

SUB-ANALYSIS

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CHAPTER 2
ADMINISTRATION AND GENERAL GOVERNMENT

SEC. 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.

SEC. 2.02. COUNCIL MEETINGS - TIME AND PLACE. Regular meetings of the Council shall be held in the Council Chambers on the third Tuesday of each month at 7:00 o'clock P.M. Special and adjourned meetings shall also be held in the Council Chambers, unless otherwise designated by the Council. In the event that any regular meeting falls on a holiday, then the meeting shall be held on the next business day at the same time.

SEC. 2.03. SPECIAL MEETINGS. Special meetings of the Council may be called by the Mayor or by any two other members of the Council by writing filed with the City Administrator stating the time, place and purpose of the meeting. Notice of a special meeting shall be given by the City Administrator to each member of the Council by mailing a copy of such filing to all members who did not sign or issue the call at least four days prior to the time stated therein, or by personal service at least 72 hours prior to the projected time of meeting. Special meetings may be held without prior written notice to the Council when all Council members are present at the meeting or consent thereto in writing. Any such consent shall be filed with the City Administrator 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. Meetings of the Council which are adjourned from time-to-time shall not be subject to the foregoing notice requirements; nor shall special meetings which, in the judgment of the Council, require immediate consideration to meet an emergency require such notice, but may be called by telephone communication or any other expeditious means. Notice to the public and to news media shall be given as required by statute. (7-1-90)

SEC. 2.04. COUNCIL PROCEDURE AT REGULAR MEETINGS. The City Administrator shall prepare the following items: (1) an agenda for the forthcoming meeting; (2) a report from the City Administrator on administrative activities of the preceding month; (3) a compiled list of all claimants who have filed verified accounts claiming payment for goods or services rendered the City during the preceding month, such list to be called the "Claim Report" and bearing headings "Claimant", "Purpose", and "Amount"; (4) a copy of all minutes to be considered; and, (5) copies of such other proposals, communications, or other documents as the City Administrator deems necessary or proper for advance consideration by the Council. The City Administrator 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 as follows:

1. Roll Call.
2. Approval or Correction of Minutes.
3. Consent Agenda.
4. Opening of Bids.
5. Hearings.
6. Legal.
7. Engineering.
8. Financial.
9. Old Business.
10. New Business.
11. Public Input.
12. Claims.
13. Adjournment.

Matters inappropriate for consideration at a meeting, or not in the order specified, 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 4:30 P.M. on the Tuesday preceding the regular Council meeting at which it is to be considered. (Ord. No. 19, Second Series, 8-26-93)

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

SEC. 2.06. RIGHT TO ADMINISTRATIVE APPEAL. If any person shall be aggrieved by any administrative decision of the City Administrator 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 City Administrator at least five 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 appellant 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 their own motion or the motion of the appellant, the City Administrator, 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. 2.07. 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 30 days after adoption and shall be for the purpose of establishing and maintaining order and decorum in the proceedings.
(7-1-90)

SEC. 2.07.1. PROCEDURES FOR ACTION ON APPLICATIONS AND PETITIONS. The following procedures shall be applied in granting or denying any application or petition under this Chapter:

Subd. 1. Any application or petition (hereafter "the request") made under the City Code shall receive final action, or have the final action date extended, within 60 days of submission of written materials required herein, or the request shall be deemed approved. The City shall have ten business days following receipt of such materials to give written notice that required information has been omitted. The City may extend the time for final action up to an additional 60 days upon written notice to the applicant or petitioner, given within the initial 60-day period, stating the basis for the extension. The time limit set forth above may be additionally extended in order to comply with state statute, federal law or court order.

Subd. 2. The applicant shall make a written request providing information as is necessary to the City on a form supplied by the City and make payment of a filing fee as established by Council resolution.

2.07.1, Subd. 3

Subd. 3. Where a hearing is otherwise required under the City Code or state statute, the appropriate reviewing body shall hold a public hearing on the application or petition. Notice of the hearing shall be published in the official newspaper at least ten days before the hearing. Written notice shall be sent to all persons to which the application or petition applies. Failure of a person to receive such notification shall not invalidate the proceedings, provided a bona fide attempt to comply with these provisions has been made.

Subd. 4. After review of the request and within 14 days after the hearing, the reviewing body shall adopt findings based upon the evidence established during the hearing, and recommend and transmit a recommendation to the Council. A copy of the recommendation shall be mailed to the applicant.

Subd. 5. In granting a request under the provisions of this Section, the reviewing body shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of the City Code provisions or regulations to which the request applies.

Subd. 6. Prior to the scheduled public hearing, the applicant shall prepare and submit the appropriate exhibits for distribution to the reviewing body and to interested parties.

Subd. 7. The Council shall take action on the proposed recommendation following the procedure for adoption of ordinances; provided, that if the Council amends the recommendation, the amended recommendation shall not be enacted until the reviewing body has taken action on the amended recommendation through the procedures outlined in this Section. (Ord. No. 33, Second Series, 6-25-98)

SEC. 2.08. FACSIMILE SIGNATURES. The Mayor (or Acting Mayor) and City Administrator are hereby authorized to request a depository of City funds to honor an order for payment when such instrument bears a facsimile of their signatures, and to charge the same to the account designated thereon or upon which it is drawn, as effectively as though it were their manually written signatures. Such authority is granted only for the purpose of permitting such officers an economy of time and effort.

