

CHAPTER 2 OPERATION AND ADMINISTRATION

SECTION 200 - THE CITY

200.01 BOUNDARIES. The City of Backus shall consist of and have jurisdiction over the territory described as follows:

- (A) The original plat of the City of Backus
- (B) Koops Addition to the City of Backus
- (C) Pine Mountain Shores Addition to the City of Backus
- (D) Washburn's Addition to the City of Backus
- (E) Zaffke's Addition to the City of Backus
- (F) All other parcels of property acquired by the City of Backus including parts of the unplatted portions in Sections 29, 30 and 31 of Township 139, Range 30.

200.02 ANNEXATIONS. Annexations shall be pursuant to Minnesota Statutes, Chapter 414, as amended. Annexations pursuant to Minnesota Statutes, Section 414.033 shall be accomplished by amending Section 200.01 of this Code to reflect the addition of territory properly annexed. Such amendments shall satisfy the requirements of a City Ordinance.

200.03 PLATTING, SALE, DEVELOPMENT.

Subd. 1 Council Powers. The platting, sale and development of territory within the boundaries of Backus shall be accomplished under the direction of the City Council, pursuant to such procedures as may be established by resolution.

SECTION 210 - LOCAL GOVERNMENT STRUCTURE

210.01 FORM. The City shall operate under the Optional Plan A form of government as set out in Minnesota Statutes, Chapter 412; Statutory Cities.

210.02 CITY COUNCIL.

Subd. 1 Members. The City Council shall be composed of five members, consisting of the Mayor and four Councilmembers. Except in the case of a vacancy, three Councilmembers shall constitute a quorum.

Subd. 2 Terms. Each Councilmember shall be elected to a four-year term. Such terms shall be staggered so that two such persons shall be elected every two years. The Mayor shall be elected to a two-year term. All such terms shall commence on the first business day of January following the election at which the officer is chosen. All officers chosen and qualified as such shall hold office until their successors qualify.

Subd. 3 Acting Mayor. At the first meeting each year the Council shall choose an acting Mayor from the Council. He or she shall perform the duties of the Mayor during the Mayor's absence, or, in the event of a vacancy in the office of Mayor, until a successor has been appointed and qualified.

Subd. 4 Vacancies. Vacancies shall occur when an elected official dies, resigns, is removed from office by operation of law, moves out of the City limits, no longer qualifies for office, or is officially found to have abandoned his or her office. Vacancies shall be filled by special election or by appointment as directed by State law.

210.03 COUNCIL POWERS AND DUTIES. The City Council, or a quorum thereof, are hereby empowered to exercise any and all powers permitted under the Constitution and laws of the State of Minnesota, including, but not limited to, the powers set out in Minnesota Statutes, Chapter 412, Statutory Cities, Section 191, 211, and Chapter 471, Political Subdivisions, Sections 345 and 59.

210.04 COUNCIL COMPENSATION.

Subd. 1 Mayor. The compensation of the Mayor shall be \$100 per regular monthly meeting, not including recessed meetings. Compensation shall be \$20 per special meeting.

Subd. 2 Councilmembers. The compensation of each Councilmember shall be \$50 per regular monthly meeting, not including recessed meetings. Compensation shall be \$20 per special meeting.

Subd. 3 Semi-Annually. The compensation of the Mayor and Councilmember shall be payable semi-annually on dates to be set by resolution of the City Council.

210.05 BONDS. The City Council may, by resolution, require the Mayor or Councilmember to post a bond for their tenure in office. Such bond shall be in an amount that is specified in such resolution.

210.06 COUNCIL COMMITTEES. The Council may from time to time establish such committees, standing or special, as it deems necessary. The Council shall stipulate the membership, duties, and tenure of committees and committee members.

210.07 CITY ELECTIONS.

Subd. 1 Regular. The regular City election shall be held biennially on the first Tuesday after the first Monday in November in every even-numbered year.

