

**CHAPTER 2
SUB-ANALYSIS**

ADMINISTRATION AND GENERAL GOVERNMENT

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CHAPTER 2

ADMINISTRATION AND GENERAL GOVERNMENT

SECTION 2.01. AUTHORITY AND PURPOSE. Pursuant to authority granted by Charter, this Chapter of the City Code is enacted so as to set down for enforcement the government and good order of the City by and through the Council.

SEC. 2.02. RIGHT TO ADMINISTRATIVE APPEAL. If any person shall be aggrieved by any administrative decision of the City Clerk or any other City official, or any Board or Commission not having within its structure an appellate procedure, such aggrieved person is entitled to a full hearing before the Council upon serving a written request therefor upon the Mayor and City Clerk at least five (5) days prior to any regular Council meeting. Such request shall contain a general statement setting forth the administrative decision to be challenged by the appellant. At such hearing the appellant may present any evidence he deems pertinent to the appeal, but the City shall not be required to keep a verbatim record of the proceedings. The Mayor, or other officer presiding at the hearing, may, in the interest of justice or to comply with time requirements and on his own motion or the motion of the appellant, the official whose decision is being appealed, or a member of the Council, adjourn the hearing to a more convenient time or place, but such time or place shall be fixed and determined before adjournment so as to avoid the necessity for formal notice of reconvening.

SEC. 2.03. RULES OF PROCEDURE FOR APPEALS AND OTHER HEARINGS. The Council may adopt by resolution certain written rules of procedure to be followed in all administrative appeals and other hearings to be held before the Council or other bodies authorized to hold hearings and determine questions therein presented. Such rules of procedure shall be effective thirty (30) days after adoption and shall be for the purpose of establishing and maintaining order and decorum in the proceedings.

SEC. 2.04. FACSIMILE SIGNATURES. The Mayor, City Clerk and City Treasurer are hereby authorized to request a depository of City funds to honor an order for payment when such instrument bears a facsimile of his signature, and to charge the same to the account designated thereon or upon which it is drawn, as effectively as though it were his manually written signature. Such authority is granted only for the purpose of permitting such officers an economy of time and effort.

SEC. 2.05. ACCOUNTS, CLAIMS OR DEMANDS.

Subd. 1. Generally. Except as to an annual salary, fees of jurors or witnesses fixed by law, or wages or salaries of employees which have been fixed on an hourly, daily, weekly or monthly basis by the Council and which by law are authorized to be paid on a payroll basis, any account, claim or demand against the City which can be itemized in the ordinary course of business, the Council shall not audit or allow the claim until the person claiming payment, or his agent, reduces it to writing, in items, and signs a declaration to the effect that such account, claim or demand is just and correct and that no part of it has been paid.

Subd. 2. Discretionary Exception. The Council may, in its discretion, allow a claim prepared by the City Clerk prior to such declaration by the claimant if the declaration is made on the check by which the claim is paid.

Subd. 3. Form of Declaration. The declaration provided for in Subdivision 1

hereof is sufficient in the following form: "I declare under the penalties of law that this account, claim or demand is just and correct and that no part of it has been paid. Signature of Claimant".

Subd. 4. Form and Effect of Declaration on Check. The declaration provided for in Subdivision 2 hereof shall be printed on the reverse side of the check, above the space for endorsement thereof by the payee, as follows: "The undersigned payee, in endorsing this check declares that the same is received in payment of a just and correct claim against the City, and that no part of it has heretofore been paid." When endorsed by the payee named in the check, such statement shall operate and shall be deemed sufficient as the required declaration of claim.

Subd. 5. Signing Checks. All checks shall be signed by the Mayor, City Clerk and City Treasurer.

SEC. 2.06. INTERIM EMERGENCY SUCCESSION.

Subd. 1. Purpose. Due to the existing possibility of a nuclear attack or a natural disaster requiring a declaration of a state of emergency, it is found urgent and necessary to insure the continuity of duly elected and lawful leadership of the City to provide for the continuity of the government and the emergency interim succession of key governmental officials by providing a method for temporary emergency appointments to their offices.

Subd. 2. Succession to Local Offices. In the event of a nuclear attack upon the United States or a natural disaster affecting the vicinity of the City, the Mayor, Council and City Clerk shall be forthwith notified by any one of said persons and by any means available to gather at the City Hall. In the event that safety or convenience dictate, an alternative place of meeting may be designated. Those gathered shall proceed as follows:

A. By majority vote of those persons present, regardless of number, they shall elect a Chairman and Secretary to preside and keep minutes, respectively.

B. They shall review and record the specific facts relating to the nuclear attack or natural disaster and injuries to persons or damage to property already done, or the imminence thereof.

C. They may, based on such facts, declare a state of emergency.

D. By majority vote of those persons present, regardless of number, they shall fill all positions on the Council, (including the office of Mayor) of those persons upon whom notice could not be served or who are unable to be present.

E. Such interim successors shall serve until such time as the duly elected official is again available and returns to his position, or the state of emergency has passed and a successor is designated and qualifies as required by law, whichever shall occur first.