SEC. 2.09. CITY ADMINISTRATOR.

Subd. 1. Position Established. The position of City Administrator is hereby established.

Subd. 2. Appointment and Removal. The City Administrator shall be appointed by the Council for an indefinite term. The Administrator shall not be removed except by affirmative action taken by the Council twice at two regular meetings held within 60 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 the Administrator has completed six months of continuous service, the Council takes such action, the City Administrator may within 30 days after written notice of removal, request a public hearing which the Council must grant and which must be started within 30 days after the request.

Subd. 3. Duties. The City Administrator shall be the chief administrative officer of the City and the Administrator 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 Administrator's jurisdiction by this Chapter or by subsequent Council action. The Administrator 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 Council shall 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 Administrator's jurisdiction as permitted by law and Council approval.

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 Administrator may from time to time determine desirable and necessary.

2.09, Subd. 3 D

D. Attend and participate in discussions at all meetings of the Council and other official bodies as directed by the Council. The City Administrator 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. The Administrator 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 \$2,000.00 and to receive estimates, quotations, sealed bids, purchases or contracts in excess of \$2,000.00 and present them to the Council for official action.

G. Recommend from time to time the adoption of such measures as the Administrator may deem necessary or expedient for the health, safety and welfare of the community or for the improvement of the administration.

H. The City Administrator shall act as City Clerk and City Treasurer where statutory reference is made to these positions.

I. Perform such other duties as may be required by the Council and consistent with Minnesota Statutes and the City Code.

Subd. 4. Bond Required. The City Administrator shall furnish a surety bond to be approved by the Council, said bond to be conditioned on the faithful performance of Administrator's duties. The premium of the bond shall be paid by the City.

Subd. 5. Compensation. The City Administrator shall receive such compensation as the Council shall fix from time to time by ordinance or resolution.

SEC. 2.10. DEPUTY CITY CLERK.

Subd. 1. Position Created. The position of Deputy City Clerk is hereby created.

Subd. 2. Delegation of Duties. A portion of the bookkeeping duties, as may be determined from time to time, performed by the City Administrator, are hereby delegated to the Deputy City Clerk.

2.10, Subd. 3

Subd. 3. Bond. The Deputy City Clerk shall furnish a fidelity bond conditioned on the faithful exercise of their duties. In lieu of such individual bond the Council may provide for a blanket bond, furnished by a surety company authorized to transact business in the State of Minnesota, and covering the position and duties of the Finance Officer. Premiums on either of such bonds shall be paid from City funds. (7-1-90)

SEC. 2.11. 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 Administrator 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. 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. Such interim successors shall serve until such time as the duly elected official is again available and returns to their 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. (7-1-90)

(6-17-08)

SEC. 2.11.1 EMERGENCY MANAGEMENT.

Subd. 1. Statute Adopted. The "Minnesota Emergency Management Act of 1996", Minnesota Statutes, Chapter 12, insofar as it relates to cities, is hereby adopted by reference as part of this Section, as fully as if set forth explicitly herein.

Subd. 2. Establishment of an Emergency Management Agency. There is hereby created within the City government an Emergency Management Agency, which shall be under the supervision of a Director to be appointed forthwith by the Mayor. The Director shall have direct responsibility for the organization, administration and operation of said Emergency Management Agency, subject to the overall direction and control of the Council.

Subd. 3. Emergency Preparedness Plan. The Council may, by resolution, adopt, from time-to-time amend, or repeal an emergency preparedness plan for the City.)Ord. No. 33, Second Series, 6-25-98)

SEC. 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. The monthly salary of the Mayor shall be \$180.00.(Amended, Ord. No. 70, Second Series, dated October 15, 2002)

Subd. 2. The monthly salary of each Councilperson shall be \$150.00. (Amended, Ord. No. 70, Second Series, dated October 15, 2002)

Subd. 3. In addition to said monthly salaries, the Mayor shall be compensated \$60.00, and each Councilperson shall be compensated \$45.00, for each special Council meeting that they attend. (Amended, Ord. No. 70, Second Series, dated October 15, 2002)

Subd. 4. The salaries provided for herein shall be effective January 1, 2003. (Amended, Ord. No. 20, Second Series, dated October 15, 2002)

SEC. 2.13. WORKER'S COMPENSATION. The City shall not enter into any contract for doing public work before receiving from all other contracting parties acceptable evidence of compliance with the worker's compensation insurance coverage requirement of Minnesota Statutes. (7-1-90)

(Sections 2.14 through 2.19, inclusive, reserved for future expansion.)

SEC. 2.20. DEPARTMENTS GENERALLY.

Subd. 1. Control. All departments of the City are under the overall control of the Council. Heads of all departments are responsible to the Council and subject to its supervision and direction, except as otherwise provided herein.

Subd. 2. Appointment. All department heads and employees shall be appointed by the Council. All appointments shall be for an indeterminate term and subject to any applicable civil service regulations in effect in the City.

Subd. 3. Compensation. All wages and salaries shall be fixed and determined by the Council.