Subd. 2 Special. Special City elections shall be held pursuant to State law when required to fill a vacancy in office, or to vote on a question authorized by State Statute.

SECTION 220 - COUNCIL MEETINGS AND ACTIONS

220.01 MEETINGS.

Subd. 1 Regular Meetings. Regular meetings of the Council shall be held on the first Monday of each calendar month at 7:00 p.m. Any regular meeting falling upon a holiday shall be held on the next following Monday at the same time and place unless modified by City

Council resolution. All meetings, including special and adjourned meetings, shall be held in the City Hall. Meetings shall last until adjourned or until recessed by a majority of those Councilmembers present.

Subd. 2 Recessed Meetings. Recessed meetings shall re-adjourn at such time and place as the Council shall have designated by motion prior to recessing.

Subd. 3 Special Meetings. Special meetings may be called by the Mayor or by any two members of the City Council upon at least 24-hours' written notice to each member of the City Council. This notice shall be mailed to and either delivered personally to each member or shall be left at the member's usual place of residence with some responsible person. Pursuant to M. S. § 16D.04, as it may be amended from time to time, written notice of any special meeting shall be posted giving the date, time, place and purpose of the meeting at least three days before the meeting. Written notice shall be mailed at least three days before the meeting to anyone who has filed a written request for notice of special meetings. In calculating the three days, if the last day falls on a Saturday, Sunday or legal holiday, the next regular business day shall be counted as the third day. The only business which may be discussed and acted upon at the special meeting are those items contained in the notice of the special meeting.

Subd. 4 Emergency Meetings. An emergency meeting may be called by the Mayor or any two members of the Council for the purpose of dealing with a situation which due to the circumstances requires the immediate consideration of the Council. Actual notice of the meeting must be attempted to be given to all members of the Council, and notice provisions of State law must also be met.

Subd. 5 Initial Meeting. At the first regular Council meeting in January of each year the Council shall:

- (A) Designate the depositories of City funds;
- (B) Designate the official newspaper;
- (C) Choose one of the Councilmembers as acting Mayor, who shall perform the duties of the Mayor during the disability or absence of the Mayor from the City or, in case of a vacancy in the office of mayor, until a successor has been appointed and qualifies;
- (D) Appoint such officers and employees and such members of boards, commissions, departments, and committees as may be necessary.

220.02 PUBLIC MEETINGS. Except as otherwise authorized by the Minnesota Open Meeting law, all council meetings, including special and adjourned meetings and meetings of council committees, shall be open to the public and notice of such meetings shall be given in compliance with the State Statutes.

220.03 PRESIDING OFFICER. The Mayor shall preside at all meetings of the Council. In the absence of the Mayor, the Acting Mayor shall preside. In the absence of both, the Council shall select an Acting Mayor.

220.04 MEETING PROCEDURES.

Subd. 1 Role of Presiding Officer. The presiding officer shall preserve order, enforce rules of procedures as adopted by the Council, and determine without debate but subject to final decision by the Council on appeal, all questions on procedure and order. The presiding officer may make motions, second motions, or speak on any question except that to do so, the presiding officer shall vacate the chair and designate a councilmember to preside temporarily.

Subd. 2 Appeal Procedure. Any member may appeal to the Council from a ruling of the presiding officer. If the appeal is seconded, the member may speak once solely on the question involved and the presiding officer may explain his or her ruling, but no other

Councilmember shall participate in the discussion. The appeal shall be sustained if it is approved by a majority of the members present exclusive of the presiding officer.

220.05 SUSPENSION OR AMENDMENT OF RULES. The rules of procedure set forth in this Chapter or as adopted by the Council may be suspended only by a three-fifths vote of the members present and voting.

220.06 ORDER OF BUSINESS. The order of business shall be established by and may be named by the Clerk-Treasurer with the approval of the presiding officer; but all public hearings shall be held at the time specified in the notice of hearing.

220.07 QUORUM AND VOTING.

Subd. 1 Quorum. At all Council meetings a majority of all the Councilmembers elected shall constitute a quorum for the transaction of business.