Subd. 3. Duties of the Interim Emergency Council. The Interim Emergency Council shall exercise the powers and duties of their offices, and appoint other key government officials to serve during the emergency.

SEC. 2.07. SALARIES OF MAYOR AND COUNCIL MEMBERS.

Subd. 1. The salary of the Council members shall be set at the sum of \$300.00 per month.

Subd. 2. The salary of the Mayor shall be set at the sum of \$500.00 per month.

Subd. 3. There are a number of special meetings and other scheduled meetings in addition to the regular meetings of the Council and additional compensation should be awarded for attendance at these meetings in the amount of \$35.00 per meeting. Such additional meetings shall include all non-regular meetings of either committees of the Council or Council-as-a-Whole such as, but not limited to, budget meetings, committee meetings and such other meetings as may be considered formal meetings which are either scheduled or at the call of the Council President and at which City business is considered.

Subd. 4. The salaries of the Mayor and Council members provided for in this Section, which are deemed reasonable, shall take effect after the next regular City election.

SEC. 2.08. WORKER'S COMPENSATION. All officers of the City elected or appointed for a regular term of office or to complete the unexpired portion of any such regular term shall be included in the definition of "employee" as defined in Minnesota Statutes relating to coverage for purposes of worker's compensation entitlement.

SEC. 2.09. REVISOR OF ORDINANCES. In addition to the duties of the City Attorney enumerated in the Charter, he shall have the title and duties of "Revisor of Ordinances".

Source: City Code
Effective Date: 3-1-88

SEC. 2.10. PROHIBITED EMPLOYMENT.

Subd. 1. Prohibition. That no person holding or occupying any elective office of the City shall be employed by the City within one year from the date that said person leaves such elective office.

Subd. 2. Exception. The Council shall determine by an unanimous vote of the full Council that if a former office holder should be employed by the City within the aforementioned one-year period as being in the best interests of the City, and that there has not been nor exists any conflict of interest arising from said official's actions while occupying office, then the City may employ such former official during this year period.

Source: Ordinance No. 114
Effective Date: 5-14-77

(Sections 2.11 through 2.29, inclusive, reserved for future expansion.)

SEC. 2.30. BOARD OF APPEALS. (CODIFIER'S NOTE: The Board of Appeals is provided for in City Code, Chapter 11, entitled "Land Use Regulations (Zoning)").

SEC. 2.31. HOUSING ADVISORY AND APPEALS BOARD.

Subd. 1. Establishment and Composition. A Housing Advisory and Appeals Board, composed of five members who are not employees of the City, and who shall serve staggered three year terms, is hereby established. The Building Official shall be an axofficio member and shall act as Secretary of the Board.

Subd. 2. Powers and Duties. The Board shall have all of the powers and duties set forth in the Uniform Housing Code.

Source: City Code
Effective Date: 3-1-88

SEC. 2.32. JOINT AIRPORT COMMISSION

Subd. 1. Establishment and Composition. "There is hereby created pursuant to Sub-Division 5 of Section 20, Laws of Minnesota, 1945, and acts amendatory thereof, a Joint Airport Commission to be known as the Eveleth-Virginia Airport Authority, composed of six members, three of whom shall be appointed by a majority vote of the City Council of the City of Eveleth, and three of whom shall be appointed by a majority vote of the City Council of the City of Virginia. The members of the authority shall serve without compensation."

(Amended 7-15-91)

Subd. 2. Term of Office. The members of the first Commission shall be appointed as follows: one member thereof shall be appointed by each of the said above named municipalities for a term expiring on the first Monday in January, 1953; one member thereof shall be appointed by each of said municipalities for a term expiring on the first Monday in January, 1954; and one member thereof shall be appointed by each of said municipalities for a term expiring on the first Monday in January, 1955, and as such terms of office expire, each municipality shall appoint one member each year for a term of three years and until their successors are appointed and qualified. No elected or appointed City official of either the City of Eveleth or the City of Virginia, and no appointed or pair employee of either the City of Eveleth or the City of Virginia shall be a member of the Commission.

Subd. 3. Officers. The Joint Commission shall elect one of its members to be Chairman of the Commission, one member thereof to be Vice Chairman and shall appoint a Secretary and Treasurer who may or may not be a member of the Commission and the officer so elected or appointed shall hold office for the term of one year and until their successors are appointed and qualified.

Subd. 4. Duties and Powers of the Commission.

A. The Commission shall have full authority and responsibility for the maintenance, management and regulation of the Eveleth Municipal Airport and a suitable name for such airport shall be adopted by the Commission.

B. The Commission shall have all of the power and authority vested in the City under the laws of the State of Minnesota and of the United States relating to the construction, management and operation of airports.

C. Without limiting its general powers vested in it by law, it shall have authority to acquire necessary property for and to establish, construct, enlarge, improve, maintain, equip, operate and regulate and take over the airport now known as the Eveleth Municipal Airport, and other air navigation facilities and airport protection privileges to be acquired, controlled and operated by the Commission.

