

CHAPTER 2

ADMINISTRATION AND GENERAL GOVERNMENT

<i>SECTION 2.01. AUTHORITY AND PURPOSE</i>	4
<i>SECTION 2.02. COUNCIL MEETINGS – TIME AND PLACE</i>	4
<i>SECTION 2.03. SPECIAL MEETINGS</i>	4
<i>SECTION 2.04. COUNCIL PROCEDURE AT REGULAR MEETINGS</i>	4
<i>SECTION 2.05. CITY SEAL</i>	5
<i>SECTION 2.06. RIGHT TO ADMINISTRATIVE APPEAL</i>	5
<i>SECTION 2.07. RULES OF PROCEDURE FOR APPEALS AND OTHER HEARINGS</i>	5
<i>SECTION 2.08. FACSIMILE SIGNATURES</i>	5
<i>SECTION 2.09. CITY CLERK</i>	6
Subd. 1. Position Established.....	6
Subd. 2. Appointment and Removal.....	6
Subd. 3. Qualifications.....	6
Subd. 4. Duties.....	6
<i>SECTION 2.10. INCLUSIVE, RESERVED FOR FUTURE EXPANSION</i>	7
<i>SECTION 2.11. INTERIM EMERGENCY SUCCESSION</i>	7
Subd. 1. Purpose.....	8
Subd. 2. Succession to Local Offices.....	8
Subd. 3. Duties of Interim Emergency Council.....	8
<i>SECTION 2.12. SALARIES OF MAYOR AND COUNCILPERSONS</i>	8
Subd. 1. Mayor’s Salary.....	8
Subd. 2. Councilperson’s Salary.....	9
<i>SECTION 2.13. WORKER’S COMPENSATION</i>	9
<i>SECTION 2.14. COUNCIL COMPOSITION AND ELECTION</i>	9
<i>SECTION 2.15. BIENNIEL ELECTIONS</i>	9
Subd. 1. Date of Biennial Elections.....	9

<i>SECTION 2.16 THROUGH 2.19 INCLUSIVE, RESERVED FOR FUTURE EXPANSION.</i>	9
<i>SECTION 2.20. DEPARTMENTS GENERALLY</i>	9
Subd. 1. Appointment	9
Subd. 2. Compensation	9
Subd. 3. Budgetary Information.	9
<i>SECTION 2.21. POLICE DEPARTMENT</i>	9
<i>SECTION 2.22. FIRE DEPARTMENT</i>	10
<i>SECTION 2.23. CITY ATTORNEY</i>	10
<i>SECTION 2.24. CITY ENGINEER</i>	10
<i>SECTION 2.25. CITY AUDITOR</i>	10
<i>SECTION 2.26. PUBLIC WORKS DEPARTMENT</i>	11
<i>SECTION 2.27. BUILDING INSPECTOR</i>	11
<i>SECTION 2.28 THROUGH 2.29 INCLUSIVE. RESERVED FOR FUTURE EXPANSION.</i>	11
<i>SECTION 2.30. BOARDS AND COMMISSIONS GENERALLY</i>	11
<i>SECTION 2.31. BOARDS OF ADJUSTMENTS AND APPEALS</i>	12
<i>SECTION 2.32. PLANNING COMMISSION</i>	12
<i>SECTION 2.33. PARK BOARD</i>	12
Subd. 1. Establishment and Composition	12
Subd. 2. Duties.	12
Subd. 3. Written Communication	12
<i>SECTION 2.34. REPEALED.</i>	12
<i>SECTION 2.35. PERSONNEL COMMITTEE</i>	12
Subd. 1. Establishment and Composition	12
Subd. 2. Duties	12
<i>SECTION 2.36 THROUGH 2.39 INCLUSIVE, RESERVED FOR FUTURE EXPANSION.</i>	13
<i>SECTION 2.40. FRANCHISES.</i>	13
Subd. 1. Definition.	13
Subd. 2. Franchise Ordinances.	13

Subd. 3. Power of Regulation Reserved.....	13
Subd. 4. Conditions in Every Franchise.....	13
Subd. 5. Further Provisions of Franchises.....	15
<i>SECTION 2.41 THROUGH 2.49 INCLUSIVE, RESERVED FOR FUTURE EXPANSION.</i>	15
<i>SECTION 2.50. AUTHORIZING BACKGROUND CHECKS</i>	15
<i>SECTION 2.51 THROUGH 2.98 INCLUSIVE, RESERVED FOR FUTURE EXPANSION.</i>	16
<i>SECTION 2.99. VIOLATION A MISDEMEANOR.</i>	16

CHAPTER 2

ADMINISTRATION AND GENERAL GOVERNMENT

SECTION 2.01. AUTHORITY AND PURPOSE. Pursuant to authority granted by Statute, 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.