SEC. 2.21. FIRE DEPARTMENT. A Volunteer 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 members of the department shall elect their own Chief, Deputy Chief, and other officers subject to confirmation and approval by the Council. The Chief of the Fire Department shall have general superintendence of the Fire Department and the custody of all property used and maintained for the purposes of said Department. The Chief 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 extinguishment of fires are duly observed. The Chief 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 Deputy 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 and file such reports as may be requested by the Council.

SEC. 2.22. LEGAL DEPARTMENT. A Legal Department is hereby established. The Council shall appoint a City Attorney, who shall be head of the Legal Department, together with such assistants as may be necessary who shall serve at the pleasure of the Council. The City Attorney shall perform such duties as are required by law or referred to the Attorney by the Council. It shall be the official duty of the City Attorney to act as "Reviser of Ordinances".

SEC. 2.23. PUBLIC WORKS DEPARTMENT. A Public Works Department is hereby established. The head of such Department shall be the Public Works Superintendent. The City streets, parks and all underground water mains and sewerage systems shall be under the direct supervision of the Superintendent and the Superintendent shall be responsible for and have custody of all property of such department. The Superintendent shall make and file such reports as may be requested by the Council.

SEC. 2.24. WATER AND WASTEWATER DEPARTMENT. A Water and Wastewater Department is hereby established. The head of this department shall be the Superintendent of Water and Wastewater Operations. The water and wastewater utilities shall be under the Superintendent's supervision and control. The Superintendent shall make and file such reports as may be requested by the Council. (7-1-90)

(Sections 2.25 through 2.29, inclusive, reserved for future expansion.)

SEC. 2.30. BOARDS AND COMMISSIONS GENERALLY. Unless otherwise provided by other provisions of the City Code, all Board and Commission appointments authorized by ordinance or resolution shall be made by the Mayor or the Council, as the case may be, prior to the expiration of an existing term, and such appointment confirmed prior to expiration of the existing term. The term of each appointee shall be established and stated at the time of their appointment, and terms of present Board and Commission members may be reestablished and changed so as to give effect to this Section. After the effective date of the City Code, no Board or Commission member shall be appointed to more than three full consecutive terms. New appointees shall assume office on the first day of the first month following their appointment and qualification, or on the first day of the first month following the expiration of the prior term and qualification, whichever shall occur last. Provided, however, that all appointees 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 only for the unexpired term. No appointed Board or Commission member shall be an employee of the City, but an ex officio member may be so employed. All appointed Board and Commission members shall serve without remuneration, but may be reimbursed for out-of-pocket expenses incurred in the performance of their duties when such expenses have been authorized by the Council before they were incurred. The Chairman and the Secretary shall be chosen from and by the Board or Commission membership annually to serve for one year. Provided, however, that no Chairman shall be elected who has not completed at least one year as a member of the Board or Commission. Any Board or

(6-17-08)

2.30.1

Commission member may be removed by the Council for misfeasance, malfeasance or nonfeasance in office and his position filled as any other vacancy. Each Board and Commission shall hold its regular meeting at a time established and approved by the Council. Except as otherwise provided, this Section shall apply to all Boards and Commissions. (7-1-90)

SEC. 2.30.1 ADVISORY MEMBERS OF BOARDS AND COMMISSIONS.

Subd. 1. Appointments. The Mayor may appoint from time to time, subject to the confirmation of a majority of the Council, advisory members of Boards and Commissions of the City. These appointments shall be in addition to the membership of the Board and/or Commission by the provisions of the City Code.

Subd. 2. Residence. Advisory Board and Commission members need not be residents of the City.

Subd. 3. Voting. No advisory Board or Commission member shall be entitled to vote as a member of the Board or Commission but shall be permitted to serve in an advisory capacity to take part in discussions regarding matters coming before that Board or Commission.

Subd. 4. Term of Office. Except to the extent that a specific term of office is required by law, Advisory Board and Commission members shall serve for a term of three years. Advisory Board and Commission members shall commence on the first business day of January of the calendar year in which they are appointed and shall expire three years thereafter. Advisory Board and Commission members may be reappointed upon expiration of the term of office. The Council may remove any appointed member when, in its judgment, the public welfare will be promoted by such removal. (Amended, 8-15-06)

Subd. 5. Limited Advisory Members - Quorum. No Board or Commission shall have more than two advisory members unless authorized by ordinance. The attendance of the advisory members shall not be considered in determining whether a quorum of the Board or Commission is present for the purposes of conducting the business of the Board or Commission. (Ord. No. 95-1, 6-2-95)

SEC. 2.31. PLANNING COMMISSION.

Subd. 1. Establishment and Composition. A Planning Commission is hereby established. The Commission shall be composed of five members who shall serve staggered three-year terms. The City Attorney, by reason of Attorney's position, shall be an ex-officio member and the Council may appoint one ex-officio member from the membership of the Council.

(6-17-08)

2.31, Subd. 2

Subd. 2. Powers and Duties. The Planning Commission shall have all the powers and duties defined or granted in the statutes and the City Code relating to planning, zoning and subdivision regulation and shall act in an advisory capacity to the Council in all of such areas. (7-1-90)

SEC.2.32. BOARD OF ZONING ADJUSTMENT.