Subd. 2 Voting. The votes of the members on any question may be taken in any manner which signifies the intention of the individual members, and the votes of the members on any action taken shall be recorded in the minutes. The vote of each member shall be recorded on each appropriation of money, except for payments of judgments, claims, and amounts fixed by statute.

Subd. 3 Votes Required. A majority vote of all members of the Council shall be necessary for approval of any ordinance unless a larger number is required by statute. Except as otherwise provided by statute, a majority vote of a quorum shall prevail in all other cases.

220.08 ORDINANCES, RESOLUTIONS, MOTIONS, PETITIONS, AND COMMUNICATIONS.

Subd. 1 Readings. Every ordinance and resolution shall be presented in writing. Every ordinance shall receive two readings before the Council prior to final adoption, but shall not be read twice at the same meeting unless the rules are suspended for that purpose. An ordinance or resolution need not be read in full unless a member of the Council requests such a reading.

Subd. 2 Signing and Publication Proof. Every ordinance and resolution passed by the Council shall be signed by the mayor, attested by the Clerk-Treasurer, and filed by the Clerk-Treasurer in the ordinance or resolution book. Proof of publication of every ordinance shall be attached and filed with the ordinance.

220.09 MINUTES.

Subd. 1 Who Keeps. Minutes of each Council meeting shall be kept by the Clerk-Treasurer or, in his or her absence, by the Deputy Clerk-Treasurer. In the absence of both, the presiding officer shall appoint a secretary pro tem. Ordinances, resolutions, and claims need not be recorded in full in the minutes if they appear in other permanent records of the Clerk-Treasurer and can be accurately identified from the description given in the minutes.

Subd. 2 Rules and Amendments. Every ordinance or resolution repealing a previous ordinance or resolution or a section or subdivision thereof shall give the number, if any, and the title of the ordinance or code number of the ordinance or resolution to be repealed in whole or in part. Each ordinance or resolution amending an existing ordinance or resolution or part thereof shall set forth in full each amended section or subdivision as it will read with the amendment.

Subd. 3 Motions, Petitions, Communications. Every motion shall be stated in full before it is submitted to a vote by the presiding officer and shall be recorded in the minutes. Every petition or other communication addressed to the Council shall be in writing and shall be read in full upon presentation to the Council unless the Council dispenses with the reading. Each petition or other communication shall be recorded in the minutes by title and filed with the minutes in the office of the Clerk-Treasurer.

Subd. 4 Approval. The minutes of each meeting shall be reduced to typewritten form, shall be signed by the Clerk-Treasurer, and copies shall be delivered to each Councilmember as soon as practicable after the meeting. At the next regular council meeting following such delivery, approval of the minutes shall be considered by the Council. The minutes need not be read aloud, but the presiding officer shall call for any additions or corrections. If there is no objection to a proposed addition or correction, it may be made without a vote of the Council. If there is an objection, the Council shall vote upon the addition or correction. If there are no additions or corrections, the minutes shall stand approved.

220.10 PUBLIC HEARINGS.

Subd. 1 General. Unless otherwise provided in this Code, or by law, every public hearing required by law, ordinance, or resolution to be held on any legislative or administrative matter shall be conducted in accordance with this section.

Subd. 2 Notice. Every hearing shall be preceded by ten-days' mailed notice to all persons entitled thereto by law, ordinance, or regulation unless only published notice is required. The notice shall state the time, place, and purpose of the hearing. Failure to give the notice or defects in it shall not invalidate the proceedings if a good faith effort has been made to comply with this subdivision.

Subd. 3 Conduct of Hearing. At the hearing, each party in interest shall have an opportunity to be heard and to present such evidence as is relevant to the proceeding. The Council may adopt rules governing the conduct of hearings, records to be made, and such other matters as it deems necessary.

