of New Ulm, Minnesota (2022 Revision)

The Chief of Police shall be in immediate control and supervision of all of the police officers and shall be responsible for the faithful performance of their duties.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 88. Police Commission.** The Police Commission shall consist of three members, one of whom shall be elected Chair. The Commission members shall be appointed by the Mayor, subject to approval by the City Council, and shall serve without compensation for a three-year term. A member may serve two consecutive full terms, but then must be retired. After one year or more has passed since the end of a person's last term, the person may be reappointed for one additional term.

The Police Commission shall conduct interviews of applicants for police officer positions and promotions, including the Chief of Police, and shall compile a roster of recommended candidates for use by the City Manager in making appointments to such positions. The Commission shall confirm or deny a proposed removal by the City Manager of police officers other than the Chief of Police. The Commission shall exercise no other control over the Police Department or its employees.

Any complaint made to the City Manager or Chief of Police relative to misconduct of a police officer shall be filed with the Commission for its consideration before considering appointments and promotions.

The Commission shall act as an advisory body and shall meet with the Chief of Police and City Manager at the call of the Chair or the City Manager.

*Amended: Ordinance No. 295, adopted 11/5/74.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 89. Qualifications.** Criteria for appointment to the Police Department shall be determined by the Police Commission, consistent with the requirements established by the Minnesota Peace Officer Standards and Training Board or other applicable state agency.

*Amended 11/8/68.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 90. Duties.** The duties of all police officers shall be such as Minnesota Statutes and the ordinances of the City may prescribe for the preservation of the public peace, the prevention and detection of crime, the arrest of offenders, the protection of the rights of persons and property, and the enforcement of laws of the State of Minnesota and the ordinances and regulations of the City.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 91. Powers of Police Officers.** The Chief of Police and all police officers of the Department shall possess the powers, authority and rights of police officers under federal and state law.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 92.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*



## Home Rule Charter of the City of New Ulm, Minnesota (2022 Revision)

**Section 93. Special Police.** The Chief of Police may, in case of riot, large public gatherings, or disturbances, appoint such special or temporary police officers as necessary, but such special or temporary appointments shall not continue in effect for more than one week without the consent of the City Council.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 94.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 95. Compensation.** The salaries or compensation of the Chief of Police and all non-unionized police officers shall be fixed by the City Manager, subject to approval by the City Council. The salaries or compensation of unionized police officers shall be as established through the collective bargaining process set forth in the Minnesota Public Employees Labor Relations Act, including amendments thereto.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 96. Fire Department.** The City Council shall have the power to make and enforce all regulations reasonably necessary for the prevention of fires and the elimination of fire hazards within the City, consistent with the provisions of the Minnesota State Fire Code, including amendments thereto.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 97. Fire Apparatus and Fire Department.** The City Council shall have the power to authorize the purchase of all apparatus, equipment, and supplies necessary for the extinguishing of fires; to erect fire stations and buildings needed for the proper housing of such apparatus and equipment; to establish fire alarm systems and other devices for the prompt and effective handling of fires; to authorize support, and maintain an adequate and efficient department of fire companies; and to establish rules and regulations relating to these matters.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 98. Chief of the Fire Department.** The Chief of the Fire Department shall be appointed by the City Manager, subject to the approval of the City Council. The Chief of the Fire Department shall appoint such other Fire Department officers as may be appropriate and necessary, subject to the approval of the City Council. The Chief of the Fire Department shall have the authority to enforce all ordinances of the City relating to fire prevention and shall have the right to enter and examine any building and all parts thereof at all reasonable hours for the purpose of enforcing all such ordinances.

*Amended: Ordinance No. 304, adopted 9/2/75.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

*Amended: Ordinance No. 18-027, 5<sup>th</sup> Series, adopted 12/4/18.*

**Section 99.** *Repealed: Ordinance No. 18-027, 5<sup>th</sup> Series, adopted 12/4/18.*

**Section 100. Compensation.** The compensation to be paid to the Chief of the Fire Department and other officials or members of the department shall be determined by the City Manager, subject to the approval of the City Council.

## Home Rule Charter of the City of New Ulm, Minnesota (2022 Revision)

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

*Amended: Ordinance No. 18-027, 5<sup>th</sup> Series, adopted 12/4/18.*

**Section 101. Library Board.** The City Council shall maintain a public library for the use of the general public and may levy an annual tax for such purpose. In addition thereto or in lieu thereof, the City Council may participate in a regional public library system or regional library district established pursuant to Minnesota Statutes Chapter 134, including amendments thereto.

The Library Board shall have the powers and duties hereinafter specified and shall be comprised of nine residents of the City, not more than one of whom may be a member of the City Council, each appointed by the Mayor for a three-year term, subject to approval by the City Council. A member may serve two consecutive full terms, but then must be retired. After one year or more has passed since the end of a person's last term, the person may be reappointed for one additional term.

*Amended: Ordinance No. 295, adopted 11/5/74.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 102. Vacancies and Compensation.** Vacancies on the Library Board shall be reported to the City Council and filled by like appointment for the unexpired term. Members shall receive no compensation for their services on the Library Board.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 103. Organization of Library Board - Powers and Duties.** The Library Board, at its annual meeting, shall organize by electing one of its members as Chair, one as Vice-Chair, and one as Secretary.

The Library Board shall adopt such by-laws and regulations for the government of the library and for the conduct of its business as may be necessary and appropriate. It shall have control of the expenditure of all moneys collected for or placed to the credit of the library fund, and of the grounds, rooms, and buildings provided for library purposes. All moneys received for the library shall be paid into the City treasury, credited to the library fund, accounted for separately from other moneys of the City, and paid out in accordance with Section 135 of this Charter with a monthly report of payments provided to the Library Board.

The annual levy for library purposes shall not be diminished by reason of gifts, legacies, and donations.

Library employees shall be appointed and removed by the City Manager, with appointment or removal of the Library Director and Assistant Library Director subject to approval by the Library Board.

*Amended: Ordinance No. 362, adopted 12/18/79.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 104. Reports of Library Finances and Operations.** The Library Director shall report to the Library Board on a monthly basis, and annually if requested by the Library Board, all revenues received and the sources thereof, and amounts expended and the purposes thereof. The Library Board shall annually provide to the City Council the

## Home Rule Charter of the City of New Ulm, Minnesota (2022 Revision)

number of library materials on hand, library use and activity, and such other pertinent information as may be requested by the City Council. The Finance Director shall provide to the Library Board all monthly or annual financial records as may be requested by the Library Board, including the annual general government audit. No later than April 1 of each year, the Library Board shall file required financial and operational information with the Minnesota Department of Education.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 105. Title to Property - Free Use.** All property given, granted, conveyed, donated, devised, or bequeathed to or otherwise acquired by the City for library purposes shall vest in and be held in the name of the City of New Ulm, and any conveyance, grant, donation, devise, bequest, or gift made to or in the name of the public library shall be deemed to have been made directly to the City. The library shall be forever free for the use of the residents of the City of New Ulm, subject to such reasonable regulations as the Library Board may adopt.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

## FINANCIAL MANAGEMENT

**Section 106. Finances - 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 moneys, and shall make provisions for the payment of all liabilities and expenses, all subject to the provisions of this Charter.

**Section 107. Fiscal Year.** The fiscal year of the City shall end each year on the last day of December.

**Section 108. Funds - Division Thereof.** All City moneys shall be accounted for in separate and distinct funds in accordance with generally accepted accounting principles for units of local government.

*Amended: Ordinance No. 85-035, 2nd Series, adopted 11/5/85.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 109.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 110. Payments by Public Utilities Commission.** Whenever bonds, certificates of indebtedness, or other obligations of the City are issued for the acquisition, construction, purchase, equipment, maintenance, replacement, reconstruction, extension, enlargement, or other improvement to or of any public utility, now or hereafter owned or operated by the City, the Public Utilities Commission shall pay the principal and interest owing on such bonds, certificates of indebtedness, or other funded obligations, when and as they become due.