Subd. 1. Establishment and Composition. A Board of Zoning Adjustment, composed of the Planning Commission, is hereby established. (Ord. No. 33, Second Series, 6-28-98)

Subd. 2. Powers and Duties. The powers and duties of the Board are as enumerated in the Zoning Chapter of the City Code.

SEC. 2.33. LIBRARY BOARD.

Subd. 1. Establishment and Composition. A Library Board Composed of seven members, all of whom shall be users of the library and a majority of whom shall be residents of the City, who shall serve staggered three-year terms, is hereby established. All appointments for a full term shall be made by the Mayor with the approval of the Council, and a member may be removed in the same manner for misconduct or neglect. Appointments to fill vacancies for an unexpired term shall be made by the Council. No more than one Council member shall be a member of the Board. Members shall receive no compensation for their services but may be reimbursed for actual and necessary travel expenses incurred in the discharge of Board duties and activities.

Subd. 2. Duties. The duties of the Board are as follows:

A. To annually elect from its membership a President, Secretary and such other officers as it deems necessary; adopt rules and regulations for the government of the library and conduct of its business; recommend a qualified Library Director and other staff as necessary, establish compensation of employees, and remove them for cause.

B. To pay into the City Treasury all money received for the library, and interest thereon, which shall be credited to the Library Fund and kept separate from the other money of the City, and paid out only upon approval of the Board.

2.33, Subd. 2 C

C. To have exclusive control of library grounds and rooms, and the construction of library buildings, and to lease rooms for library use if it finds such to be necessary or desirable. To annually report to the Council receipts and their sources, disbursements and for what purposes, the number of library materials on hand, purchased and loaned, and other information it deems advisable; and, to file such information with the Minnesota Department of Education not later than April 1 of each year.

Subd. 3. Title to Property. All property given, granted, conveyed, donated, devised, or bequeathed to, or otherwise acquired by, the City for a library shall vest in, and be held in the name of, the City, and any conveyance, grant, donation, devise, bequest or gift made to, or in the name of, the library or Library Board shall be deemed to have been made directly to the City. (7-1-90)

SEC. 2.34. CEMETERY BOARD.

Subd. 1. Establishment and Composition. An administrative Cemetery Board composed of seven members, six of whom shall be appointed by the Mayor, is hereby established. The Council member shall serve a one-year term and the other members shall serve staggered three-year terms. The Board shall elect a Secretary-Treasurer who shall be an ex-officio member. (Ord. No. 20, Second Series, 11-25-93)

Subd. 2. Powers and Duties.

A. The Board shall establish rules and regulations both as to its procedure and the effective management of the cemetery, but subject to approval by the Council.

B. The Board shall establish rates and charges, subject to Council approval, establish such funds as may be necessary or desirable for accurate accounting, and keep detailed records of lot sales, receipts, disbursements, and its proceedings. (7-1-90)

SEC. 2.35. PARK BOARD.

Subd. 1. Establishment. A Park Board is hereby created to be composed of five members who shall serve staggered three-year terms.

Subd. 2. Duties. The Board shall recommend improvements to the Council of any and all parks in the City and determine and direct the maintenance of the same. It shall further be the duty of the Board to see that all parks are kept free from rubbish and all deposits of refuse and garbage of whatever nature; and during the summer, to see that the parks are mowed and in the winter, that any sidewalks within the parks are free from snow and ice.

2.35, Subd. 3

Subd. 3. Rules and Regulations. The Board is authorized and empowered for and on behalf of and in the name of the City, to set rules and regulations to be carried out by all persons in the City parks, subject however, to the Council's approval.

Subd. 4. Personnel. Park employees shall report and be accountable to the City Administrator.

Subd. 5. Purchases. The Park Board shall have authority to purchase necessary equipment and supplies in carrying out the necessary work of the Board; but before incurring any expenses (other than ordinary and maintenance expenses) exceeding the sum of \$300.00, Council approval shall be necessary.

Subd. 6. Budgeting. For the purpose of carrying out the provisions of this Section, the Council may appropriate annually out of the resources of the City, such sums of money as it may deem necessary to maintain the parks in a proper condition. (Ord. No. 95-2, 3-16-95)

SEC. 2.36. HERITAGE PRESERVATION COMMISSION. Ord. 61 Repealed, Ord. No. 90, Second Series, 6-27-08; Added, Ord. No. 90, Second Series, 6-27-08)

Subd. 1. Declaration of Public Policy and Purpose. The Council of the City of Pine Island hereby declares as matter of public policy that the preservation, protection, perpetuation, promotion and use of areas, places, buildings, structures, lands, districts and other objects having a special historical, community or aesthetic interest or value is a public necessity and is required in the interest of the health, prosperity, safety and welfare of the community. To this end, the Heritage Preservation Commission is created and charged with the stewardship of Pine Island's heritage.

The purposes of the Heritage Preservation Commission are to:

A. Safeguard the heritage of the City of Pine Island by preserving properties which reflect elements of the City's cultural, social, economic, political, visual, or architectural history;

B. Protect and enhance the City of Pine Island's appeal and attraction to residents, visitors, and tourists, while enhancing its economic viability through the protection and promotion of its unique character as related to its history and heritage;

C. Enhance the visual and aesthetic character, diversity and interest of the City of Pine Island;

(6-17-08)

2.36, Subd. 1 D

D. Foster civic pride in the beauty and notable accomplishments of the past; and

E. Promote the preservation and continued use of historic properties for the education and general welfare of the people of the City of Pine Island.