D. The Commission may enter into contracts with the County of St. Louis pursuant to Chapter 303, Laws of Minnesota, 1945, and may exercise on the behalf of the County and the City of Eveleth and City of Virginia all of the powers of each municipality granted by Chapter 303, Laws of Minnesota, 1945, except as otherwise provided in this ordinance and in said laws.

E. Rules and Regulations Provided for by Section 17, Subdivision 3, Chapter 303, Laws of Minnesota, 1945, may be adopted by the Commission but shall be enacted only after approval by the respective City Councils, pursuant to the provisions of Section 20, Chapter 303, Laws of Minnesota, 1945.

F. No real property and no airport, other air navigation facility or air protection privileges, shall be disposed of by the Commission by sale or lease or otherwise except by authority of both City Councils, except that the Commission may make such changes and alterations from time to time as are required in the proper and efficient operation of the airport.

G. The Commission may lease space, area, or improvements and grant concessions for aeronautic purposes or purposes incidental thereto subject to the provisions in Subdivision 4, Section 17, Chapter 303, Laws of Minnesota, 1945.

H. The Commission shall have authority to hire or retain all employees and professional services that may be necessary to accomplish the purposes for which it was appointed, and to fix their salaries.

I. The Commission shall keep and maintain full and complete financial records including a perpetual inventory of all property, real and personal, showing the approximate date acquired and the cost thereof.

Subd. 5. Contributions to Capital Costs. The City of Eveleth and the City of Virginia, subject to qualifications hereinafter set forth, shall contribute equally to that portion of the cost of additional lands that may be added to the present Eveleth Municipal Airport and the capital cost of construction improvements and development of the airport which is not covered by the County of St. Louis, State and Federal contributions thereto. Title to the present airport shall remain in the City of Eveleth and title to any additions thereto shall be taken in the names of the City of Eveleth and of the City of Virginia and said Cities shall share equally in the ownership thereof.

Source: Ordinance No. 74
Effective Date: 10-6-51

Subd. 6. Operating Costs. The City of Eveleth and the City of Virginia shall share equally in the cost of maintaining and operating the airport and all additions thereto, and each City shall levy an amount annually for the cost of operating and maintaining the airport except as contributions therefor may be made by the County of St. Louis, State of Minnesota, or the Federal Government. Neither City shall charge the Commission any rentals or other compensation for the use

of airport, easements or airport facilities, now or hereafter acquired or installed.

Source: City Code
Effective Date: 3-1-88

Subd. 7. Budget. The Commission shall each year prior to September 1st, prepare a budget for financing the airport for the ensuing calendar year. A copy of the budget shall, not later than September 1st, be furnished to the City Council of the City of Eveleth and the City Council of the City of Virginia and shall contain the following items:

A. Estimated revenues divided as-follows:

1. Federal and State grants.
2. Contributions from the City of Eveleth.
3. Contribution from the City of Virginia.
4. Contribution from the County of St. Louis.
5. Miscellaneous revenues.

B. Estimated expenditures:

1. Personal services.
2. Services other than personal.
3. Supplies and maintenance.
4. Equipment.
5. Real estate and improvements.
6. Miscellaneous expenditures.

C. Final decision of the respective City Councils as to requested contributions shall be reported to the Commission which shall adjust its budget if necessary so that its budget may at all times be balanced. If either City Council fixes its contribution at less than one-half of the amount requested by the Commission, the contribution of the other shall be proportionately reduced unless the latter shall decide to pay a larger portion of the total contributions. Money not expended in the budget may be carried over to the following year.

D. The Commission shall not have power to levy taxes or borrow money and it shall not approve any claim or incur any obligations for expenditures unless there is unencumbered cash in the appropriate airport fund to the credit of the Commission with which to pay the same. If there are any surplus revenues over the cost of maintenance and operation costs, the Commission may, if it so elects, instead of carrying over the same to the following year, return the same to the respective Cities and County in the same proportion as they were contributed by the Cities and the County.

Subd. 8. Finances. All receipts belonging to the Commission shall be deposited in a bank selected by the Commission and credited to the account of the Joint Airport Commission. No disbursements shall be made except by check in such manner as the Commission may determine nor unless a verified claim for services and commodities actually rendered or delivered as fees be submitted to and approved for payment by the Commission and authenticated by the signature of the Chairman and Secretary. An audit of the funds of the Commission shall be made annually. Such audits

may be made independently of or in conjunction with any audit which may be made of the funds of either the City of Eveleth or the City of Virginia. Any employee of the Commission who handles cash in the process of collection shall furnish a surety bond in such amount as may be determined by the Commission.

Subd. 9. Reports. The Commission as soon as possible after the end of each calendar year shall prepare and present to each City Council and the County of St. Louis a comprehensive report of its activities and finances. The Commission shall also prepare and present Federal and State officials with such reports as may be required by law, regulation or contract.