If the Public Utilities Commission is unable for any reason to make payment of the principal and interest of said obligations when due, or any part thereof, it shall become

## Home Rule Charter of the City of New Ulm, Minnesota (2022 Revision)

the duty of the City Council to provide for the payment of the same in some lawful manner, but any bonds issued by the City, or any moneys advanced or provided by the City for that purpose, shall be regarded as the primary obligation of such utility and shall be paid or repaid to the City out of the earnings and revenues of such utility as soon as practicable.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 111.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 112. Transfer of Funds.** The City Council may, by four-fifths vote, transfer moneys from one fund to another, but shall have no authority to transfer any moneys or securities from or out of any debt service fund, unless the amount to the credit of such fund exceeds the amount needed to pay all outstanding bonds or other funded obligations for which it was created, and then only as to such excess; nor to transfer any moneys or securities from or out of the Cemetery Trust Fund under any circumstances except as permitted by Minnesota statutes.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 113. Application of Moneys to Particular Funds.** All taxes and moneys received or appropriated for any particular fund shall be paid into and credited to such fund; and all taxes and moneys received by the City, not appropriated or otherwise payable to any particular fund, shall be credited to the General Fund.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 114. The Budget - Preparation of Annual Budget.** On or before the last regular meeting in September of each year, the City Manager shall prepare a proposed budget of the revenue and expenditures of the City for the next fiscal year, which shall contain a detailed estimate of the revenues and requirements of each fund for such year, and a comparison of budgeted categories with the corresponding items for the current fiscal year and the preceding two or more fiscal years. The proposed budget shall be accompanied by the recommendation of the City Manager as to the amount to be appropriated for each fund, with reasons therefor, in such detail as the City Council may direct. The City Manager may submit with the proposed budget such explanatory statement or statements as necessary.

The proposed budget shall be in printed or electronic form. A copy thereof shall be furnished to the Mayor, City Manager, Finance Director, and each member of the City Council. A printed copy of the proposed budget shall be available for inspection or examination by any person during regular business hours at the office of the Finance Director, and the proposed budget shall also be available to the public by means of electronic posting and/or communication.

*Amended: Ordinance No. 362, adopted 12/18/79.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

*Amended: Ordinance No. 2022-063, adopted 09/06/22.*

## Home Rule Charter of the City of New Ulm, Minnesota (2022 Revision)

**Section 115. Passage of the Budget.** The budget shall be considered at the last regular monthly meeting of the Council in September, and the Council shall hold adjourned meetings from time to time until all the estimates have been considered. The meetings shall be so conducted as to give interested citizens reasonable time in which to be heard, and an opportunity to make such inquiries as may seem pertinent to them. The City Manager shall explain the various items thereof as fully as may be deemed necessary by the Council. The annual budget as finally agreed upon shall be adopted by resolution setting forth the budget in detail, and a summary thereof shall be recorded in the minutes of the Council proceedings. The Council shall adopt a budget resolution not later than the second regular monthly meeting in December.

*Amended: Ordinance No. 284, adopted 12/19/72.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

*Amended: Ordinance No. 2022-063, adopted 09/06/22.*

**Section 116. Enforcement of the Budget.** It shall be the duty of the City Council and the City Manager to enforce the provisions of the budget. They should not allow or approve any claim or demand against the City unless an appropriation has been made therefor in the budget, nor any expenditure covered by the budget unless there is sufficient unexpended balance left therein; and the City Manager and Finance Director shall not issue any order for the payment of any such claim or demand unless such expenditure is specifically authorized by the City Council.

*Amended: Ordinance No. 362, adopted 12/18/79.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 117. Veto by Mayor.** Promptly upon adoption of the budget resolution it shall be transmitted to the Mayor for approval or veto, and shall be considered and returned by the Mayor as in the case of ordinances or other resolutions. The Mayor may approve or veto the whole or any part or item thereof, excepting that the Mayor shall have no authority to veto any sum or item therein contained for the payment of the funded debt of the City or the interest thereon. If the budget is vetoed by the Mayor, the Council shall reconsider the vote by which the budget was passed, but if only some items are vetoed, the reconsideration shall be only as to such items. If upon such reconsideration four members vote to approve the budget or such items, the same shall be deemed to be duly adopted and in full force and effect. Upon such final adoption of the budget resolution the sums fixed therein shall be deemed appropriated for the next fiscal year.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 118. Alterations in the Budget.** After the budget has been adopted, the City Council shall have no power to increase the appropriations therein, either by the insertion of any new items or otherwise, in excess of the estimated revenues, unless the actual receipts exceed such estimates, and then only to the amount of such excess; and the City Council shall have no authority to reduce the amounts appropriated in the budget for the payment of principal or interest on bonds, certificates of indebtedness, or outstanding warrants of the City.

Subject to the foregoing provisions, and except as hereinbefore provided, the City Council may at any time, by resolution adopted by a four-fifths vote, change or alter the

## Home Rule Charter of the City of New Ulm, Minnesota (2022 Revision)

amount appropriated for any purpose or object in the budget, whether in the same or any other fund, and authorize appropriate transfers in the budget accounts to effect the same; and may also by like vote authorize the transfer of an unexpended and unencumbered balance or use of fund balance for any lawful purpose or object.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 119. Taxation - Property Subject to Taxation.** All real, personal, and other property within the City, except such as may be exempt by Minnesota Statute, shall be subject to taxation for the support of the City government and the payment of its debts and liabilities, and all taxes shall be assessed and collected in the manner provided for by Minnesota Statutes, except as hereinafter provided; provided, that nothing herein contained can be construed as limiting the levying and collecting of special assessments as provided for in this Charter.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 120. Board of Equalization.** The City Council shall constitute a Board of Equalization and shall have and possess all of the authority, rights, powers, and duties of like boards under Minnesota Statutes now or hereafter enacted, and shall be governed as to the time and place of meeting and in all other respects by such laws.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 121. Levy and Collection of Taxes.** Each year the Council shall levy by resolution the taxes necessary to meet the requirements of the budget for the ensuing fiscal year. The Finance Director shall promptly transmit to the County Auditor-Treasurer, in accordance with dates established by the State of Minnesota for certification of levies, a statement of all the taxes levied, and also all delinquent special assessments levied upon any real property within the City, and such taxes and assessments shall be collected and the payment thereof shall be enforced with and in like manner as state and county taxes.

*Amended: Ordinance No. 362, adopted 12/18/79.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 122.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 123. Limit of Tax Levy and 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 and to modify the same from time to time. Insofar as the City procures revenue from taxes on real and personal property, it shall conform as fully as possible to Minnesota Statutes as to the assessment of such property and the collection of such taxes.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 124. City Depositories - Council to Designate Depositories.** The City Council shall have power to designate, and from time to time, redesignate, one or more

**Home Rule Charter of the City of New Ulm, Minnesota (2022 Revision)**

banks or financial institutions, in the City of New Ulm or elsewhere, in which the Finance Director shall deposit and keep the moneys and funds of the City.

*Amended: Ordinance No. 362, adopted 12/18/79.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 125. Bond of Depositories.** To the extent that City funds on deposit at the close of a depository's banking day exceed available federal deposit insurance, the financial institution shall be required to furnish collateral security or a corporate surety bond in accordance with Minnesota Statutes Section 118A.03, including amendments thereto.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 126. Finance Director's Exemption From Liability.** The Finance Director shall keep the funds of the City in the depositories designated by the City Council, and when so deposited the Finance Director shall be exempt from liability for the loss of any funds so deposited if such loss is caused by the failure, bankruptcy, or any other act or default of such depository.