Subd. 2. Members. There is hereby created and established a City of Pine Island Heritage Preservation Commission (hereinafter, the "Commission" which shall consist of:

A. Seven voting members to be appointed by the Mayor; by and with the advice and consent of the City Council. One voting member may be a student. No more than one voting member may be an area resident residing outside the City limits.

B. One member of the City Council shall be appointed by the Mayor, with the advice and consent of the City Council, an ex-officio, non-voting member of the Commission.

C. Any member (with the exception of the one member who may be an area resident residing outside the City limits) appointed to serve on the Heritage Preservation Commission shall be a resident of the City of Pine Island and shall have a demonstrated interest and/or expertise in historic preservation. If available in the community and willing to serve, at least two members of the Heritage Preservation Commission shall be preservation-related professionals, including the professions of history, architecture, architecture history, archaeology, planning real estate, design, building trades, landscape architecture, or law. One member of the Heritage Preservation Commission must be a designated representative of the Goodhue County Historical Society, if available, pursuant to Minnesota Statutes, Section 471.193.

Subd. 3. Term. The Mayor and City Council shall initially appoint.

A. Two members to serve a term of one year initially;

B. Two members to serve a term of two years initially;
and

C. Three members to serve a term of three years.

2.36, Subd. 4

Terms of office shall expire on the first day in May in the year following their last full year of appointment. All subsequent appointments shall be for a term of three years, except for ex-officio members who may be appointed annually. Members may be reappointed for consecutive years. In the event of a vacancy, the vacancy for the unexpired term shall be filled in the same manner as the appointment was originally made. The Mayor shall appoint a person to fill the vacancy for the remainder of the term within 45 days after the day on which the vacancy occurred. If a vacancy occurs in a term with less than 45 days remaining, the Mayor may allow the term to expire without appointing a person to fill the vacancy; after which the Mayor shall appoint a member for the full term.

Subd. 4. Commission Member Compensation. Members of the Commission will not receive a salary for their services, but may be compensated for an approved expenses incurred in the performance of their duties.

Subd. 5. Commission Meetings. The Commission shall meet at least four times during each calendar year. The Commission shall hold its first meeting within 45 days after the day on which this Section takes effect. At the first meeting the members of the Commission shall adopt rules and by-laws concerning the following:

- A. The time, dates and place of future meetings;
- B. Election of Commission officers;
- C. Voting and quorum requirements.

Subd. 6. Organization. The Commission when formed shall elect from its members such officers as it may deem necessary. The Commission shall have the power to designate and appoint from its members various committees. The Commission shall make such by-laws as it may deem advisable and necessary for the conduct of its affairs and for the purpose of carrying out the intent of this Section which are not inconsistent with the laws of the City of Pine Island and the State of Minnesota.

SEC. 2.37. HERITAGE PRESERVATION COMMISSION FUNCTIONS. (Added, Ord. No. 90, Second Series, 6-17-08)

Subd. 1. Definitions. As used herein, the following terms have the meanings indicated:

A. "Pine Island Heritage Landmark" or "Heritage Landmark" shall mean any building, site, structure, district, or object which has been duly designated by the Heritage Preservation Commission and City Council as a Heritage Landmark.

(6-17-08)

2.37, Subd. 1 B

B. "Secretary of the Interior's Standards and Guidelines for the Treatment of Historic Properties" shall mean the current standards and guidelines issued by the U.S. Department of the Interior for preserving, rehabilitating, restoring, and reconstructing historic properties.

C. "National Register of Historic Places" is the nation's official list of properties worthy of preservation maintained by the United States Department of the Interior, National Park Service, pursuant to the National Historic Preservation Act of 1966, as amended. Nominations of properties in Minnesota to the National Register are made by the State Historic Preservation officer.

D. "Certificate of Appropriateness" is a certificate issued by the City and attached to a City permit evidencing compliance with the City's policies regarding the preservation, protection and use of heritage resources.

E. "Historical Significance" shall mean the heritage preservation value of a property in relation to an important historic context or theme related to American history, architecture, landscape architecture, engineering, or culture.

F. "Integrity" shall mean the aspects of location, design, setting, materials, workmanship, feeling, and association that allow a property to convey its historical significance.

G. "Heritage Resource" and "Historic Property" shall mean any historic building, site, structure, object, or district that has historical architectural, archaeological, or cultural value to the citizens of Pine Island, the State of Minnesota, or the United States.

H. "Plan of Treatment" shall mean the official preservation plan, prepared and adopted by the Heritage Preservation Commission in consultation with the property owner, that presents strategies for maintaining and enhancing the heritage preservation value of a Pine Island Heritage Landmark and provides specific guidance for design review decisions. The plan of treatment is adopted at the time a heritage landmark is designated.

Subd. 2. Designation of Pine Island Heritage Landmarks.