SECTION 2.02. COUNCIL MEETINGS – TIME AND PLACE. Regular meetings of the Council shall be held in the City Hall on the first and third Thursdays of each month at 7:00 o'clock P.M. Special and adjourned meetings shall also be held in the City Hall. In the event that any regular meeting falls on a holiday, then the meeting may be held on the next business day at the same time, or at another time as determined by the Council.

SECTION 2.03. SPECIAL MEETINGS. Special meetings of the Council may be called by the Mayor or by any two members of the Council in writing filed with the Clerk. At least one day before the meeting the Clerk shall notify each member of the time, place and purpose of the meeting by causing written notice thereof to be mailed or personally served. Similar written notice shall be posted upon the bulletin board at City Hall or on the door of the City Council chambers. Written notice shall be mailed at least three days before the meeting date to those who have requested notice of such special meetings. Special meetings may be held without prior written notice when all Council members are present at the meeting or consent in writing thereto.

Such consent shall be filed with the Clerk prior to the beginning of the meeting. Any special meeting attended by all Council members shall be a valid meeting for the transaction of any business that may come before the meeting.

Emergency meetings of the Council may be called by the Mayor or any two members of the Council when circumstances require the immediate consideration of the Council. Notice may be in writing personally delivered to Council members or may be in the form of personal telephone communication. Notice must include the date, time, place and subject of such meeting. Where practicable, the Clerk shall make an effort to contact newsgathering organizations that have filed a request to receive notice of special meetings.

SECTION 2.04. COUNCIL PROCEDURE AT REGULAR MEETINGS. The Clerk shall prepare the following items: an agenda for the forthcoming meeting; a report from the Clerk, department heads and/or liaison on activities that took place during the preceding month; a compiled list of all claimants who have filed verified accounts claiming payment for goods or services rendered the City, such list to be called the "Payment Requests"; a copy of all minutes to be considered; and copies of such other proposals, communications, or other documents as the City Clerk deems necessary or proper for advance consideration by the Council. The City Clerk shall forthwith cause to be mailed or delivered to each member of the Council copies of all said documents.

Roberts' Rules of Order (Newly Revised) shall govern all Council meetings as to procedural matters not set forth in the City Code.

The order of business at regular meetings shall be set by the City Clerk and approved, in advance, by the Council.

Matters inappropriate for consideration at a meeting shall not be considered except (1) with the unanimous consent of the members of the Council, or (2) scheduled public hearings or bid lettings at the time stated in the notice. All claims for payment must be filed at or before 12:00 o'clock noon on the Thursday prior to the regular Council meeting at which it is to be considered.

SECTION 2.05. CITY SEAL. All contracts to which the City is a party shall be sealed with the City Seal. Said Seal shall be kept in the custody of the Clerk and affixed by him/her. The official City Seal shall be a circular disc having engraved thereupon "CITY OF LEXINGTON" and such other words, figures or emblems as the Council may, by resolution, designate.

SECTION 2.06. RIGHT TO ADMINISTRATIVE APPEAL. If any person shall be aggrieved by any administrative decision of the 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 therefore upon the Mayor and 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/her own motion or the motion of the appellant, the Clerk, 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.

SECTION 2.07. RULES OF PROCEDURE FOR APPEALS AND OTHER HEARINGS. Unless superseded by State law, 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.

SECTION 2.08. FACSIMILE SIGNATURES. The Mayor is hereby authorized to request a depository of City funds to honor an order for payment when such instrument bears a facsimile of his/her signature, and to charge the same to the account designated thereon or upon which it is drawn, as effectively as though it were his/her

manually written signature. Such authority is granted only for the purpose of permitting such officer an economy of time and effort.