If the City Council fails to designate a depository or depositories, the Finance Director shall maintain City funds in accordance with the City's investment policy then in effect.

*Amended: Ordinance No. 362, adopted 12/18/79.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 127. Investment of Funds - Approved Investments.** Sufficient money shall always be retained in each debt service fund to provide for the prompt payment when due of the principal and interest of obligations for which such fund was created. Such money shall be deposited in a depository or depositories of the City designated by the City Council as otherwise provided in this Charter.

All moneys belonging to any debt service fund or to any permanent fund of the City, not so deposited in a depository or depositories of the City, may be invested only in securities authorized by Minnesota Statutes.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 128.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 129.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 130.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 131.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 132. Allowance and Payment of Claims - Verification of Claims.** Every account, claim, or demand against the City, except as otherwise provided in this Charter, shall be itemized and verified by the claimant to the effect that the service, labor, or material therein mentioned has been actually performed or furnished as therein stated, that the claim is just and correct, and that no part thereof has been paid.

## Home Rule Charter of the City of New Ulm, Minnesota (2022 Revision)

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 133.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 134.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 135. Money - How Paid Out.** No money shall be paid out of the City treasury unless reviewed and approved by the head of the department against which the expenditure will be charged, then authorized by the City Manager and payment issued by the Finance Director.

The City Manager shall make a monthly report in writing to the City Council, showing in detail the payments made since the last monthly report. Any City Councilor may request additional information about a payment, and the City Manager shall provide the requested information to all Councilors, and to members of the public requesting the same, not later than the next City Council meeting.

*Amended: Ordinance No. 362, adopted 12/18/79.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 136. Orders - How Signed.** Every order for payment of a claim shall be signed by the City Manager and countersigned by the Finance Director and shall designate the purpose for which it is drawn and the fund out of which it is payable, and shall be payable only out of such fund. No order on any such fund shall be drawn unless there is money to the credit of such fund sufficient to pay the same together with all orders previously issued against such fund.

*Amended: Ordinance No. 362, adopted 12/18/79.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

## ISSUANCE OF BONDS

**Section 137. Municipal Indebtedness - Scope.** The City Council may authorize bonds to be issued in the name of the City of New Ulm for any lawful purposes, utilizing such procedures for issuance and sale as established for local governments by federal and/or state statutes and regulations, including amendments thereto. The word "bonds" as used herein shall include any and all bonds, certificates of indebtedness, warrants, or other funded obligations of the City, authorized as stated and evidencing indebtedness of the City payable with interest at future and stated times.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 138. Tax Exemption.** All bonds of the City shall be issued in the name of the City of New Ulm and shall be exempt from all taxation to the extent permitted by federal and state statutes.

*Amended: Ordinance No. 284, adopted 12/19/72.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 139.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*



**Home Rule Charter of the City of New Ulm, Minnesota (2022 Revision)**

**Section 140.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 141.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 142.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 143.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 144.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 145.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 146.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 147.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 148 - 153.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 154.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 155.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 156. Validation of Certain Proceedings and Obligations.** All proceedings had or taken at or prior to the time that this Charter or any amendment thereto becomes effective, by the City of New Ulm and its City Council and officials, in the matter of authorizing and ordering of local improvements of any kind, the making of contracts therefor, the determination of the costs and benefits, the levying of assessments, and the authorization and issuance of warrants, certificates of indebtedness, and bonds of the City on account hereof, including the advancement of moneys for such projects from various funds of the City, and the delivery of such bonds, certificates of indebtedness, and warrants to such funds in replacement of such advances, and the assessments so levied, and the bonds, certificates of indebtedness, and warrants so issued, are hereby all and singular in all respects legalized and validated; and any and all such bonds, certificates of indebtedness, and warrants are hereby declared to be valid and binding obligations of the City of New Ulm, according to the terms thereof, and of the resolutions or ordinances authorizing their issuance.

Notwithstanding any defects, errors or omissions in such proceedings, and without regard to the provisions of the laws under which such proceedings were attempted to be had, and as to any such proceedings which may be pending when this Charter takes effect, the City Council may complete the same, as nearly as may be, according to the provisions of the laws under which they were commenced.

Any bonds, certificates of indebtedness, or warrants so delivered to and held in any fund or account of the City may be sold by the officials charged with the administration of such respective funds or accounts whenever moneys are required for the purposes for which they were created.

**Home Rule Charter of the City of New Ulm, Minnesota (2022 Revision)**

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 157.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**STREETS, ALLEYS AND SIDEWALKS**

**Section 158. City Council to Have Control.** The City Council shall have the care, supervision, and control of all rights-of-way, highways, streets, and alleys within the limits of the City, and all sidewalks, crosswalks, bridges, culverts, retaining walls, and other structures therein or thereon.

*Amended: Ordinance No. 18-027, 5<sup>th</sup> Series, adopted 12/4/18.*

**Section 159. Laying Out and Changing Streets.** The City Council shall have power to lay out or open any new right-of-way, street, highway, or alley within the City, and to close, widen, straighten, extend, or otherwise alter or change any right-of-way, street, highway, or alley now or hereafter existing in the City.

*Amended: Ordinance No. 18-027, 5<sup>th</sup> Series, adopted 12/4/18.*

**Section 160. Improvement of Highways Outside City Limits.** The City Council may appropriate and expend such reasonable sums as it deems proper to assist in the improvement and maintenance of roads and bridges lying beyond its boundaries and leading into it, either within or without the county in which it is situated.

**Section 161. Vacations - Petition.** The City Council shall have sole and exclusive power to vacate streets, alleys, and highways within the City after hearing and consideration as provided hereafter. The City Council may order a hearing on a proposed vacation on its own motion or upon the petition of one or more abutting owners. Such petition, accompanied by a diagram of the street, alley, or highway proposed to be vacated, shall set forth the reasons for the proposed vacation and shall be verified by oath of the petitioners.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 162. Vacations - Order for Hearing - Publication.** The City Council shall set a time and place for a hearing on the proposed vacation, and shall direct that notice be given to all interested persons or parties, by publication in the official newspaper of the City for two successive weeks, at least once in each week, which notice shall state that the proposal or petition will be heard and considered by the City Council at said time and place.

*Amended: Ordinance No. 362, adopted 12/18/79.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 163. Vacations - Determination by the City Council.** The City Council shall hear and consider the proposed vacation at the time and place so appointed and shall receive the testimony and evidence of all interested persons and make such further investigation concerning said matter as it deems best; and may thereupon, by resolution

## Home Rule Charter of the City of New Ulm, Minnesota (2022 Revision)

adopted by not less than four-fifths vote of its members, declare such street, alley, or highway, or any part thereof, vacated; and thereupon a copy of such resolution, duly certified by the Finance Director, shall be recorded in the office of the County Recorder of Brown County, Minnesota.

*Amended: Ordinance No. 362, adopted 12/18/79.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 164. Vacations - Appeals.** Within ten days after the adoption of a resolution vacating a street, alley, or highway within the City, or any part or portion thereof, any person being aggrieved thereby may appeal therefrom to the District Court of Brown County, Minnesota, by serving upon the Mayor, or in the Mayor's absence, upon the Finance Director, a notice of appeal stating briefly the grounds thereof, and giving a bond in the sum of One Thousand Dollars to the City, to be approved by a Judge of said Court conditioned that the appellant will duly prosecute the appeal and pay all costs and disbursements which may be adjudged against the appellant, and abide the order of the Court.

Such notice of appeal, with proof of service, and said bond so approved as stated, shall be filed with the Court within ten days after the adoption of said resolution, and if not so filed the appeal shall be ineffective and shall be dismissed.