Subd. 4 Record. Upon the disposition of any matter after hearing, the Council shall have prepared a written summary of its findings and decisions and enter the summary in the official council minutes.

SECTION 230 - OFFICERS AND EMPLOYEES

230.01 CITY CLERK-TREASURER. The City Clerk-Treasurer shall be appointed to an indefinite term by the City Council. The Clerk-Treasurer shall not be a member of the City Council. The Clerk-Treasurer shall perform the following duties:

- (A) Give the required notice of each election;
- (B) Record the proceeding of any and all City elections;
- (C) Notify officials of their election or appointment to office;

- (D) Certify to the County Auditor all appointments and the results of all City Elections;
- (E) Keep a minute book, noting therein all proceedings of the Council;
- (F) Keep an ordinance book, recording therein all ordinances passed by the Council;
- (G) Keep an account book, entering therein all money transactions of the City;
- (H) Act as Clerk-Treasurer and Bookkeeper of the City and be the custodian of its seal and records;
- (I) Sign official City papers;
- (J) Post and publish such notices, ordinances and resolutions as may be required;
- (K) Perform such other appropriate duties as may be imposed by the Council or State law.

230.02 CITY TREASURER. The City Treasurer shall be appointed to an indefinite term by the City Council. The treasurer shall perform the following duties:

- (A) Receive and safely keep all moneys belonging to the City;
- (B) Enter in a book an account of the moneys received and disbursed;
- (C) Pay out money only upon written order of the Mayor and Clerk-Treasurer or such other officers of independent boards or commissions as are authorized to issue orders;
- (D) Retain orders paid and canceled as vouchers;
- (E) Immediately after the close of the calendar year, make out and file with the Clerk-Treasurer, for public inspection a report of the balances, receipts and disbursements of funds for the year.

230.03 COMBINATION OF OFFICES. The Council may, by resolution, combine the offices of Treasurer and Clerk, if it deems such merger appropriate. The resulting office shall be titled City Clerk-Treasurer.

230.04 CITY ATTORNEY. The Council shall designate a City Attorney whose duty it shall be to prosecute or defend actions at law in which the City may be interested as well as provide legal advice and consultation to the City Council. The Council may appoint an attorney individually or,

in its discretion, a law firm, to the office of City Attorney, and may designate the County Attorney as prosecutor for the City.

230.05 BUILDING OFFICIAL. The Council shall appoint a building official whose duty it shall be to enforce the building or zoning regulations as may be ordained by the Council.

230.06 COMPENSATION. The Council may prescribe the duties and fix the compensation of all officers, both appointive and elective, employees, and agents, when not otherwise prescribed by law. The Council may require any officer or employee to furnish a bond conditioned for the faithful exercise of duties and the proper application of, and payment on demand, of all moneys by him or her officially received. Unless otherwise prescribed by law, the amount of such bonds shall be fixed by the Council by resolution.

SECTION 240 - DEPARTMENTS, BOARDS, AGENCIES

240.01 CREATION AUTHORITY. The Council may create such departments, advisory boards, and commissions, and appoint such officers, employees and agents for the City as may be deemed necessary for the proper management and operation of City affairs.

240.02 POLICE DEPARTMENT.

Subd. 1 Establishment. A police department is hereby continued. The members of the department shall be appointed by the Council. The number of members of the department, together with their ranks and titles, shall be determined by the Council by resolution. The compensation to be paid members of the police department shall be fixed by the Council. A member of the Council may be appointed to be liaison to the department.

Subd. 2 Members: Qualification, Training. The City Council may fix or adopt minimum qualification and training standards for members of the police department. Such standards shall conform to standards, if any, set forth in Minnesota Statutes.

Subd. 3 Duties of Police. Members of the police department shall enforce the ordinances and laws applicable to the city, bring violators before the county court, and make complaints for offenses coming to their knowledge. Members of the police department shall serve processes on behalf of the City and shall serve such notices as may be required by the Council or other authority. When the City is not a party to the proceedings involved in the process or notice, the officer shall collect the same fees as provided by law for town constables. All such fees shall be paid into the city treasury.

