

**ORDINANCE NO. 2009-03**

**AN ORDINANCE AMENDING MINNETONKA CITY CHARTER  
SECTIONS 2.06, 6.02, 12.03, AND 12.06, AND ADDING A NEW SECTION 9.02,  
REGARDING COUNCIL VACANCIES, AN EMPLOYEE ETHICS CODE,  
ACQUISITION OF PROPERTY FOR PARK PURPOSES,  
STREET VACATIONS, AND MANAGING RIGHTS-OF-WAY**

---

The City of Minnetonka Ordains:

Section 1. Preamble.

The Minnetonka charter commission voted on November 6, 2008, to recommend amendments to sections of the Minnetonka charter, and the addition of a new section. Notice of a public hearing on the proposed amendments, including the text of the proposed amendments, was published in the city's official newspaper on January 13, 2009. The public hearing was held on February 9, 2009 before the city council, at which time all people desiring to be heard were given an opportunity to address the council. After considering the advice of the charter commission and any comments from citizens, the city council has determined that the amendments are relatively minor and may be appropriately adopted by ordinance rather than by an election.

Section 2. Subdivision 3(a) and subdivision 6 of section 2.06 of the Minnetonka city charter are amended to read as follows:

Subd. 3.

a. The council must on its own motion declare by resolution that a vacancy exists when a vacancy occurs for a reason other than death or resignation. If the council fails to act or is unaware of a vacancy, a resident who is an eligible voter in the city may submit a written request with supporting facts to the city clerk, asking the council to declare a vacancy ~~and giving supporting facts~~. A request submitted within 90 days after another request for the same council position will not be considered under this section. The council must ~~respond to~~ act on the written request within 14 days after submission to the clerk, unless a vote approved by 75% of the council members present authorizes an additional 14 days.

Subd. 6. No special election is required to fill a vacancy when:

(a) the vacancy is declared or automatically occurs on or after the first day to file affidavits of candidacy for the next regular municipal election; or

---

The ~~stricken~~ language is deleted; the underlined language is inserted.

- (b) ~~less than two years~~ or less remain in the unexpired term.

Section 3. Section 6.02 of the Minnetonka city charter is amended to read as follows:

Section 6.02. City Manager's Powers and Duties.

The city manager is responsible for administration of the city's business, subject to the provisions of this charter and any council regulations. The city manager has the power and duty to:

- a. ensure that this charter, city ordinances and resolutions are enforced and implemented;
- b. appoint, suspend, and remove city employees on the basis of merit and fitness. The appointment and removal of the city attorney and the removal of department directors is subject to council approval;
- c. adopt and enforce appropriate policies governing employment practices and employee conduct, including a code of ethics;
- d. manage departments and divisions of the city administration;
- ~~e.~~ attend council meetings with the right to participate in discussions but not vote. The council may exclude the city manager from a meeting at which the city manager's removal is considered, to the extent permitted by law;
- ~~f.~~ recommend to the council measures deemed necessary for the public welfare and the efficient administration of the city's business;
- ~~g.~~ keep the council fully informed about the city's financial condition and needs, and prepare and submit the annual budget to the council;
- ~~h.~~ prepare an administrative code or policy manual incorporating the details of administrative procedure; and
- ~~i.~~ perform other duties prescribed by law, this charter, or the council.

Section 4. Section 12.03 of the Minnetonka city charter is amended to read as follows:

Section 12.03. Interest in Contracts.

A city officer or employee who is authorized to take part in any manner in a city contract may not voluntarily have a personal financial interest in the contract, or personally benefit financially from it, except as permitted by law. The council must adopt a code of ethics ordinance governing the official conduct of all elected officials, and appointed officials, and city employees. The council may take whatever action it deems appropriate after finding that this ethical code has been violated, including disqualifying an official from voting on a particular matter.

Section 5. A new section 9.02 is added to the Minnetonka city charter to read as follows:

Section 9.02. Acquisition of Property for Park and Open Space Purposes.

Acquisition of property for park and open space purposes is an authorized public purpose. "Park purposes" include playground, trail, parkway, open space, and any other recreational purpose. "Open space" includes land and water areas retained for use as active or passive recreation areas or for resource protection.

Section 6. Section 12.06 of the Minnetonka city charter is amended to read as follows:

Section 12.06. Vacation of Streets, Use of Public Rights-of-Way.

Subd. 1. The council may by resolution vacate all or part of streets, alleys, public ways and public grounds. A vacation may be approved only if the council determines that it is in the public interest. The council may initiate the vacation on its own motion. An owner of land abutting on the property to be vacated may also submit a petition for vacation. If a petition is submitted and is signed by a majority of the abutting landowners, the resolution must be adopted by at least ~~five votes~~ two-thirds of all council members eligible to vote; otherwise, the resolution must be approved by at least ~~six votes~~ three-fourths of all council members eligible to vote. The names and number of relevant landowners will be determined from official tax records.

Subd. 2. The council must hold a public hearing before approving a vacation. Notice of the hearing must be published in the official means of publication at least two weeks in advance. Notice must also be mailed at least 10 days in advance of the hearing to the owner of each abutting property, and to each landowner in the plat if the property to be vacated was dedicated as part of a plat.

Subd. 3. The council may further regulate vacation proceedings by ordinance. A copy of the vacation resolution will be filed with the appropriate county officials.

Subd. 4. The council may by ordinance establish a procedure for managing public rights-of-way that are under the city’s jurisdiction. The ordinance may include a process to permit the private use of a right-of-way that is not being physically used or occupied by the public, upon such terms and conditions as the council may provide.

Section 7. This ordinance is effective 90 days after publication.

Adopted by the city council of the City of Minnetonka, Minnesota, on February 23, 2009.

\_\_\_\_\_  
Terry Schneider, Mayor

ATTEST:

\_\_\_\_\_  
David E. Maeda, City Clerk

**ACTION ON THIS ORDINANCE:**

Date of introduction: February 9, 2009  
Date of adoption: February 23, 2009  
Motion for adoption: Wiersum  
Seconded by: Greves  
Voted in favor of: Allendorf, Ellingson, Greves, Hiller, Schneider, Wagner, Wiersum  
Voted against:  
Abstained:  
Absent:  
Ordinance adopted.

Date of publication:

---

The ~~stricken~~ language is deleted; the underlined language is inserted.

CERTIFIED COPY:

I certify that the foregoing is a correct copy of an ordinance adopted by the city council of the City of Minnetonka, Minnesota, at a meeting held on February 23, 2009.

---

David E. Maeda, City Clerk