As soon as any such appeal is taken, it shall be the duty of the appellant to cause to be transmitted to the Court a certified copy of the record of all City Council proceedings in such matter. The appellant shall pay the Finance Director the reasonable fees and charges therefor.

The appeal shall be placed upon the court calendar, and shall be tried as other appeals are tried in such cases.

*Amended: Ordinance No. 362, adopted 12/18/79.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 165. Vacations - Plat to be Filed.** Whenever any highway, street, or alley is laid out, widened, enlarged, or vacated under the provisions of this Charter, the City Council shall cause an accurate survey and plat thereof to be made in duplicate. One copy thereof shall be filed in the City, and the other shall be filed in the office of the Brown County Recorder.

*Amended: Ordinance No. 370, adopted 8/5/80.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 166. Right of Way Over Streets.** The City Council has authority by a four-fifths vote of its members to grant a right-of-way upon, over, or through any of the public streets, highways, and alleys of the City, and also to grant the exclusive use of any portion of any street, alley, or public highway, not required for public uses, to any railway company, or other corporation or person, upon such limitations and conditions as may be prescribed by the City Council; but any such grant shall be deemed a license and may be revoked by the City Council at any time. The authority to grant the exclusive use of any portion of a street, alley, or public highway shall be delegated to the City Manager if such use is to be for a period of less than fourteen days; provided, that the

**Home Rule Charter of the City of New Ulm, Minnesota (2022 Revision)**

City Council may override the City Manager's decision by a four-fifths vote of its members.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 167. Street Grades.** The City Council has authority to establish the grade of any street, alley, or sidewalk, and may by vote of four-fifths of the members of the Council change the same after it has been established.

It shall cause accurate profiles of all grades established or changed to be kept in the office of the City Engineer.

*Amended: Ordinance No. 362, adopted 12/18/79.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 168. Sidewalks - Property Owners to Build and Maintain Same.** Whenever the City Council, under the authority hereby granted, orders the construction of sidewalks along any highway, street, or alley within the City, it shall be the duty of the owners of land, adjoining or fronting upon such highway, street, or alley to construct the same of such material and width, and upon such place and grade, as the City Council may prescribe; and it shall also be the duty of such owners to reconstruct such sidewalks when required so to do by the Council, to maintain them at all times in good order and repair, and to promptly remove snow, ice, and obstructions therefrom.

In ordering the construction or reconstruction of any sidewalks, the Council shall direct, by resolution, where and how the work is to be done, specifying in detail the type of construction and fixing the time within which the work is to be completed. A notice stating briefly the directions embodied in the resolution shall be served on each owner of the property affected, either personally, or by leaving a copy thereof at the owner's usual place of residence with a person of suitable age and discretion, or by mailing a copy thereof by registered mail to the owner's last known mailing address, or by publishing the same at least once in the official newspaper of the City.

If the work is not done within the time prescribed, the City Council shall proceed to have the work performed, and to levy and assess the cost thereof upon and against the land adjacent to or fronting upon such sidewalk, and to collect such assessments, all in the manner provided in this Charter for the making and collection of special assessments. Various lots and parcels of land owned by different persons may be included in one assessment proceeding.

*Amended: Ordinance No. 362, adopted 12/18/79.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 169. Sidewalks - Repairs and Snow Removal by the City.** The City Council shall establish by ordinance the obligations of property owners for maintenance, repairs, removal of snow, ice, and obstructions, and other care of sidewalks adjacent to the property. If a property owner fails to provide the required maintenance and care, the City may provide for the work to be performed and then bill the property owner therefor.

In all cases where the charges for work performed have not been paid to the City by the property owner, the City Council shall, once in each year, assess and levy the cost of performing such work upon the lots and parcels of land fronting or abutting upon

## Home Rule Charter of the City of New Ulm, Minnesota (2022 Revision)

sidewalks which have been so repaired, or from which the snow, ice, or obstruction has been so removed by the City, and shall collect such assessments, all in the manner provided in this Charter for the making and collection of special assessments. Assessments for all such repairs and maintenance of sidewalks within the year may be combined in one assessment proceeding.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 170. Liability for Obstructions and Excavations.** Any person who shall render any street, alley, or highway within the City insufficient or unsafe for travel or public use, either by reason of any unauthorized excavations or obstructions in or upon said street, alley, or highway, or by reason of negligence in the making or maintaining of any authorized excavation or obstruction, or by reason of failure to maintain proper guards or lights for the same, shall be primarily liable for all damages resulting when not caused by the negligence of the party or parties injured. In the event that any claim is made against the City in such circumstances, such person shall indemnify the City and hold it harmless from all such claims.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 171. Limitations of Actions.** Every person who claims damages from the City of New Ulm for or on account of any loss, injury, or death sustained by reason of any defect in any bridge, street, sidewalk, road, park, public works, or any grounds or places whatsoever, or by reason of the negligence of the City or any of its officials, agents, servants, or employees, shall cause to be presented to the City, within the time period required by Minnesota Statutes, a written notice stating the time, place, and circumstances thereof and the amount of compensation or other relief demanded.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

*Amended: Ordinance No. 18-027, 5<sup>th</sup> Series, adopted 12/4/18.*

**Section 172.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 173. Liability for Insufficiency of Streets.** The acceptance of plats of additions, or subdivisions thereof, either within or without the limits of said City, shall not make the City liable to grade the streets therein designated, nor responsible for any insufficiency of such streets, unless the City Council shall by resolution direct the same to be graded and opened for travel.

## PUBLIC IMPROVEMENTS AND SPECIAL ASSESSMENTS

**Section 174. Power to Make Improvements.** The City of New Ulm is hereby vested with, and authorized and empowered to exercise the power to make public improvements of the nature and for the purposes permitted by Minnesota Statutes Chapter 429, including amendments thereto. The City is authorized to recover all or a portion of the cost of such improvements from the owners of benefited property. The procedures prescribed by Minnesota Statutes Chapter 429, including amendments thereto, shall govern the making of such improvements and assessment therefor.

**Home Rule Charter of the City of New Ulm, Minnesota (2022 Revision)**

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 175.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 176.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 177.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 178. City and Other Municipalities to Pay Proportionate Share of Costs.**

The City of New Ulm, and any county, school district, other municipality, or other governmental agency, shall contribute and pay toward the cost of any such improvement its proportionate share thereof, on account of real property owned by it abutting on the improvement or benefited thereby, to the amount that such improvement would have been assessed if owned by an individual.

The amount to be contributed by the City or any such county, school district, other municipality, or other governmental agency on account of any such improvement shall be determined by the City Council in the proceeding to levy special assessments therefor against other benefited property, and the same notices with respect to the making of such improvements and levying assessments therefor shall be given to such county, school district, other municipality, or other governmental agency, as to other property owners.

If any county, school district, other municipality, or other governmental agency fails to promptly pay its share of the cost of any such improvement, as so determined, the City may recover the amount thereof in an appropriate civil action.

*Amended: Ordinance No. 331, adopted 11/1/77.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 179. City May Pay Part of Cost.** The City may, if the City Council so determines, pay the whole or any part of the cost of making such improvements between street intersections or between street and alley intersections, and such other part or portion of the cost of making such improvement or improvements as it deems just and equitable.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 180.** The City Council may establish by ordinance the identification of public nuisances and procedures to abate the public nuisances, including the responsibility of property owners or occupants of property to remove weeds, rubbish, and other conditions determined to be blight or public health or safety hazards, to trim and care for trees and the removal of unsound trees on their property, or to perform other abatements addressing public nuisances. If a property owner or occupant or other person as designated by the ordinance fails to comply with the provisions of the ordinance, the City may provide for the work to be performed, and the costs of doing so shall be a charge owed to the City by the responsible person. In all cases where the charges for work performed have not been paid to the City by the responsible person, the City Council shall, once in each year, assess and levy the cost of performing such

**Home Rule Charter of the City of New Ulm, Minnesota (2022 Revision)**

work upon the lots and parcels of land upon which the work was performed and which were affected by the work, and shall collect such assessments, all in the manner provided for by the provisions of this Charter, the ordinances of the City, or otherwise by state law for the making and collection of special assessments. All such assessments may be combined in one assessment proceeding.