A. Reports. The Commission shall ensure that:

2.36, Subd. 2 B

1. An annual report is prepared by October 31 of each year as required in accordance with Minnesota Statutes, Section 471.193, Subdivision 6 for submission to the Minnesota State Historic Preservation Office and shall file a copy with the City Administrator for distribution to the City Council.

2. An updated list of all areas, places, buildings, structures, lands, districts, or other objects which have been designated as Pine Island Heritage Landmarks is made available to the public.

3. An updated catalog of all known publications, articles, books, pamphlets, policies, or other materials having a direct bearing on the heritage preservation program for Pine Island are prepared, compiled, and made available to the City staff.

B. Criteria for Designation of Properties as Heritage Landmarks. The Commission shall apply the following criteria when evaluating the historical significance of any property being considered for nomination as a Heritage Landmark:

1. Its association with events or patterns of events that have made a significant contribution to the broad patterns of local, state and national history.

2. Its association with the lives of persons who have made a significant contribution to state or local history.

3. Its architectural, engineering, artistic, or landscape qualities in relation to an important style, type, period, or method of construction.

4. Its scientific or informational value in prehistory or history.

5. Its identify as an historic district, neighborhood, or environment comprised of heritage resources united historically or aesthetically by plan or physical development, including features that lack individual distinction.

C. Findings of Significance. If the Commission determines that a historic property appears to meet one or more of the eligibility criteria for designation as a Heritage Landmark, it may by majority vote issue a finding of historical significance for planning purposes. Copies of the findings shall be transmitted to the City Council with the Commission's annual report.

2.36, Subd. 2 D

D. Owner Notification. Prior to the Commission nominating any property for designation by the City Council as a Pine Island Heritage Landmark, the Commission shall notify the owners of subject property and provide them with an opportunity to review and comment on the proposed nomination.

E. Heritage Landmark Nomination Report. Each nomination for a Pine Island Heritage Landmark shall be accompanied by a heritage landmark nomination report that identifies and locates the historic property, explains how it meets one or more of the criteria for designation, and makes the case for historical significance and integrity. The nomination report will also include a plan for the treatment of the property which may include permit review guidelines. A copy of the nomination report will be transmitted to the State Historic Preservation Officer for review and comment prior to City Council action.

F. Planning Commission Review. All heritage landmark nomination reports shall be transmitted to the City of Pine Island Planning Commission for review and comment prior to designation.

G. Council Designation, Hearings. The City Council may by resolution designate a Heritage Landmark. Upon receipt of the Commission's landmark nomination report, the City Council shall hold a public hearing to seek comments and recommendations from the owners of the subject historic property, neighbors, citizens, and other interested parties. Prior to such hearing, the City shall cause the notice of the public hearing to be published in the official newspaper of the City of Pine Island at least ten days prior to the day of the hearing; and written notice of the public hearing shall be mailed to all owners of record of the property or properties proposed to be designated as a Heritage Landmark at least ten days prior to the day of the hearing.

H. Nominations to the National Register of Historic Places. The Commission shall make no nomination to the National Register of Historic Places without the consent of the City Council.

Subd. 3. Review of Permits.

A. Certificates of Appropriateness Required. To protect Pine Island Heritage Landmarks, the Commission shall review all applications for City permits for the following types of work in relation to properties designated or determined eligible for designation as Heritage Landmarks:

1. Remodeling or alteration of any part of the street façade of a building;

2. Demolition of any building or structure, in whole or in part;
3. Moving a building or structure to another location;
4. Excavation of archaeological features, grading or earth moving in areas believed to contain significant prehistoric or historic archaeological sites; and
5. New construction, including additions, garages, and landscape structures.

No City permit for the types of work described above will be issued without a Certificate of Appropriateness approved by the Commission, evidencing compliance with the Secretary of the Interior's Standards and Guidelines for the Treatment of Historic Properties, the approved plan of treatment for the subject Pine Island Heritage Landmark, and the City's Comprehensive Plan.

Requests for Certificates of Appropriateness shall be transmitted to the Commission within five business days, accompanied by the City permit application form, including all plans, drawings, maps, and other supporting documentation. The Commission shall hear and act on all requests for Certificates of Appropriateness within 30 days; whenever a request for a Certificate of Appropriateness is denied, the Commission shall state its reasons for denial in writing and provide copies of its findings to the applicant and the City building official.

B. Review of Development Projects. To assure compliance with this Section and the goals and policies of the City's comprehensive plan, the Commission shall review every application for a preliminary plat, conditional use permit, variance, rezoning, or development plan in relation to any property designated or determined eligible for designation as a Pine Island Heritage Landmark; and the City Planning Commission and Economic Development Authority shall give the Commission a reasonable opportunity to comment on such projects before making its recommendation to the City Council.

C. Permit Application and Plans. Every application for any type of City permit in relation to a property designated as a Pine Island Heritage Landmark shall be accompanied by detailed plans and a written description of the proposed work to be done. Preparation of the plans and written description shall be the responsibility of the permit applicant. The City building official or Zoning Administrator shall immediately transmit a copy of the permit application, the request for a Certificate of Appropriateness, and the supporting documents submitted therewith to the Commission. The City shall not issue permits until receiving an approved Certificate of Appropriateness from the Commission.