Subd. 10. Disposition of Property Upon Termination. This ordinance when adopted by the City Council of the City of Virginia and when a concurrent ordinance is adopted by the City Council of the City of Eveleth shall constitute a contract between said Cities, and shall remain in full force and effect for twenty years thereafter, provided however that the provisions thereof, except as to the duration of the contract, may be amended by mutual agreement of said Cities. Thereafter it shall continue in force from year to year. If either City desires to terminate the joint operation of the airport and the Joint Commission, it shall notify the other City to that effect and the City of Eveleth and the City of Virginia shall dispose of all property which may have been acquired including surplus funds in manner that shall then be agreed upon. The City of Eveleth shall at all times retain title to the lands, easements and structures presently included in the Eveleth Municipal Airport. If no agreement as to disposition of additional acquired lands, property and facilities is reached within three months after termination of the plan for joint operation of the airport, the respective City Councils shall each appoint some person who may be a City official, as its representative and the Minnesota Commission of Aeronautics shall appoint a third person who shall together compose an advisory Board for the disposition of the Airport Property. This Board shall as soon as possible prepare and recommend to the City Council of each City a complete plan for the disposition of all additional lands, structures and facilities acquired subsequent to the passing of this ordinance.

Subd. 11. Consideration Abandonment of Virginia Airport. In consideration of passage of an ordinance by the City of Eveleth vesting in the Joint Airport Commission the management and operation of the present Eveleth Municipal Airport so that the said Airport and its facilities are available to both Cities, the City of Virginia hereby abandons the Virginia Municipal Airport, and from and after December 31, 1951, said airport shall be closed and it shall cease to operate and function as an airport and the use of the land for airport purposes shall on said date be discontinued.

Source: Ordinance No. 74
Effective Date: 10-6-51

SEC. 2.33. HUMAN RIGHTS COMMISSION.

Subd. 1. Policy and Purpose. It is the public policy of the City to fulfill its responsibility as a partner of the State Department of Human Rights in securing for all citizens equal opportunity in housing, employment, public accommodations, public services and education, and to work consistently to improve the human relations climate of the City. The purpose of the Commission is to secure for all citizens equal opportunity in employment, housing, public accommodations, public

services and education and full participation in the affairs of this community by assisting the State Department of Human Rights in implementing the Minnesota State Act Against Discrimination and by advising the City on long range programs to improve community relations in the City.

Subd. 2. Establishment and Composition. A Human Rights Commission is hereby established. Members of the Commission shall be appointed with due regard to their fitness for the efficient dispatch of the functions, powers and duties vested in and imposed upon the Commission.

Subd. 3. Duties and Responsibilities. In fulfillment of its purpose the Commission's duties and responsibilities shall be to:

A. Adopt bylaws and rules for the conduct of its affairs including the election, assumption of duties and definition of responsibilities of officers and committees.

B. Draft a memorandum of agreement with the State Department of Human Rights for the purpose of determining regulatory and enforcement procedures.

C. Enlist the cooperation of agencies, organizations and individuals in the community in an active program directed to create equal opportunity and eliminate discrimination and inequalities.

D. Formulate a human relations program for the City to give increased effectiveness and direction to the work of all individuals and agencies addressing themselves to planning, policy making and educational programming in the area of civil and human rights.

E. Advise the Mayor, the Council and other agencies of the government on human relations and civil rights problems. Act in an advisory capacity with respect to planning or operation of any City department on issues of civil and human rights and recommend the adoption of such specific policies or actions as are needed to provide for full equal opportunity in the community.

F. Develop in cooperation with the State Department of Human Rights such programs of formal and informal education as will assist in the implementation of the Minnesota State Act Against Discrimination and provide for the Commission's assumption of leadership in recognizing and resolving potential problem areas in the community.

Subd. 4. Handling Reports of Discrimination.

A. Definition. An unfair discriminatory practice is any act described in Section 363.03 of the Minnesota Human Rights Act.

B. Option. Anyone may report information of an unfair discriminatory practice to either the Commission or the Minnesota Department of Human Rights, as specified in Section 363.116 of the Minnesota Human Rights Act: "The charging party has the option of filing a charge either with a local commission or the department. The exercise of such choice filing a charge with one agency shall preclude the option of filing the same charge with the other agency. At the time a charge comes to the attention of a local agency, the agency or its representatives shall inform the charging party of this option, and of his rights under this act."

C. Principles. In handling reports of discrimination, the Commission shall make every effort to find solutions that improve human relations in the City, that do not increase polarization of citizens, and that respect the rights of all parties to any charge of discrimination. The more formal and specific the charges, the more formal the procedures for handling the matter. The Commission's primary role is advisory and persuasive; it does not possess some of the quasi-judicial functions of the Minnesota Department of Human Rights.

D. Investigation. Commissioners as assigned by the Chairman shall investigate any report of an unfair discriminatory practice to determine whether there is probable cause to believe that any allegation of unfair discrimination is well founded. The Commission shall immediately endeavor to eliminate any unfair discriminatory practice or to resolve the matter by conciliation and persuasion. The Commission shall carry on such activities in consultation with the City Attorney's office.

E. Commission Review. Reports will be made at each Commission meeting on the progress of all current investigations of reports of discrimination. At the conclusion of each investigation, the Commission shall ordinarily adopt a statement of its findings and recommendations. (Commission recommendations may include suggestions for further conciliation, specific actions by either party to the matter, or administrative or legislative remedy.)