*Source: Ordinance No. 18-027, 5<sup>th</sup> Series, adopted 12/4/18.*

**Section 180.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 181.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 182.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 183.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 184.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 185.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 186.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 187.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 188.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 189.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 190.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 191.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 192.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 193.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 194.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 195.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 196.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 197.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 198.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 199.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Home Rule Charter of the City of New Ulm, Minnesota (2022 Revision)**

**Section 200.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 201.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 202.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 203.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 204.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 205.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 206.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 207.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**PUBLIC UTILITIES**

**Section 208. Public Utilities Commission.** There is hereby created and established in the City of New Ulm a Public Utilities Commission, which shall have sole and exclusive management and control of the Water System, the Electric Production System, the Electric Distribution System, the Gas System, the District Energy System, and the Wastewater Treatment System, now owned and operated by the City, and of any other utility now or at any time hereafter owned or operated by the City and determined to be a Public Utility by the City Council.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 209. Appointment - Qualification - Terms of Office.** The Commission shall consist of five members, each of whom shall be a resident and registered voter of the City. They shall be appointed by the Mayor.

The term of office of each member shall be three years, commencing on the date of the Commission's first regular meeting in January and continuing until a member's successor is appointed and qualified.

A member may serve three consecutive full terms, but must then be retired. After one year retirement the member may be reappointed for one additional term.

*Amended: Ordinance No. 295, adopted 11/5/74.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 210. Appointments Subject to Confirmation.** All appointments of members of the Commission, including those to fill vacancies, shall be subject to confirmation by the City Council.



**Section 211. Vacancies in Commission.** All vacancies in the Commission, by resignation or otherwise, shall be filled by appointment by the Mayor for the unexpired term.

**Section 212. Removal of Members of Commission.** Any member of the Commission may be removed by a four-fifths vote of the City Council, but no such member shall be removed except for cause and until the member has been furnished with a written statement of the charges against the member, and has had a reasonable opportunity to respond to the charges.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 213. Compensation of Members.** Members of the Commission shall receive compensation as fixed by the City Council, and may be paid actual and necessary expenses incurred by them in performance of their duties. If the City Council fails to fix the compensation for the Commission members, they shall receive the same annual compensation as City Councilors.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 214. Powers and Duties of Commission.** Except as otherwise provided in this Charter, the Commission shall have full and exclusive control of and power over the Water System, the Electric Production System, the Electric Distribution System, the Gas System, the District Energy System, and the Wastewater Treatment System now owned and operated by the City and of all other utilities at any time hereafter owned or operated by the City, including all buildings, structures, machinery, apparatus, equipment, materials, supplies, and all other property belonging to or appurtenant to the same; and shall also have full and exclusive control and power over all moneys, bonds, certificates of indebtedness, warrants, and other securities in any fund of the Commission.

All meetings of the Public Utilities Commission shall be public except as otherwise provided by Minnesota Statutes. Records of such public meetings shall be available to the public during business hours. The Public Utilities Commission shall meet in a place prescribed by the City Council.

The Commission shall have power:

(1) To operate each and all of said utilities and to do any and all things necessary for the economical management, control, and operation thereof.

(2) To keep the same in repair, and to make necessary replacements, extensions, improvements, changes, and additions thereto; provided, however, that the Commission shall have no power to make any replacements, extensions, improvements, changes, or additions which require the issuance of the bonds of the City to pay for the same, in whole or in part, or which are to be paid for in whole or in part by special assessment upon property benefitted thereby; but in such cases, the Commission shall recommend to the City Council, in writing, the making of such replacements, extensions, improvements, changes, or additions, whereupon the City Council shall in its discretion proceed to make the same and to issue bonds or levy assessments upon benefitted property, as the case may be, to pay for the same, in whole or in part. Upon completion of such replacements, extensions, improvements, changes, or additions, the

## Home Rule Charter of the City of New Ulm, Minnesota (2022 Revision)

Commission shall have full control and management thereof, including power to operate the same.

(3) To buy fuel, supplies, and other materials.

(4) To fix and determine the rates and charges to be made for water, electricity, gas, and other services furnished by said utilities, and to collect the same and all other earnings and revenues of said utilities; provided, however, that whenever any new schedule of rates is adopted for any of the utilities, or any change or alteration is made in the existing schedules, affecting either a part or all of the patrons of such utility, the Commission shall cause publication of such new schedule, or such change or alteration, to be made in the official newspaper of the City.

(5) To prescribe the time and manner in which payment for all such service shall be made, and to provide for the discontinuance or termination of such service in case of non-payment, and in its discretion to require payment in advance for any or all of such service.

(6) To make and enforce reasonable rules and regulations pertaining to such service and the distribution and use thereof, and the operation of said utilities, and to prescribe penalties for the violation thereof. All current rules, resolutions, regulations, and ordinances shall remain in full force and effect until repealed, altered, or amended by the Commission.

(7) To prescribe the form of books of account to be kept by the Commission, provided that such methods conform to generally accepted accounting principles for units of local government.

(8) The Commission shall have the right to the reasonable use of the streets, alleys, and other public grounds of the City for the purpose of maintaining and operating such utilities and repairing the same, or making any extensions, improvements, changes, or additions thereto; but whenever the surface of any street, alley, or public ground is disturbed, the Commission shall cause the same to be promptly restored, as nearly as may be, to its original condition.

(9) To make, perform, and enforce contracts in the name and in behalf of the City, and to do any and all other things that may be necessary or proper to carry out the purposes expressed herein.

(10) On or before the regular October meeting of the Public Utilities Commission, the City Manager shall prepare a proposed budget of the revenue and expenditures of the Commission for the next fiscal year, which shall contain a detailed estimate of the revenues and requirements of each fund for such year. The proposed budget shall be accompanied by the recommendation of the City Manager as to the amount to be appropriated for each fund, with reasons therefor, in such detail as the Commission may direct. The City Manager may submit with the proposed budget such explanatory statement or statements as necessary. The proposed budget shall be in printed or electronic form. A copy thereof shall be furnished to each member of the Commission, the Mayor, City Manager, each member of the City Council, the Finance Director, and the Utilities Director. A copy shall be posted on the City's website at the time the proposed budget is submitted to the Commission for consideration. A copy of the proposed budget shall be kept in the Finance Director's office and shall be available for inspection or examination by any person during regular business hours. The

## Home Rule Charter of the City of New Ulm, Minnesota (2022 Revision)

Commission shall adopt a budget resolution not later than the regular monthly meeting in December.

(11) The Commission shall provide to the City Council the annual budget and the annual audit report for Public Utilities operations as soon as practicable after adoption or receipt.

*Amended: Ordinance No. 284, adopted 12/19/72; Amended: Ordinance No. 331, adopted 11/1/77;*

*Amended: Ordinance No. 362, adopted 12/18/79.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 214A. Lien and Certification for Unpaid Utility Services.** Utility charges and services provided for in this section shall be the primary responsibility of the owner of the premises served and all such charges and payments shall be a lien upon the property receiving the utility services. The Finance Director shall have the authority to collect delinquent charges by any lawful means available including, but not by way of limitation through collection agencies, Certification for payment in the same manner as the property taxes, and the Minnesota Revenue Recapture Act.