2.36, Subd. 3 D

D. Findings. All decisions of the Commission with respect to approval or denial of Certificates of Appropriateness shall be based on explicit findings which are in accordance with the Secretary of the Interior's Standards for the Treatment of Historic Properties and the Plan of Treatment adopted for each individual Pine Island Heritage Landmark.

E. Appeal to the City Council. Any party aggrieved by a decision of the Commission or an administrative official may appeal such decision by filing a written appeal with the City Clerk or City Administrator no later than ten days after the decision of the Commission or an administrative official. If not so filed, the right of appeal shall be deemed waived and the decision of the Commission shall be final. Upon receipt of the appeal, the City Clerk or City Administrator shall transmit copies of said appeal to the City Council and the Commission. The City Council shall hear and decide all appeals in the manner provided by the pertinent section of the City Code.

F. Limitations. If within 35 days from the date of the application for a City permit that is subject to the Certificate of Appropriateness requirement in Section 7 of this Section, the Commission has not acted on the request for a Certificate of Appropriateness, the permit for the proposed work shall be issued by the City building official. If all other requirements of the City have been met. No permit shall be issued nor work commenced in the event the Commission disapproves the request for a Certificate of Appropriateness in accordance with this Section.

G. Emergency Repair. In emergency situations where immediate repair is needed to protect the safety of the structure and its inhabitants, the City Administrator or the City Building Official may approve the repair without prior Commission action. In the case of an emergency repair permit issued pursuant to the Section, the City Administrator shall immediately notify the Commission of the action and specify the facts or condition constituting the emergency situation.

Subd. 4. Enforcement. In case any building or structure subject to the regulation of this Section is to be erected or constructed, reconstructed, altered, repaired, converted, maintained, moved, or subjected to demolition in violation with this Section, the Zoning Administrator, in addition to any other remedies, may:

A. Institute civil action for injunctive relief to stop, prevent or abate a violation of this Section.

(6-17-08)

2.36, Subd. 4 B

B. Issue a stop work order to prevent continuing violation of this Section.

Work which proceeds in violation of this Section, in contravention of a stop work order, or in disregard of a court ordered injunction, shall be a public nuisance.

Subd. 5. Additional Powers and Duties of the Commission. The Commission shall have the following powers and duties, in addition to those otherwise specified in this Section:

A. Carry out a comprehensive survey of historic properties and maintain an inventory of such properties.

B. Nominate properties to the National Register of Historic Places when authorized by the City Council.

C. Prepare, implement, and periodically review a comprehensive heritage preservation plan for the City of Pine Island.

D. Seek grants, gifts, and donations that can further the work of the City's heritage preservation program. Any contributions or gifts will be managed by the City of Pine Island in the manner provided through the fiscal policy of the City.

E. Work with the Pine Island Economic Development Authority to ensure that historic properties are taken into consideration when planning development projects.

F. Provide City officials and the general public with information, education, and training in heritage preservation.

G. Cooperate with the Pine Island Area Historical Society, the Goodhue County Historical Society, the Minnesota Historical Society, and other organizations in the development of public education and information programs relating to the City of Pine Island's heritage.

H. Perform all other functions authorized or delegated to it by the City Council of the City of Pine Island.

(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 48 hours on public property illegally or lacking vital component parts, or has remained for a period of more than 48 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 junk yards 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 "Junk Vehicle" means a vehicle that three years old or older; is extensively damaged, with the damage including such things as broken or missing wheels, motor, drive train, or transmission, is apparently inoperable; does not have a valid, current registration plate; and has an approximate fair market value equal only to the approximate value of the scrap in it.

3. The term "Unauthorized Vehicle" means a vehicle that is subject to removal and impoundment pursuant to Minnesota Statutes but is not a junk vehicle or abandoned vehicle.

4. 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 or junk motor vehicle, or any unauthorized vehicle as provided by statute.

C. Sale; Waiting Periods.

1. An impounded vehicle is eligible for disposal or sale 15 days after notice to the owner if the vehicle is determined to be a junk vehicle, except that it may have a valid, current registration plate and still be eligible for disposal or sale; or an abandoned motor vehicle.

2. An impounded vehicle is eligible for disposal or sale 45 days after notice to the owner if the vehicle is determined to be an unauthorized vehicle.

D. Notice.

1. When an impounded vehicle is taken into custody, the City or impound lot operator shall give notice of the taking within five 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 within the appropriate time allowed under statute shall be deemed a waiver by them of all rights, title and interest in the vehicle and a consent to the transfer of title to and disposal or sale of the vehicle and contents pursuant to Subparagraph F of this Subdivision.

2. The notice shall be sent by mail to the registered owner, if any, of the impounded motor vehicle and to all readily identifiable lien holders of record. This information shall be made available to impound lot operators for notification purposes. 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 where the motor vehicle was towed from or abandoned. Published notices may be grouped together for convenience and economy. If an unauthorized vehicle remains unclaimed after 30 days from the date the notice was sent, a second notice shall be sent by certified mail, return receipt requested, to the registered owner, if any, of the unauthorized vehicle and to all readily identifiable lien holders of record.

E. Right to Reclaim.

1. The owner or any lien holder of an impounded motor vehicle shall have the right to reclaim such vehicle from the City or impound lot upon payment of all towing and storage charges resulting from taking the vehicle into custody within 15 or 45 days as applicable under this Section after the date of the notice required by this Section.