SECTION 2.09. CITY CLERK.

Subd. 1. Position Established. The position of City Clerk is hereby established. The City Council may choose to designate the City Clerk as City Manager, City Administrator, City Coordinator or any other designation fitting of the position and its function. The City Clerk will serve at the will of the City Council.

Subd. 2. Appointment and Removal. The Council shall appoint the "City Clerk" for an indefinite term. He/she shall not be removed except by affirmative action taken by the entire Council twice at two regular meetings held within sixty days. The action taken at the first such meeting shall be an expression of intent to vote thereon at the second such regular meeting not to be held sooner than ten days thereafter. If, at any time after he/she has completed six months of continuous service, the Council takes such action the Clerk may within thirty days after written notice of removal, request a public hearing which the Council must grant and which must be commenced within thirty days after the request.

Subd. 3. Qualifications. The City Clerk shall be selected solely on the basis of his/her executive and administrative qualifications with special reference both to his/her experience and formal education, as well as his/her knowledge of accepted practices pertaining to the duties of his/her office.

Subd. 4. Duties. The Clerk shall be the chief administrative officer of the City and he/she shall be responsible to the Council for the proper administration of all affairs of the City and to that end shall have the power and shall be required to:

- A. Supervise the administration of all Departments, offices and divisions of the City except as otherwise provided by law and carry out any other responsibilities placed under his/her jurisdiction by this Chapter or by subsequent Council action. He/she shall interview and screen all prospective City employees as permitted by law and shall make recommendations for terminating and suspending employees and may suspend any employee until the next Council meeting when the affirm modify or rescind the suspension.
- B. Develop and issue all administrative rules, regulations and procedures necessary to insure the proper functioning of all departments and offices under his/her jurisdiction as permitted by law and Council direction.
- C. Prepare and submit an annual budget to the Council and keep the Council advised of the financial condition of the City and make such recommendations as he/she may from time to time determine desirable and necessary.

- D. Attend and participate in discussions at all meetings of the Council and other official bodies as directed by the Council. The Clerk shall also represent the City at all official or semi-official functions as may be directed by the Council and not in conflict with the prerogatives of the Mayor. He/she shall be entitled to notice of all regular and special meetings of the Council.
- E. See that all laws and provisions of the City Code are duly enforced.
- F. Make or let purchases and contracts when the amount thereof does not exceed statutory limits not requiring sealed bids and to receive estimates, quotations, sealed bids, purchases or contracts in excess of statutory amounts requiring sealed bids and present them to the Council for official action.
- G. Recommend from time to time the adoption of such measures, as he/she may deem necessary or expedient for the health, safety and welfare of the community or for the improvement of the administration.
- H. Occupy the position and perform the statutory duties of City Clerk.
- I. Within broad policy guidelines, coordinate, administer, and follow through in regard to a wide variety of requests and problems of City concern; research and assist in developing and recommending solutions; interpret ordinances and directives for other departments, other agencies, and the general public.
- J. Represent the City in regard to local, regional, state and federal activities of concern to the City, with Council approval.
- K. Prepare agendas for Council meetings, supervise and participate in the development of supporting information, attend Council and other meetings as required, and serve as advisory member of the Planning Commission.
- L. Provide effective upward and downward communication, and insure that the Council is kept aware of current problems and progress of the City as well as the economic and legislative climate which affects the City.
- M. Serve as the City's public information representative and confer with media.
- N. Perform such other duties as may be required by the Council and consistent with Minnesota Statutes and the City Code.
- O. Delegate those duties of office as he/she deems appropriate.

SECTION 2.10. INCLUSIVE, RESERVED FOR FUTURE EXPANSION.

SECTION 2.11. INTERIM EMERGENCY SUCCESSION

Subd. 1. Purpose. Due to the existing possibility of an attack or natural disaster requiring a declaration of a state of emergency where 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 an attack upon the United States or a natural disaster requiring a declaration of a state of emergency 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 dictates, 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 Chairperson and Secretary to preside and keep minutes, respectively.
- B. They shall review and record specific facts relating to the situation and record 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 the 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 fully elected official is again available and returns to his/her 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 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.