*Amended: Ordinance No. 2022-064, adopted 09/06/22.*

**Section 215. Voters to Approve Sale, Lease or Abandonment.** No public utility now or hereafter owned by the City, nor any part thereof, shall be sold, leased, or abandoned except by resolution adopted by four-fifths vote of the City Council; and no such resolution shall become effective until it has been submitted to the voters of the City at a regular or special election and approved by a majority vote of the persons voting thereon at such election.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 216. Officers.** At the regular meeting in January of each year, the Public Utilities Commission shall elect from its membership a President and a Vice-President, who shall hold office for one year and until their successors are elected and qualified.

The Finance Director shall perform the functions of Secretary and Treasurer of the Commission unless the Commission elects such officers from its membership.

Such other officers as the Commission may deem necessary or proper shall be appointed from time to time, and the Commission shall prescribe the respective duties of such officers, all of whom shall hold office at the pleasure of the Commission.

*Amended: Ordinance No. 362, adopted 12/18/79.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 217. Duties of the President.** The President shall preside at all meetings of the Commission and sign all rules and regulations authorized by the Commission.

**Section 218. Duties of the Vice-President.** The Vice-President shall perform the duties of the President in case of the latter's absence or disability.

**Section 219. Duties of the Finance Director.** The Finance Director shall have the following duties and powers:

## Home Rule Charter of the City of New Ulm, Minnesota (2022 Revision)

(1) To be the chief accounting official of the Commission and to keep a complete set of accounting records, showing in detail all of the business and financial affairs and transactions of the Commission, and to receive and safely keep all moneys and funds belonging to the Commission.

(2) To be the custodian of all of the books and records of the Commission, except as otherwise provided in this Charter, and to be custodian of and safely keep all bonds, certificates of indebtedness, warrants, and other securities owned by the Commission for any purpose whatsoever.

(3) To attend all meetings of the Commission, and keep accurate records of all of its proceedings. To keep an accurate and detailed record of all Commission moneys and property received or disbursed. To keep a separate account for each fund, and pay out no money, except upon an order signed by the City Manager.

(4) To deposit all moneys received and belonging to the Commission, in a bank or depository designated by the City Council. All moneys shall be deposited in the name of The City of New Ulm - Public Utilities Commission. To sign all checks when authorized so to do as provided in this Charter. To sign contracts authorized by the Commission pursuant to the provisions of this Charter.

(5) To present a report to the Commission, on a monthly basis or as otherwise directed by the Commission, setting forth in detail and classified as to funds, all moneys received and paid out in behalf of the Commission since the last report, the balance to the credit of each fund, and the balance on deposit in each City depository. At the end of each fiscal year a similar report shall be presented to the Commission, showing in detail all receipts and disbursements of the Commission for the fiscal year then ending. All of said reports shall be in such form as may be prescribed by the Commission.

(6) Copies of all reports made by the Commission as provided in this section shall be furnished to the City Council.

(7) The Finance Director shall have such other powers and duties as may be elsewhere provided in this Charter, or as may hereinafter be prescribed by the Commission or by the City Manager.

*Amended: Ordinance No. 362, adopted 12/18/79.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 220.** *Repealed: Ordinance No. 362, adopted 12/18/79.*

**Section 221. Duties of City Manager.** The City Manager shall have the following powers and duties:

(1) To attend all meetings of the Commission, with the right to take part in its discussions, but without a vote.

(2) To be the purchasing agent of the Commission, with authority to make purchases for it and to enter into contracts in its behalf, subject to such rules, regulations, and directions as may from time to time be prescribed by the Commission.

(3) To audit and approve in writing all bills and accounts before orders are drawn for their payment.

## Home Rule Charter of the City of New Ulm, Minnesota (2022 Revision)

(4) To make suggestions and recommendations to the Commission from time to time as appropriate; and the Commission may, whenever it sees fit to do so, refer any questions or matter to the Manager for investigation and report.

(5) To perform such other duties as may be prescribed by this Charter or required or authorized by the Commission, not inconsistent with the provisions hereof, and to prepare and submit to the Commission the proposed annual budget of expenditures and revenues.

(6) To appoint and remove all employees of the Public Utilities except as otherwise specifically provided in this Charter. Appointment and removal of department head positions shall be subject to the approval of the Public Utilities Commission. Appointment of all employees shall be on the basis of merit and fitness and shall be without definite term.

(7) To exercise administrative control over all departments and divisions of the Public Utilities now in existence or which may be hereafter created by the City Council or the Utilities Commission.

*Amended: Ordinance No. 331, adopted 11/1/77.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

### **Section 222. Duties of the Utilities Director.**

(1) The Utilities Director of the Public Utilities Commission shall have charge of the physical property of the City under operation of the Public Utilities Commission and the operation of all utilities of the City, subject to the provisions of this Charter, and to any rules, regulations, and directions given by the City Manager.

(2) The Utilities Director shall prescribe the duties of the employees and recommend to the City Manager suspension or removal of employees for cause.

(3) The Utilities Director shall attend all meetings of the Commission, with the right to take part in its discussions, but without a vote.

(4) The Utilities Director shall make such suggestions and recommendations to the Manager from time to time as appropriate and necessary, and the Manager may refer any question or matter to the Utilities Director for investigation and report.

(5) The Utilities Director shall perform such other duties as may be prescribed by this Charter or required by the Commission or City Manager, not inconsistent with the provisions hereof.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 223. Compensation of Officials and Employees.** No salary or compensation shall be paid by the Public Utilities Commission to the City Attorney, Finance Director, or City Manager, but the Commission shall pay to the City such shares of their salaries as may be agreed upon by the Commission and the City Council.

The salary or compensation of the Utilities Director and of all other non-unionized employees of the Commission shall be fixed by the City Manager, subject to approval by the Public Utilities Commission. The salaries or compensation of unionized employees shall be as established through the collective bargaining process set forth in the Minnesota Public Employees Labor Relations Act, including amendments thereto.

*Amended: Ordinance No. 315, adopted 4/4/78; Amended: Ordinance No. 362, adopted 12/18/79.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Home Rule Charter of the City of New Ulm, Minnesota (2022 Revision)**

**Section 224. Requisitions.** Orders and purchases for or on behalf of the Commission shall be made in accordance with procedures approved by the City Manager.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 225. Uniform Municipal Contracting Law.** All sales, purchases, or rental of supplies, materials, and equipment shall be made in conformity with the Minnesota Uniform Municipal Contracting Law, Minnesota Statutes section 471.345, including amendments thereto. The process of advertising and awarding bids by the Public Utilities Commission shall be as provided for elsewhere in this Charter for contracts authorized by the City Council.

*Amended: Ordinance No. 284, adopted 12/19/72.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 226. Allowance and Payment of Claims.** Any account, claim, or demand against the Commission, except as otherwise provided in this Charter, shall be itemized and verified by the claimant, and approved by the City Manager, in like manner as in the case of accounts, claims, or demands against the City.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 227. Money - How Paid Out.** No money shall be paid out unless reviewed and approved by the head of the department against which the expenditure will be charged, then authorized by the City Manager and payment issued by the Finance Director. The City Manager shall make a monthly report in writing to the Commission, showing in detail the payments made since the last monthly report. Any member of the Public Utilities Commission may request additional information about a payment, and the City Manager shall provide the requested information to all members of the Commission, and to members of the public requesting the same, not later than the next Public Utilities Commission meeting.

*Amended: Ordinance No. 362, adopted 12/18/79.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 228. Orders - How Signed - Form.** Every order for payment of a claim shall be signed by the City Manager and countersigned by the Finance Director and shall designate the purpose for which it is drawn and the fund out of which it is payable, and shall be payable only out of such fund. No order on any fund shall be drawn unless there is money to the credit of such fund sufficient to pay same together with all orders previously issued against such fund.