F. Referrals. The Commission may refer matters needing further investigation or action beyond the Commission's authority to the Council, the Board of Education or school district administration, or to the Minnesota Department of Human Rights.

G. Reports. The findings and recommendations of the Commission shall be reported in writing to all parties involved in a report of unfair discrimination, to the Council and/or Board of Education, and to the Minnesota Department of Human Rights.

Subd. 5. Formal Charges and Hearings.

A. Charges. In the event the report of an unfair discriminatory practice appears to be well founded and cannot be resolved by conciliation, persuasion, and/or administrative or legislative remedy, a verified written charge under oath may be filed with the Commission. Such a charge shall state the name and address of each person complained against (respondent) and shall set forth the pertinent facts as known to the charging party. A charge of an unfair discriminatory practice must be filed within six months of the occurrence of the practice. The Commission shall hold a hearing within 30 days of the filing of the charges.

B. Setting Hearing. The Commission shall set a time and place within the City for the hearing of the charge of unfair discrimination and the answers to the allegations thereof.

C. Notice. All affected parties shall be given notice of the time and place of hearing at least 10 days prior to the date of hearing by registered mail or other personal service.

D. Conduct of Hearing. In conducting a hearing, the Commission shall have full authority to administer oaths, to receive testimony and other competent evidence relative to the matters in question, and to hear, examine, and cross-examine witnesses. Both the charging party and the respondent shall appear in person at the hearing and may be represented by counsel; both may call witnesses on their behalf and take their testimony. All witnesses, including the charging party and the respondent, may be examined and cross-examined. The Commission shall not be bound by the strict

rules of evidence applicable to judicial proceedings, but its findings must be based on competent evidence. Each witness shall testify under oath. A stenographic record shall be made of the proceedings or an electronic recording device may be used. A member of the City Attorney's staff shall be present at the hearing and shall assist the Commission in the conduct of the hearing.

E. Commission Action. At the conclusion of a hearing, the Commission shall adopt a statement of its findings and recommendations and report same in writing to all parties involved, to the Council and/or Board of Education, and to the Minnesota Department of Human Rights.

F. Referral to City Attorney. The findings and recommendations of the Commission shall be forwarded to the City Attorney for determination as to whether or not a criminal complaint should be issued concerning the alleged unfair discriminatory practice.

Source: Ordinance No. 101
Effective Date: 3-8-69

Source: Ordinance No. 101-A
Effective Date: 6-26-76

SEC. 2.34. LIBRARY COMMISSION

Subd. 1. Establishment and Composition. A Library Advisory Commission is hereby created to consist of five (5) members serving three (3) year terms. The current members of the Commission shall serve out their remaining terms.

(Adopted 1/25/94)
(Amended 5/12/98)
(Amended 2/28/06)

Subd. 2. Duties and Responsibilities. It is the duty and responsibility of the Commission to advise and make recommendations to the City Council on matters relating to the Library. The Commission shall perform all duties assigned to it from time to time by the City Council.

(Adopted 1/25/94)
(Amended 5/12/98)

SEC. 2.35. PUBLIC SAFETY COMMISSION

(Adopted 1/25/94)
(Amended 5/12/98)
(Deleted by Amendment 8/10/99)

SEC. 2.36. PLANNING AND ZONING COMMISSION

Subd. 1. Establishment and Composition. A Planning and Zoning Commission is hereby created to consist of five (5) members serving three (3) year terms. Two Commissioners' terms shall expire the first year, two terms the second year, and one term the third year. Commissioners shall be appointed in accordance with the City Charter.

(Adopted 1/25/94)
(Amended 5/12/98)

Subd. 2. Duties and Responsibilities. The Department of Planning and Zoning shall be governed by the Planning and Zoning Commission. It shall be the duty of this Commission to make plans for the direction and extent of the City's settled territorial area and for the arrangement of streets and the location of park and school areas; to divide the territory of the City into residential, commercial and other zones; to propose changes in previously established zones; to propose rules regulating the location of buildings on lots or in relation to other buildings; to propose rules or specifications concerning the structure of any building to be erected in the City of Virginia. No plat restrictions relating to use of premises or location of buildings on the premises shall be valid without prior approval of the Commission.

No zoning or building proposal by the Commission shall take effect until it shall have been enacted as an ordinance, as in this Charter described, by the Council. No exception to any building or zoning ordinance shall be made by the Council except by resolution and unless the exception shall have been recommended by the Planning and Zoning Commission. The Commission shall perform all duties assigned to it from time to time by the City Council.

(Amended
5/12/98)

SEC. 2.37. PARK AND RECREATION COMMISSION

Subd. 1. Powers and Duties: A Park and Recreation Commission is hereby created to consist of five (5) members serving three (3) year terms. It is the duty and responsibility of this Commission to advise the Council on park and recreation issues. The City Council shall assign the Park and Recreation Commission duties to be performed on an as-needed basis.