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. Auction or Sale.

1. An abandoned or unauthorized motor vehicle and contents taken into custody by the City or any impound lot and not reclaimed under Subparagraph E of this Subdivision may be disposed of or sold at auction or sale when eligible pursuant to Subparagraph E. 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 or unauthorized motor vehicle by the City or public impound lot, 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 90 days and then shall be deposited in the General Fund of the City.

3. The operator of a nonpublic impound lot may retain any proceeds from a sale derived from a sale conducted under the authority of this Section. The operator may retain all proceeds from the sale of any personal belongings and contents in the vehicle that were not claimed by the owner or the owner's agent before the sale; except that any suspected contraband or other items that likely would be subject to forfeiture in a criminal trial must be turned over to the appropriate law enforcement agency.

G. Operator's Deficiency Claim. The non-public impound lot operator has a deficiency claim against the registered owner of the vehicle for the reasonable costs of services provided in the towing, storage and inspection of the vehicle minus the proceeds of the sale or auction. The claim for storage costs may not exceed the cost of 25 days' storage for an abandoned or junk vehicle and 55 days' storage for a vehicle determined to be an unauthorized vehicle.

H. Disposal of Vehicles. Where no bid has been received for an abandoned or junk motor vehicle, the City may dispose of it in accordance with this Subdivision.

I. 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 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 60 days and has been declared such by a resolution of the Council.

B. Preliminary Notice. If the City Administrator knows the identity and whereabouts of the owner, the Administrator shall serve written notice upon owner at least 30 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 Administrator, notice shall also be served upon prior owner. 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 Administrator 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 in a legal newspaper at least ten days prior to the sale. Sale shall be made to the highest bidder at public auction or sale or by a nonprofit organization with a significant mission of community service in a private sale in the manner authorized by statute.

D. Funds and Claims Thereon. Expenses shall be paid from the proceeds of the sale; the balance of the proceeds shall be paid into the General Fund of the City if the property was disposed of by a public auction or sale; or in the case of a private sale, to the nonprofit organization authorized to conduct said sale. The former owner, if the former owner makes claim within six 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 therefore, less a pro rata share of the expenses of storage, publication of notice, and sale expenses, but without interest. (Ord. No. 33, Second Series, 6-25-98)

Subd. 3. Disposal of Excess Property.

A. Declaration of Surplus and Authorizing Sale of Property. The City Administrator 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 Administrator 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 Administrator 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 Administrator 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 Administrator's option. Such sale shall be held by such method as the Council deems in the best interests of the City.

D. Surplus Property With a Total Estimated Value Over \$500.00. The City Administrator 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.

SEC. 2.52. PARTIAL PREPAYMENT OF SPECIAL ASSESSMENTS.

Subd. 1. Partial Prepayment of Assessments Permitted. After the adoption of an assessment roll pursuant to Minnesota Statutes, Chapter 429, as amended, and before certification of said assessment roll to the County Auditor, the City Administrator, or other authorized official, is authorized and directed to accept partial prepayment of said assessment, and reduce the amount certified to the County Auditor accordingly. As provided by law, such partial prepayment may be accepted only during the 30-day period following approval of the assessment roll.

Subd. 2. Scope. This Section shall apply to all assessment rolls which, on the effective date hereof, have been adopted by the Council but not yet certified to the County Auditor, and to all assessment rolls subsequently adopted by the Council.

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.

2.53, Subd. 2

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.

2.53, Subd. 4 B 3

3. If direct negotiations fail to produce agreement, the Council shall, not less than 30 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.
(2-1-05)

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.

(6-17-08)

2.53, Subd. 4 H

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. (7-1-90)

SEC. 2.54. TRUST OR ESCROW ACCOUNT FOR FIRE OR EXPLOSION LOSSES. The City may establish a trust or escrow account to hold proceeds from losses arising from fire or explosion of insured real property located within the City. The City may utilize these funds to secure, repair or demolish damaged or destroyed structures and clear the property in question, so that the structure and property are in compliance with local code requirements and applicable City Code provisions. Any unused portion of the retained proceeds shall be returned to the insured. In addition, the regulatory and procedural provisions of Minnesota Statutes, 65A.50, Trust or Escrow Accounts; Insured Real Property Fire or Explosion Loss Proceeds are hereby incorporated herein and adopted by reference, including the penalty provision thereof. (Ord. No. 33, Second Series, 6-25-98)

(Sections 2.55 through 2.59, inclusive, reserved for future expansion.)

SEC. 2.60. ELECTIONS AND TERMS.

Subd. 1. Elections. The regular City election shall be held on the first Tuesday after the first Monday in November in each even-numbered year. At such election, the Mayor and two Councilpersons shall be elected.

Subd. 2. Terms. The Mayor shall be elected for a two-year term and two Councilpersons shall be elected for four-year terms at each such election. (7-1-90)

(Sections 2.61 through 2.98, inclusive, reserved for future expansion.)

2.99

SEC. 2.99. VIOLATION A MISDEMEANOR. Every person violates a section, subdivision, paragraph or provision of this Chapter when they perform an act thereby prohibited or declared unlawful, or fail 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. (7-1-90)