*Amended: Ordinance No. 362, adopted 12/18/79.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 229. Repair - Construction - And Other Work - How Performed.** The construction, alteration, repair, or maintenance of real or personal property shall be made in conformity with the Minnesota Uniform Municipal Contracting Law, Minnesota Statutes section 471.345, including amendments thereto.

## Home Rule Charter of the City of New Ulm, Minnesota (2022 Revision)

*Amended: Ordinance No. 284, adopted 12/19/72.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

### **Section 230. Public Utilities Commissioners Not to be Interested in Contracts.**

Except as provided in Minnesota Statutes sections 471.87 to 471.89, including amendments thereto, no member of the Public Utilities Commission shall have a personal financial interest, or personally receive financial benefit from, any sale, lease, or contract made or entered into by the Public Utilities Commission.

*Amended: Ordinance No. 370, adopted 8/5/80.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 231. Funds - Division Thereof.** All Public Utilities Commission moneys shall be accounted for in separate and distinct funds in accordance with generally accepted accounting principles for units of local government.

*Amended: Ordinance No. 284, adopted 12/19/72.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 232.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 233.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 234. Transfer of Funds.** The Commission may at any time, by unanimous vote, all members being present, transfer money from any fund of one utility to any fund of another utility.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 235. Percentage to be Paid City.** Five percent of the Public Utilities Commission's gross receipts from all sources shall be paid over to the Finance Director quarterly to be expended by the City Council for such general municipal purposes as the City Council may direct. This is in lieu of taxes.

In case of emergency, the Utilities Commission may, if its funds warrant, pay to the City a sum of money in addition to the payment specified above, but under no condition shall said sum exceed twenty-five percent of the Public Utilities Commission's net profits from the preceding fiscal year.

*Amended: Ordinance No. 362, adopted 12/18/79.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 236. Inability to Pay.** If at any time the Commission is unable for lack of funds or other reason to make payments on outstanding bonds, in whole or in part, it shall give notice to the City Council, and it shall thereupon be the duty of the City Council to make provision for the payment thereof as otherwise provided in this Charter.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 237.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Home Rule Charter of the City of New Ulm, Minnesota (2022 Revision)**

**Section 238. Investments.** Investment of moneys belonging to any fund of the Public Utilities Commission shall be made in accordance with the City's investment policy then in effect.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 239. Finance Director's Exemption From Liability.** The Finance Director shall be exempt from all liability for the loss of the money that is invested in accordance with the City's investment policy then in effect.

*Amended: Ordinance No. 362, adopted 12/18/79.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 240.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**AWARDING CONTRACTS FOR IMPROVEMENTS, REPAIRS, ETC.**

**Section 241. Work - How Performed.** The construction, alteration, repair or maintenance of real or personal property shall be made in conformity with the Minnesota Uniform Municipal Contracting Law, Minnesota Statutes section 471.345, including amendments thereto.

*Amended: Ordinance No. 284, adopted 12/19/72; Amended: Ordinance No. 362, adopted 12/18/79.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 242.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 243. Advertising for Bids.** In cases where bids are to be received for any such work, and plans and specifications therefor have been adopted and filed as hereinbefore provided, the City Council shall direct the City Manager to advertise for sealed bids for the same, in accordance with such plans and specifications, and appoint a time and place for receiving such bids. Such advertisement shall be published in the official newspaper of the City for not less than once each week for two consecutive weeks, and in such other manner as may be required and as the Council may direct.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

*Amended: Ordinance No. 18-027, 5<sup>th</sup> Series, adopted 12/4/18.*

**Section 244. Cash or Certified Check to Accompany Bid.** Each bid shall be accompanied by a cash deposit, certified check, or bidder's bond for not less than five percent of the amount of such bid payable to the City, to insure the execution of a contract between the bidder and the City for the doing of such work in accordance with said bid, and for the furnishing of a bond for the faithful performance thereof as required by law and this Charter; and if the successful bidder shall fail to enter into the contract with the City for the doing of said work or to furnish such bonds, the amount of such deposit, certified check, or bidder's bond shall be forfeited to the City as liquidated damages for such default.

*Amended: Ordinance No. 284, adopted 12/19/72.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*



**Section 245. Form of Advertising.** All such advertisements for bids shall state in general terms the nature of the work to be done; when the plans and specifications therefor may be examined; within what time bids will be received therefor by the Finance Director; the time and place where they will be opened and considered by the City Council; that no bids will be received or considered unless sealed and filed with the Finance Director within the time stated; that each bid shall be accompanied by a cash deposit, certified check, or bidder's bond for not less than five percent of the amount of each bid, payable to the City; and that the City reserves the right to reject any and all bids and the discretion to waive minor irregularities in the bids or bidding process.

*Amended: Ordinance No. 362, adopted 12/18/79.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 246. Opening of Bids.** The City Council shall meet at the time and place mentioned in the advertisement for bids and publicly open and review all bids received, or the City Council may direct the City Manager or other appropriate City staff to open and review such bids and to report the results to the City Council.

*Amended: Ordinance No. 362, adopted 12/18/79.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 247. Acceptance of Bids.** The City Council shall consider the bids so received, and if it decides to award a contract for the work, the lowest responsible bid shall be accepted; but the Council may reject any and all bids, and may call for new bids for the doing of said work. The City Council shall also have discretion to waive irregularities in a bid or in the bid process when the irregularity is deemed minor, and the waiver thereof will benefit the City, and the waiver will not violate the Minnesota Uniform Municipal Contracting Law or other statute.

In determining the responsibility of a bidder, the City Council may consider the bidder's financial responsibility, experience, and ability otherwise to perform the contract, without reference to the responsibility of the sureties of the bidder's bond. Any bidder who has defaulted in any contract with the City, or who has refused to enter into contract after the same has been awarded to that bidder, or to furnish bond for the performance thereof, may be rejected on that basis as not being a responsible bidder. The determination of the City Council as to the responsibility of any bidder shall be final and conclusive.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

*Amended: Ordinance No. 18-027, 5<sup>th</sup> Series, adopted 12/4/18.*

**Section 248. Execution of Contract and Bond.** All contracts shall be executed by the bidder within ten days after the acceptance of the bid, and the bidder shall within said time furnish and deliver to the City a bond for the performance of said contract, as hereinafter specifically provided.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 249. Contractor's Bond.** The successful bidder shall give bond to the City of New Ulm as required by Minnesota Statutes Sections 574.26 to 574.32, including

## Home Rule Charter of the City of New Ulm, Minnesota (2022 Revision)

amendments thereto, and the provisions of said statutes shall apply to any contract entered into by and between the City and such bidder.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 250.** *Repealed: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 251. City Councilors Not to be Interested in Contracts or Purchases.**

Except as provided in Minnesota Statutes sections 471.87 to 471.89, including amendments thereto, no City Councilor shall have a personal financial interest, or personally receive financial benefit from, any sale, lease, or contract made or entered into by the City Council or the Public Utilities Commission.

*Amended by Ordinance No. 370, adopted 8/5/80.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 252. Collusion Between City Officials and Bidders.** Any official or employee of the City who aids or assists any bidder in securing a contract to furnish labor, materials, or supplies at a higher price than that proposed by any other bidder; or who favors one bidder over another by giving or withholding information; or who willfully misleads any bidder in regard to the character of the materials or supplies called for; or who knowingly accepts materials or supplies of a quality inferior to those called for by any contract; or who knowingly certifies to a greater amount of labor performed or to the receipt of a greater amount or different kind of material or supplies than has been actually received, shall be deemed guilty of malfeasance and such action shall be grounds for removal from office or employment.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 253. Collusion Between Bidders - Contract Void.** Whenever any person or party to whom a contract has been awarded has conspired or agreed with any other person or party to do any act or thing, or refrain from doing any act or thing whereby competition in the letting of said contract or in the receiving of bids therefor has been or may be hindered, restricted, or prevented, the City Council may declare the contract so awarded to be null and void; and thereupon it may advertise for new bids for said work or otherwise provide for the doing thereof in the manner provided in this Charter.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

## FRANCHISES

**Section 254. Definition.** The word "franchise" as used in this Charter shall be construed to mean any special right or privilege granted to any person or entity to use any part or portion of any street, alley, structure, or public place of said City as a public utility or for any other purpose, whether such right or privilege has been or may hereafter be granted by the City, the State of Minnesota, or any other authority; but a temporary license or permission to use the streets, alleys, or public places of the City, for a period not exceeding one year, will not be considered a franchise within the meaning of this Charter.