(Amended 1/25/94)
(Amended 2/13/96)
(Amended 5/12/98)
(Amended 6/22/99)
(Amended 11/3/01)
(Amended 2/8/05)

Subd. 2. Duties and Responsibilities. "A Park and Recreation Commission shall be established to advise the Council on park and recreation issues. The City Council shall assign the Park and Recreation Commission duties to be performed on an as-needed basis. The Commission shall perform all duties assigned to it from time to time by the City Council."

(Amended 5/12/98)

(Sections 2.38 through 2.49, inclusive, reserved for future expansion.)

SEC. 2.50. DISPOSAL OF ABANDONED MOTOR VEHICLES, UNCLAIMED PROPERTY AND EXCESS PROPERTY.

Subd. 1. Disposal of Abandoned Motor Vehicles.

A. Definitions.

1. The term "abandoned motor vehicle" means a motor vehicle as defined in Minnesota Statutes, Chapter 169, that has remained for a period of more than forty-eight hours on public property illegally or lacking vital component parts, or has remained for a period of more than forty-eight hours on private property without the consent of the person in control of such property, or in an inoperable condition such that it has no substantial potential further use consistent with its usual function unless it is kept in an enclosed garage or storage building. It shall also mean a motor vehicle voluntarily surrendered by its owner to and accepted by the City. A classic car or pioneer car, as defined in Minnesota Statutes, Chapter 168, shall not be considered an abandoned motor vehicle within the meaning of this Section. Vehicles on the premises of junkyards or automobile graveyards, which are licensed and maintained in accordance with the City Code, shall not be considered abandoned motor vehicles within the meaning of this Section.

2. The term "vital component parts" means those parts of a motor vehicle that are essential to the mechanical functioning of the vehicle, including, but not limited to, the motor, drive train and wheels.

B. Custody. The City may take into custody and impound any abandoned motor vehicle.

C. Immediate Sale. When an abandoned motor vehicle is more than seven model years of age, is lacking vital component parts, and does not display a license plate currently valid in Minnesota or any other state or foreign country, it shall immediately be eligible for sale at public auction, and shall not be subject to the notification, reclamation, or title provisions of this Subdivision.

D. Notice.

1. When an abandoned motor vehicle does not fall within the provisions of Subparagraph C of this Subdivision, the City shall give notice of the taking within ten days. The notice shall set forth the date and place of the taking, the year, make, model and serial number of the abandoned motor vehicle, if such information can be reasonably obtained, and the place where the vehicle is being held, shall inform the owner and any lien holders of their right to reclaim the vehicle under Subparagraph E of this Subdivision, and shall state that failure of the owner or lien holder to exercise their right to reclaim the vehicle and contents shall be deemed a waiver by them of all rights, title and interest in the vehicle and a consent to the sale of the vehicle and contents at a public auction pursuant to Subparagraph F of this Subdivision.

2. The notice shall be sent by mail to the registered owner, if any, of the abandoned motor vehicle and to all readily identifiable lien holders of record. If it is impossible to determine with reasonable certainty the identity and address of the registered owner and all lien holders, the notice shall be published once in the official newspaper. Published notices may be grouped together for convenience and economy.

E. Right to Reclaim.

1. The owner or any lien holder of an abandoned motor vehicle shall have a right to reclaim such vehicle from the City upon payment of all towing and storage charges resulting from taking the vehicle into custody within fifteen days after the date of the notice required by this Subdivision.

2. Nothing in this Subdivision shall be construed to impair any lien of a garage keeper under the laws of this State, or the right of the lien holder to foreclose. For the purposes of this Subparagraph E "garage keeper" is an operator of a parking place or establishment, an operator of a motor vehicle storage facility, or an operator of an establishment for the servicing, repair or maintenance of motor vehicles.

F. Public Sale.

1. An abandoned motor vehicle and contents taken into custody and not reclaimed under Subparagraph E of this Subdivision shall be sold to the highest bidder at public auction or sale, following one notice published at least seven days prior to such auction or sale. The purchaser shall be given a receipt in a form prescribed by the Registrar of Motor Vehicles which shall be sufficient title to dispose of the vehicle. The receipt shall also entitle the purchaser to register the vehicle and receive a certificate of title, free and clear of all liens and claims of ownership. Before such a vehicle is issued a new certificate of title, it must receive a motor vehicle safety check.

2. From the proceeds of the sale of an abandoned motor vehicle, the City shall reimburse itself for the cost of towing, preserving and storing the vehicle, and all administrative, notice and publication costs incurred pursuant to this Subdivision. Any remainder from the proceeds of a sale shall be held for the owner of the vehicle or entitled lien holder for ninety days and then shall be deposited in the General Fund of the City.

G. Disposal of Vehicles Not Sold. Where no bid has been received for an abandoned motor vehicle, the City may dispose of it in accordance with this Subdivision.

H. Contracts and Disposal.

1. The City may contract with any qualified person for collection, storage, incineration, volume reduction, transportation or other services necessary to prepare abandoned motor vehicles and other scrap metal for recycling or other methods of disposal.