SECTION 2.12. SALARIES OF MAYOR AND COUNCILPERSONS. Salaries of the Mayor and Council are hereby fixed as follows, which amounts are deemed reasonable:

Subd. 1. Mayor's Salary. The monthly salary of the Mayor shall be \$425.00 including two regular meetings and one workshop meeting per month, \$35.00 per meeting up to eight additional meetings per month and \$75.00 for a meeting during regular working hours, effective January 2nd, 2017.

Subd. 2. Councilperson's Salary. The monthly salary of each Councilperson shall be \$350.00 including two regular meetings and one workshop meeting per month, \$35.00 per meeting up to six additional meetings per month and \$75.00 for a meeting during regular working hours, effective January 2nd, 2017.

SECTION 2.13. 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.

SECTION 2.14. COUNCIL COMPOSITION AND ELECTION. The Council shall be composed of a Mayor and four Council members who shall be qualified electors and who shall be elected at large. Council members shall serve for a term of four years and/or until a successor is elected and qualifies. The Mayor shall serve for a term of two years and/or until a successor is elected and qualifies.

SECTION 2.15. BIENNIEL ELECTIONS.

Subd. 1. Date of Biennial Elections. A regular city election for the election of city officers shall be held on the first Tuesday after the first Monday in November in each even numbered year.

SECTION 2.16 THROUGH 2.19, INCLUSIVE, RESERVED FOR FUTURE EXPANSION.

SECTION 2.20. DEPARTMENTS GENERALLY.

Subd. 1. Appointment. All Department Heads shall be approved by the Council, and shall report to the City Clerk. Their appointment or employment shall be for an indeterminate term unless otherwise stipulated in a written agreement or by a term set in this code.

Subd. 2. Compensation. All wage and salary scales shall be fixed and determined by the Council.

Subd. 3. Budgetary Information. The heads of all Departments shall, in a timely manner established by the Clerk; file with the Clerk the projected financial needs of his/her Department for the ensuing year. Such projections shall include information as to maintenance and operation of equipment, new equipment, personnel, and such other information as may be requested by the City.

SECTION 2.21. POLICE DEPARTMENT. A Police Department is hereby established. The Head of this Department shall be known as the Chief of Police, and the number of additional members and employees of the Police Department shall be determined by the Joint Powers Governing Board which may be changed from time to

time. The Chief of Police and all members of the Police Department shall have the power and authority of police officers generally and shall perform such duties as are required of them by the Council or by law. The Chief of Police shall be the general superintendent of the Police Department and custody of all property used and maintained for the purposes of said Department. The Chief of Police shall make reports as requested by the City Administrator or the Council. This section shall apply to the Police Department except as otherwise provided in any joint powers with another City, in which case such agreement shall take precedence.

SECTION 2.22. FIRE DEPARTMENT. A Fire Department under the control of the Council is hereby established. The size, composition and remuneration shall all be established by resolution of the Council, which may be changed from time to time, by subsequent resolution. The Council shall also establish written rules and regulations of the Department, a copy of which shall be distributed to each of its members. The Council shall approve the hiring of a Chief of the Fire Department. The Chief shall be the general superintendent of the Fire Department and the custody (custodian??) of all property used and maintained for the purposes of said Department. He/she shall see that the same are kept in proper order and that all rules and regulations and all provisions of the laws of the state and ordinances of the City relative to a Fire Department and to the prevention and extinguishing of fires are duly observed. He/she shall superintend the preservation of all property endangered by fire and shall have control and direction of all persons engaged in preserving such property. In case of the absence or disability of the Chief for any cause, the Assistant Chief shall exercise all the powers, perform all the duties and be subject to all the responsibilities of the Chief. The Chief of the Fire Department shall make reports as requested by the City Administrator or the Council.

SECTION 2.23. CITY ATTORNEY. The Council shall appoint a qualified Attorney, who shall, together with such assistants as may be necessary, serve at the pleasure of the Council. The City Attorney shall perform such duties as are required of him/her by law or referred to him/her by the Council, the City Administrator, or their designee. It shall be the official duty of the City Attorney to act as "Reviser of Ordinances".

