ORDINANCE NO. 2019-01

AN ORDINANCE AMENDING MINNETONKA CITY CHARTER
SECTIONS 2.03 AND 2.06, REGARDING TERMS OF CITY
COUNCIL MEMBERS AND VACANCIES IN THE COUNCIL

The City of Minnetonka Ordains:

Section 1. Preamble.

The Minnetonka charter commission voted on November 20, 2018 to recommend amendments to sections 2.03 and 2.06 of the Minnetonka City Charter, regarding terms of council members and vacancies in the council. 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 December 6, 2018. The public hearing was held on January 7, 2019 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 may be appropriately adopted by ordinance rather than by an election.

Section 2. Section 2.03, subdivision 2 of the Minnetonka city charter is amended to read as follows:

Subd. 2. Each council member, including the mayor, serves for a term of four years or until a successor is elected and qualifies. All terms start on the first Monday of January following the date of the officer’s election.

Section 3. Section 2.06 of the Minnetonka city charter is amended to read as follows:

Section 2.06. Vacancies in the Council.

Subd. 1. Death or resignation. A vacancy in a council position automatically occurs on the date an incumbent dies. A vacancy also automatically occurs when an incumbent submits a written resignation to the mayor, city manager, or city clerk, effective on the date specified. If the date is not specified, the vacancy is created on the date of submittal. If the date of submittal is unknown, then the vacancy will occur on the date the official receives the written resignation.

Subd. 2. Other vacancies. A vacancy in a council position also exists in the following situations:

a. failure of an elected person to qualify on or before the date of the council’s second regular meeting in the year after the election;

b. termination of residency in the city;
c. except as provided in section 2.04, termination of a ward council member's residency in the ward from which elected;

d. conviction of a felony either before or after qualification for office; or

e. loss of qualifications for the elective office.

Subd. 3. Procedure to declare vacancy.

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.

b. 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. A request submitted within 90 days after another request for the same council position will not be considered under this section. Within 45 days after receipt of the request, the council must investigate the claim and either declare that a vacancy exists or that the request lacked adequate evidentiary support.

Subd. 4. Procedure to fill vacancy.

a. A special election is required to fill a vacancy when:

   (1) the vacancy has been declared, or has automatically occurred, before the first day to file affidavits of candidacy for the next regular municipal election; and

   (2) more than two years remain in the unexpired term.

When this subdivision 4.a. applies, the city council must adopt a resolution to set the date for the special election at the first regular or special meeting of the city council occurring after the vacancy automatically occurs or at the same meeting at which the vacancy is declared. The special election must be held in accordance with subdivision 5 of this section. The person elected will serve the unexpired term for that office. The city council, at its option and at the same or a subsequent meeting, may make an interim appointment of a person to fill the vacancy until a successor is elected at the special election and qualifies for the office.

b. If a special election is not required by subdivision 4.b. above, the council may either appoint an eligible person to serve until expiration of the position's term or fill the vacancy by special election. Upon notice of an impending resignation, the council may begin the process of determining how to fill the vacancy. No later than 60 days after a vacancy automatically occurs or is declared to exist, the council must appoint an eligible person to fill the vacancy or schedule a special election to be held in accordance with subdivision 5 of this section. If the council does not, the mayor, or acting mayor if the vacancy is in the mayor's position, has seven days to appoint an eligible person to fill the vacancy. If after 67 days no appointment is made nor an election scheduled, the clerk
must schedule a special election to be held in accordance with subdivision 5 of this section.

Subd. 5. Special Election Requirements.

a. Except as provided in subdivision 5.b. below, special elections must be held at the earliest date possible under state law. The following provisions apply:

(1) candidates must file for office no later than four weeks before the election;

(2) no primary will be held; and

(3) the candidate receiving the highest number of votes is elected.

b. If a special election occurs in the same year as a regular municipal election, the council may at its option schedule the special election to occur in conjunction with the regular municipal election rather than at the earliest possible date under state law. If adequate time exists to conduct a primary in compliance with state law for the special election, the provisions of subdivision 5.a. above will not apply, and the special election will be conducted in the same manner as regular municipal elections.

Subd. 6. [repealed]

Subd. 7. The term of a council member elected at a special election begins as soon as the person has qualified for office and the city clerk has issued a certificate of election to the successful candidate in accordance with state law. The council member serves until the expiration of the position's term.

Subd. 8. [repealed]

Subd. 9. When the mayor or a council member is unable to serve in the office or attend council meetings for a 90-day period because of illness, or because of absence from or refusal to attend council meetings for a 90-day period, the city council, by resolution, may declare a temporary vacancy in that office to exist. After a vacancy is declared, the council must appoint a qualified individual to fill the vacancy for the remainder of the unexpired term or until the original officeholder is again able to resume duties and attend council meetings, whichever is earlier. When the original officeholder is again able to resume duties and attend council meetings, the council must by resolution remove the temporary officeholder and restore the original officeholder.

Section 4. This ordinance is effective 90 days after publication.

Adopted by the city council of the City of Minnetonka, Minnesota, on Jan. 7, 2019.

[Signature]
Brad Wiersum, Mayor
ATTEST:

David E. Maeda, City Clerk

ACTION ON THIS ORDINANCE:

Date of introduction: Dec. 17, 2019
Date of adoption: Jan. 7, 2019
Motion for adoption: Happe
Seconded by: Bergstedt
Voted in favor of: Happe-Schack-Calvert-Bergstedt-Ellingson-Wiersum
Voted against: None
Abstained: None
Absent: None
Ordinance adopted.

Date of publication:

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 Jan. 7, 2019.

David E. Maeda, City Clerk

Date: 1-16-19
Notice of Adoption of Ordinance No. 2019-01

To whom it may concern:

Notice is hereby given that on Jan. 7, 2019, the Minnetonka City Council adopted Ordinance No. 2019-01, "An Ordinance amending Minnetonka city charter sections 2.03 and 2.06, regarding terms of city council members and vacancies in the council" ("the Ordinance"). The Ordinance amends section 2.03 of the city charter to provide that the terms of city council members start on the first Monday in January following their election. The Ordinance amends section 2.06 of the city charter in the following respects: (1) it requires that, when there is a vacancy in an office with more than two years remaining in the term, the council must call for a special election at the first regular or special meeting of the council after the vacancy automatically occurs or at the meeting at which the vacancy is declared; (2) it requires special elections to be held at the earliest date possible under state law, with the exception that, if the special election would occur in the same year as a regular municipal election, the city council may postpone the special election to the regular municipal election; (3) it provides that, in cases where the city council postpones a special election to the next regular municipal election, primary elections will be conducted if adequate time exists under state law; (4) it removes an automatic vacancy provision that existed in subdivision 3.b. of section 2.06; (5) it reorganizes section 2.06 and adds headings for the convenience of the reader. The Ordinance takes effect 90 days after its publication, as provided by Minnesota Statutes.

A full copy of the Ordinance was published as required by law prior to the public hearing on the Ordinance, which was held Jan. 7, 2019; is available on the city's web site (www.eminnetonka.com); and may be viewed during regular office hours at the city clerk's office in city hall. A copy may also be obtained by standard or electronic mail.

David E. Maeda, City Clerk