2. Where the City enters into a contract with a person duly licensed by the Minnesota Pollution Control Agency, the Agency shall review the contract to determine whether it conforms to the Agency's plan for solid waste disposal. A contract that does so conform may be approved by the Agency. Where a contract has been approved, the Agency may reimburse the City for the costs incurred under the contract which have not been reimbursed.

3. If the City utilizes its own equipment and personnel for disposal of the abandoned motor vehicle, it shall be entitled to reimbursement for the cost thereof along with its other costs as herein provided.

Subd. 2. Disposal of Unclaimed Property.

A. Definition. The term "abandoned property" means tangible or intangible property that has lawfully come into the possession of the City in the course of municipal operations, remains unclaimed by the owner, and has been in the possession of the City for at least sixty days and has been declared such by a resolution of the Council.

B. Preliminary Notice. If the City Clerk knows the identity and whereabouts of the owner, he shall serve written notice upon him at least thirty days prior to a declaration of abandonment by the Council. If the City acquired possession from a prior holder, the identity and whereabouts of whom are known by the City Clerk notice shall also be served upon him. Such notice shall describe the property and state that unless it is claimed and proof of ownership, or entitlement to possession established, the matter of declaring it abandoned property will be brought to the attention of the Council after the expiration of thirty days from the date of such notice.

C. Notice and Sale. Upon adoption of a resolution declaring certain property to be abandoned property, the City Clerk shall publish a notice thereof describing the same, together with the names (if known) and addresses (if known) of prior owners and holders thereof, and including a brief description of such property. The text of such notice shall also state the time, place and manner of sale of all such property, except cash and negotiables. Such notice shall be published once at least three weeks prior to sale. Sale shall be made to the highest bidder at public auction or sale conducted in the manner directed by the Council in its resolution declaring property abandoned and stated in the notice.

D. Fund and Claims Thereon. All proceeds from such sale shall be paid into the General Fund of the City and expenses thereof paid therefrom. The former owner, if he makes claim within eight months from the date of publication of the notice herein provided, and upon application and satisfactory proof of ownership, may be paid the amount of cash or negotiables or, in the case of property sold, the amount received therefor, less a pro rata share of the expenses of storage, publication of notice, and sale expenses, but without interest. Such payment shall be also made from the General Fund.

Subd. 3. Disposal of Excess Property.

A. Declaration of Surplus and Authorizing Sale of Property. The City Clerk may, from time to time, recommend to the Council that certain personal property (chattels) owned by the City is no longer needed for a municipal purpose and should be sold. By action of the Council, said property shall be declared surplus, the value estimated and the City Clerk authorized to dispose of said property in the manner stated herein.

B. Surplus Property With a Total Estimated Value of Less than \$100.00. The City Clerk may sell surplus property with a total value of less than \$100.00 through negotiated sale.

C. Surplus Property With a Total Estimated Value Between \$100.00 and \$500.00. The City Clerk shall offer for public sale, to the highest bidder, surplus property with a total estimated value of from \$100.00 to \$500.00. Notice of such public sale shall be given stating time and place of sale and generally describing the property to be sold at least ten days prior to the date of sale either by publication once in the official newspaper, or by posting in a conspicuous place in the City

Hall at the City Clerk's option. Such sale shall be by auction.

D. Surplus Property With a Total Estimated Value Over \$500.00. The City Clerk shall offer for public sale, to the highest bidder, surplus property with a total estimated value over \$500.00. Notice of such public sale shall be given stating time and place of sale and generally describing property to be sold at least ten days prior to the date of sale by publication once in the official newspaper. Such sale shall be to the person submitting the highest bid.

E. Receipts From Sales of Surplus Property. All receipts from sales of surplus property under this Section shall be placed in the General Fund.

Subd. 4. Persons Who May Not Purchase - Exception.

A. No employee of the City who is a member of the administrative staff, department head, a member of the Council, or an advisor serving the City in a professional capacity, may be a purchaser of property under this Section. Other City employees may be purchasers if they are not directly involved in the sale, if they are the highest responsible bidder, and if at least one week's published or posted notice of sale is given.

B. It is unlawful for any person to be a purchaser of property under this Section if such purchase is prohibited by the terms of this Section.

SEC. 2.51. PERSONNEL RULES AND REGULATIONS. The Council may, by resolution, establish personnel rules setting forth the rights, duties and responsibilities of employees. Such rules may from time-to-time be amended.

Source: City Code
Effective Date: 3-1-88

SEC. 2.52. ANNUAL OPERATING RESERVE ACCOUNT. Where the City issues general obligation corporate purpose bonds, the City will create and establish a permanent annual operating reserve account fund which amount shall be equal to the total amounts of said general obligation corporate purpose bonds, subject to the following terms and conditions: (1) that the funds in the said reserve account will be available for internal transfer to other City funds during the fiscal year of the City; (2) that said reserve account must be reimbursed and brought to its original funded amount by the end of each of the City's fiscal years; (3) any and all interest income earned from the principal amount of said fund shall be transferred at the end of each fiscal year to the general fund; (4) that, in the event that the City is unable to repay all of the principal and/or interest of said general obligation corporate purpose bonds as they become due, said reserve account shall be used for the purpose of said interest and/or principal payment but only if there is no other viable and alternate means of said repayment from other City sources. That it is incumbent upon the City to replace such amounts used for the bond principal and interest payment to bring said fund up to its original principal amount as soon as is reasonably and financially possible.