SECTION 2.24. CITY ENGINEER. The Council shall appoint a qualified Engineer, who shall, together with such assistants as may be necessary, serve at the pleasure of the Council. The City Engineer shall perform such duties as are required of him/her by law or referred to him/her by the Council, the City Administrator, or their designee.

SECTION 2.25. CITY AUDITOR. The Council shall appoint a qualified Auditor, who shall, together with such assistants as may be necessary, serves at the pleasure of the Council. The City Auditor shall perform such duties as are required of him/her by law or referred to him/her by the Council, the City Administrator, or their designee.

SECTION 2.26. PUBLIC WORKS DEPARTMENT. A Public Works Department is hereby established. The Head of such Department shall be the Public Works Director. The city water, sewerage systems, streets and parks shall be under the direct supervision of the Director and he/she shall be responsible for and have custody of all property of such Department. It is also the duty of the Public Works Director, on or before the date of the first regular Council meeting in each month, to file with the Clerk a report as to any recommendations as to repairs or improvements he/she deems advisable, together with a report of the activities of his/her Department during the preceding month. The Director shall also make and file such other reports as may be requested by the Council. The City Administrator shall serve as the Head of this Department unless the Council specifically approves the hiring of another individual for this purpose.

SECTION 2.27. BUILDING INSPECTOR. The Council shall appoint a qualified Building Inspector, who shall, together with such assistants as may be necessary, serve at the pleasure of the Council. The Building Inspector shall perform such duties as are required of him/her by law or referred to him/her by the Council, the City Administrator, or their designee.

SECTION 2.28 THROUGH 2.29, INCLUSIVE, RESERVED FOR FUTURE EXPANSION.

SECTION 2.30. BOARDS AND COMMISSIONS GENERALLY. All Boards and Commission appointments authorized by ordinance or resolution shall be made by the Mayor, and such appointment confirmed by the Council at the first regular meeting in January of each year. The term of each appointee shall be established and stated at the time of his/her appointment and terms of present Board and Commission members may be reestablished and changed so as to give effect to this Section. New appointees shall assume office on January 1, December 31 being the date of expiration of terms. Provided, however, that all appointees to Boards and Commissions shall hold office until their successor is appointed and qualified. All vacancies shall be filled in the same manner as for an expired term, but the appointment shall be effective immediately when made and only for the unexpired term. The monthly salary of the Chair of Park Board and Chair Planning Commission shall be \$35.00. The per diem expense shall be \$15.00 per special meeting or activity. The monthly salary of the Park Board and Planning Commission members shall be \$30.00. The per diem expense shall be \$15.00 per special meeting or activity. The Chairperson shall be chosen from and by the Board or Commission membership, and the Secretary chosen may, but need not, be one of its members, at its first regular meeting in January of each year to serve for the next calendar year. Preferably that no Chairperson shall be elected who has not completed at least one year as a member of the Board or Commission. Any Board or Commission member may be removed for misfeasance, malfeasance or nonfeasance in office by a two-thirds vote of the entire Council, but such member shall be entitled to a public hearing before such vote is taken. In addition, the Council, according to the rules adopted by the Board or Commission and approved by the Council, may remove any member for non-attendance at Board or Commission meetings without action. The

position shall then be filled as for any other vacancy. The Chairperson shall notify the City Manager of any vacancies. The City Manager shall coordinate activities of the Board or Commission toward filling the vacancy, including recruiting, interviewing and recommending candidates. Whenever possible appointments to any Board or Commission should be made and confirmed within thirty days. Each Board and Commission shall hold its regular meeting at a time established and approved by the Council. Ex-officio members may be appointed for annual terms, provided that membership on the Board or Commission shall terminate with the office from which ex-officio membership is derived, to serve at the pleasure of the Council or as otherwise appropriate. Except as otherwise provided, this Section shall apply to all Boards and Commissions.

SECTION 2.31. BOARDS OF ADJUSTMENTS AND APPEALS. (Note: The Board of Adjustments and Appeals is provided for in Chapter 11 of the City Code.)

SECTION 2.32. PLANNING COMMISSION. (Note: The Planning Commission is provided for in Chapter 11 of the City Code.)

SECTION 2.33. PARK BOARD.