## Home Rule Charter of the City of New Ulm, Minnesota (2022 Revision)

*Amended by Ordinance No. 295, adopted 11/5/74.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 255. Power to Grant.** The City Council may grant franchises by ordinance adopted by a four-fifths vote, but in no case shall a franchise, or an amendment to any of the provisions thereof, be granted by an emergency ordinance. Any and all franchises at any time granted by the Council shall be subject to all of the provisions and limitations contained in this Charter.

**Section 256. Proposed Franchises to be Referred to Public Utilities Commission.** Before a franchise is granted or renewed, the matter shall be referred by the City Council to the Public Utilities Commission for investigation and report. The said Commission shall consider the same, make such investigation thereof as it deems proper, report in writing as promptly as possible its conclusions to the City Council, and make such recommendations pertaining thereto as it sees fit; and at its discretion it may submit with said report a form of franchise for the consideration of the City Council. Such report shall be advisory only, but the City Council shall have no right or authority to grant or renew any franchise until the matter has been investigated and report made by the Public Utilities Commission, unless the Commission fails to make its report within sixty days after such reference, in which event the City Council may proceed without such report.

*Amended: Ordinance No. 295, adopted 11/5/74.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 257. Renewals and Extensions.** Any renewal or extension of a franchise shall be subject to all of the conditions and provisions of this Charter, applying to new or original franchise.

**Section 258. Provisions and Publication.** Every ordinance granting, renewing, or extending any franchise shall contain all of the terms and conditions of the franchise, and shall be published as in the case of other ordinances.

**Section 259. Time and Limit of Franchises.** No perpetual or exclusive franchise shall ever be granted; nor shall any franchise be granted for more than twenty-five years.

*Amended: Ordinance No. 82-018, 2nd Series, adopted 6/15/82.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 260. Power of Regulation.** In all franchises or renewals thereof granted by virtue of this Charter, the City Council shall have authority to reserve to the City the power to reasonably regulate and control the exercise thereof, within the City, by any person or entity receiving the same; to require proper and adequate extensions of plant and service and the maintenance of the same at the highest practical standard of efficiency; to establish reasonable standards of service and quality of products, and prevent unjust discrimination in service or rates; and to require the holder of any such franchise, at the franchisee's own cost and expense, to place, move, relocate, re-route, or place underground, any poles, wires, pipes, conduits, or other attachments or fixtures

**Home Rule Charter of the City of New Ulm, Minnesota (2022 Revision)**

which it shall place in or upon any public street, alley, or public place in the City, under or by authority of said franchise.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 261. Rates and Charges.** Except as prohibited or superseded by federal or state law or regulation, all rates charged by any franchisee shall be subject to prior approval by the City Council. Any changes in a franchise, any renewal or modification of a franchise, and any rate increases and rate renewals shall be applied for by the franchisee and reviewed as follows:

(1) Within ninety days of such application the Public Utilities Commission shall hold a public hearing on such application, subject to ten days prior published notice in the official newspaper, and shall report its recommendation to the City Council.

(2) The City Council shall act upon such application, approving, modifying, or rejecting all or any part thereof.

*Amended: Ordinance 82-018, 2nd Series, adopted 6/15/82.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 262.** *Repealed: Ordinance 82-018, 2nd Series, adopted 6/15/82.*

**Section 263. Right to Terminate Franchise.** The City Council may, by ordinance, terminate any franchise for non-acceptance thereof by the grantee within the time limited therein, or for misuse or non-use, or for failure to begin or complete construction within the term prescribed by the franchise, or for any other failure to comply with its terms.

**Section 264. Transfer of Franchise.** No sale, transfer, or lease of any franchise shall be valid or effective unless approved by the City Council by ordinance or resolution. Copies of all deeds, transfers, leases, mortgages, or other documents affecting any such franchise, or the property of the holder thereof situated within the City of New Ulm, shall be promptly filed with the Finance Director upon the execution thereof; and no sale, transfer, or lease of any franchise shall be approved until copies of such documents are filed as hereinbefore provided. Nor shall any such transfer, sale, or lease be effective unless and until the assignee or lessee files in the office of the Finance Director an instrument in writing, duly executed, reciting the facts of such transfer, sale, or lease, and accepting the terms of the franchise and agreeing to perform all the conditions therein contained. The assignee or lessee shall also, at the option of the City Council, file a bond in such amount and under such conditions as the City Council may determine, with sureties satisfactory to the Council, obligating the assignee or lessee to perform and discharge all of the conditions and provisions imposed by said franchise.

*Amended: Ordinance No. 362, adopted 12/18/79.*

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 265. Acceptance of Franchise.** Every franchise, and every extension or renewal thereof, shall be accepted in writing by the grantee within thirty days after its

## Home Rule Charter of the City of New Ulm, Minnesota (2022 Revision)

approval by the Council, and before its submission to the voters in case of a referendum. Such acceptance shall be construed to be an acceptance of and consent to all of the terms, conditions, and limitations contained in the ordinance granting the franchise, and also all of the provisions of this Charter. No franchise shall be binding upon the City until accepted by the grantee as provided in this section.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 266.** *Repealed: Ordinance No. 82-018, 2nd Series, adopted 6/15/82.*

**Section 267. Other Provisions of Franchise.** The enumeration in this Charter of particular conditions or provisions which are to be included in or made a part of every franchise, or renewal or extension thereof, shall not be construed as impairing or limiting the right of the City to insert therein such other and further conditions and provisions as the Council may deem proper to protect the City's interests; nor shall anything contained in this Charter limit any right or power possessed by the City over existing franchises.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

**Section 268. Arbitration of Labor Disputes.** If any controversy, dispute, or disagreement arises between any franchisee operating in the City and its employees, which, in the opinion of the Council, interferes or threatens to interfere with the service to which the City or its residents are entitled, the Council shall have power to compel the parties involved in the controversy to submit the same to a board of arbitration under such procedure as may be provided by statute. The findings of such arbitral authority shall be advisory, unless the parties shall agree in advance to make such findings mandatory.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*

## MISCELLANEOUS PROVISIONS

**Section 269. Provisions Severable.** The various sections and provisions of this Charter, and the clauses, phrases, and sentences thereof, shall be severable, and if any section, part, or provision shall be held to be invalid, it shall not be construed as invalidating any other part or portion thereof.

**Section 270. When Charter Amendments Become Effective.** Amendments to this Charter made by ordinance of the City Council shall become effective ninety days after passage and publication of such amendments unless a later date is specified in the adopting ordinance. If within sixty days after passage and publication of the adopting ordinance, a petition requesting a referendum on the amendments is filed with the Finance Director, which petition meets all requirements set forth in Minnesota Statutes Section 410.12, subd. 7, including amendments thereto, the amendments to the Charter shall not take effect until approval by a majority of the voters voting on the issue at a general or special election at which the issue is submitted to the voters of the City.

*Amended: Ordinance No. 11-090, 4<sup>th</sup> Series, adopted 6/21/11.*