Source: Ordinance No. 124
Effective Date: 7-2-83

SEC. 2.53. FRANCHISES.

Subd. 1. Definition. The term "franchise" as used in this Section shall be construed to mean any special privileges granted to any person in, over, upon, or under any of the streets or public places of the City, whether such privilege has heretofore been granted by it or by the State of Minnesota, or shall hereafter be granted by the City or by the State of Minnesota.

Subd. 2. Franchise Ordinances. The Council may grant franchises by ordinance. Franchise rights shall always be subject to the superior right of the public to the use of streets and public places. All persons desiring to make any burdensome use of the streets or public places, inconsistent with the public's right in such places, or desiring the privilege of placing in, over, upon, or under any street or public place any permanent or semipermanent fixtures for the purpose of constructing or operating railways, telegraphing, or transmitting electricity, or transporting by pneumatic tubes, or for furnishing to the City or its inhabitants or any portion thereof, transportation facilities, water, light, heat, power, gas, or any other such utility, or for any other purpose, shall be required to obtain a franchise before proceeding to make such use of the streets or public places or before proceeding to place such fixtures in such places.

Subd. 3. Power of Regulation Reserved. The City shall have the right and power to regulate and control the exercise by any person, of any franchise however acquired, and whether such franchise has been heretofore granted by it or by the State of Minnesota.

Subd. 4. Conditions in Every Franchise. All conditions specified in this Section shall be a part of every franchise even though they may not be expressly contained in the franchise:

A. That the grantee shall be subject to and will perform on its part all the terms of this Section and will comply with all pertinent provisions of any City Charter and the City Code, as the same may from time to time be amended.

B. That the grantee shall in no case claim or pretend to exercise any power to fix fares, rates, and charges; but that such fares, rates, and charges shall at all times be just, fair and reasonable for the services rendered and shall in all cases be fixed and from time to time changed, unless regulated by an agency of the State of Minnesota, in the manner following:

1. A reasonable rate shall be construed to be one which will, with efficient management, normally yield above all operating expenses and depreciation, a fair return upon all money invested.

2. If possible, maximum rates and charges shall be arrived at by direct negotiation with the Council.

3. If direct negotiations fail to produce agreement, the Council shall, not less than thirty days before the expiration of any existing rate schedule or agreement, appoint an expert as its representative, the franchisee shall likewise appoint an expert as its representative and the two of them shall appoint a third person, preferably an expert, and the three of them shall constitute a board of arbitration. The board shall report its findings as soon as possible and the rates and charges it shall agree upon by majority vote shall be legal and binding, subject only to review by a court of competent jurisdiction upon application of one of the parties.

C. That the Council shall have the right to require reasonable extensions of any public service system from time to time, and to make such rules and regulations as may be

required to secure adequate and proper service and to provide sufficient accommodations for the public.

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

E. That no sale or lease of said franchise shall be effective until the assignee or lessee shall have filed with the City an instrument, duly executed, reciting the facts of such sale or lease, accepting the terms of the franchise, and agreeing to perform all the conditions required of the grantee thereunder.

F. That every grant in said franchise contained of permission for the erection of poles, masts, or other fixtures in the streets and for the attachment of wires thereto, or for the laying of tracks in, or of pipes or conduits under the streets or public places, or for the placing in the streets or other public places of any permanent or semi-permanent fixtures whatsoever, shall be subject to the conditions that the Council shall have the power to require such alterations therein, or relocation or rerouting thereof, as the Council may at any time deem necessary for the safety, health, or convenience of the public, and particularly that it shall have the power to require the removal of poles, masts, and other fixtures bearing wires and the placing underground of all facilities for whatsoever purpose used.

G. Every franchise shall contain a provision granting the City the right to acquire the same in accordance with statute.

H. That the franchisee may be obligated by the City to pay the City fees to raise revenue or defray increased costs accruing as a result of utility operations, or both, including, but not limited to, a sum of money based upon gross operating revenues or gross earnings from its operations in the City.

Subd. 5. Further Provisions of Franchises. The enumeration and specification of particular matters which must be included in every franchise or renewal or extension thereof, shall not be construed as impairing the right of the City to insert in any such franchise or renewal or extension thereof such other and further conditions and restrictions as the Council may deem proper to protect the City's interests, nor shall anything contained in this Section limit any right or power possessed by the City over existing franchises.

SEC. 2.54. SPECIAL ASSESSMENT POLICY. The Council may, by resolution, adopt, from time-to-time amend, or repeal a special assessment policy.

SEC. 2.55. REGISTRAR OF VITAL STATISTICS.

(Deleted by amendment 4/1/94.)

(Sections 2.56 through 2.98, inclusive, reserved for future expansion.)

SEC. 2.99. VIOLATION A MISDEMEANOR. Every person violates a section, subdivision, paragraph or provision of this Chapter when he performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.

Source: City Code
Effective Date: 3-1-88