Subd. 1. Establishment and Composition. A Park Board is hereby established. The Board shall be composed of five (5) members who shall serve staggered three-year terms. In addition, one member from the Council and one member from the City administrative staff may be appointed ex-officio.

Subd. 2. Duties. The Park Board shall have the responsibility to recommend expansion and plans for the maintenance and development of the park system to the Council, through the City Manager's office. The Board is authorized to receive and accept, in the name of the City, gifts or devises of real or personal property to be used for park purposes.

Subd. 3. Written Communication All written communication from or through the Park Board will be routed through City Staff. City staff will prepare minutes of Park Board meetings and all outgoing communications.

SECTION 2.34. REPEALED.

SECTION 2.35. PERSONNEL COMMITTEE

Subd. 1. Establishment and Composition. A Personnel Committee is hereby established and shall consist of the Mayor, City Clerk, City Attorney, and one member of the City Council. The Board shall convene only when necessary to fulfill its duties.

Subd. 2. Duties. The Personnel Committee shall have the responsibility to make recommendations to the Council for the hiring, termination or suspension of any Department Head. The Committee may take interim action to suspend any Department

Head for violating the law, dereliction of duty, or other employment infractions effective until the next Council meeting when they may affirm, modify or rescind the suspension.

SECTION 2.36 THROUGH 2.39, INCLUSIVE, RESERVED FOR FUTURE EXPANSION.

SECTION 2.40. 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 privileges 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 semi-permanent 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 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 there under.
- 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 reroute 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.

Editors Notes: The following are non-coded ordinances on file in the office of the City Clerk and be open to inspection during regular business hours.

Ordinance No. 02-09, adopted September 19, 2002, grants the cable television franchise to MeadiaOne North Central Communications Corp. d/b/a AT&T Broadband.

Ordinance adopted December 3, 2009 grants the gas franchise to Centerpoint Energy.

Ordinance No. 11-05, adopted October 6, 2011, grants electric franchise to Northern States Power Co. d/b/a Xcel Energy.

Ordinance No. 12-06, adopted August 2, 2012, modifies electric franchise to collect franchise fees from Northern States Power Co. d/b/a Xcel Energy. (Revised in 16-04, 12/13/16)

Ordinance No. 12-07, adopted December 20, 2012, grants the electric franchise to Connexus Energy. (Revised in 16-04, 12/13/16)

Ordinance No. 13-01, adopted January 10, 2013, modifies the electric franchise to collect franchise fees from Connexus Energy. (Revised in 16-04, 12/13/16)

SECTION 2.41 THROUGH 2.49, INCLUSIVE, RESERVED FOR FUTURE EXPANSION.

SECTION 2.50. AUTHORIZING BACKGROUND CHECKS. The purpose of this section is to authorize the City acting through a Police Department or City Attorney to access through the Bureau of Criminal Apprehension computerized criminal history data, the Department of Public Safety driver's license history data, and other government and private entities to perform background checks on employees, applicants for employment, volunteers and applicants for City licenses related to businesses, landlords, and construction. The City may conduct comprehensive background investigations, including but not limited to accessing data through other

automated and non-automated sources and contacting references. The City may periodically conduct a driver's license inquiry upon employees or volunteers where possession of a valid driver's license is an essential qualification of the position. Before the investigation is undertaken, the person must authorize the Police Department or City Attorney in writing to undertake the investigation and to release the information to the City Administrator, and other City staff as appropriate. If a questioned identity situation occurs, fingerprint verification shall be obtained. Should the City reject an applicant's request for employment, volunteerism, or license due, partially or solely to the applicant's prior conviction of a crime, subject to the exception set forth in Minnesota Statutes Section 364.09 the City Administrator shall notify the applicant in writing of the following:

- A. The grounds and reason for the denial;
- B. The applicable complain and grievance procedure set forth in Minnesota Statutes Section 364.06;
- C. The earliest date the applicant may reapply for employment; and
- D. All competent evidence of rehabilitation will be considered upon reapplication.

SECTION 2.51 THROUGH 2.98, INCLUSIVE, RESERVED FOR FUTURE EXPANSION.

SECTION 2.99. VIOLATION A MISDEMEANOR. Every person violates a section, subdivision, paragraph or provision of this Chapter when he/she 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.