Subd. 4 Uniform and Badge. Each member of the department shall, while on duty, wear a suitable badge and uniform and such other equipment furnished by the City, except that, as necessary, the Council may authorize the performance of specific duties while not in uniform. When a member terminates his or her membership in the departments he or she shall immediately deliver to the City his or her badge, uniform, and all other property of the City in his or her possession.

Subd. 5 Extra Police. In case of riot or other law enforcement emergency, the Mayor may appoint for a specified time as many special police officers as may be necessary for the maintenance of law and order. During such term of appointment, the special police officers shall have only those powers and perform only those duties as shall be specifically assigned by the County Sheriff.

240.03 FIRE DEPARTMENT.

Subd. 1 Establishment. There is hereby continued in this City a volunteer fire department consisting of a chief, an assistant chief, a fire marshal, and as many firefighters as is deemed necessary by the Chief of the Fire Department and approved by the Council.

Subd. 2 Selection. The chief of the fire department and the assistant chief shall be elected annually by the members of the department, subject to confirmation by the Council. Each shall hold office for one year and until his or her successor has been duly elected, except that he or she may be removed by the Council for cause after a public hearing. Firefighters and probationary firefighters shall be appointed by a personnel committee of the department, subject to confirmation by the Council. Firefighters shall continue as members of the department during good behavior and may be removed by the Council only for cause after a public hearing.

Subd. 3 Administration. The Fire Department shall be a branch of the City. The Fire Department, however, shall be authorized to organize and incorporate a "Fireman's Relief Association" in accordance with the laws of the State of Minnesota as a self-governing body, electing its own civil officers and enacting its own by-laws. The by-laws and any amendments thereto shall be subject to Council approval, as provided by State law. The Council may appoint one of its members to be a liaison to the Fire Department.

Subd. 4 Duties of Fire Marshal. The office of Fire Marshal shall be held by the Chief or, in the absence of the Chief, by the Assistant Chief of the Fire Department. The Fire Marshal shall be responsible for the enforcement of all laws aimed at fire prevention.

Subd. 5 Duties of Chief. The chief shall have control of all the fire fighting apparatus and shall be solely responsible for its care and condition. He or she shall make a semi-annual report to the Council at its meeting in March and September, on the condition of the equipment and needs of the fire department. The chief may submit additional reports and recommendations at any meeting of the Council, and he or she shall report each suspension by him or her of a member of the fire department at the first meeting of the Council following the suspension. The chief shall be responsible for the proper training and discipline of the members of the fire department, and may suspend any member for refusal or neglect to obey orders pending final action by the Council on his or her discharge or retention.

Subd. 6 Records. The chief shall keep in convenient form a complete record of all fires. Such a record shall include the time of the alarm, location of fire, cause of fire (if known), type of building, name of owner and tenant, purpose for which occupied, value of building and contents, members of the department responding to the alarm, and such other information as he or she may deem advisable or as may be required from time to time by the Council or a State department.

Subd. 7 Practice Drills. The chief shall, when the weather permits, hold a monthly practice drill of at least one-hour's duration for the fire department and shall give or arrange for instruction to the firefighters in approved methods of fire fighting and fire prevention.

Subd. 8 Assistant Chief. In the absence or disability of the chief, the assistant chief shall perform all the functions and exercise all of the authority of the chief.

Subd. 9 Firefighters. The assistant chief and firefighters shall be able-bodied and not less than 18 years of age. They shall become members of the fire department only after a six-months' probationary period. The Council may require that each candidate, before he or she may become a probationary firefighter, must satisfy certain minimum requirements of height, weight, education and any other qualifications which may be specified by the Council; and that he or she must pass satisfactorily a mental and physical examination.

Subd. 10 Compensation. The members and officers of the fire department shall receive compensation pursuant to a compensation schedule which shall be approved by the Council.

240.04 PARK DEPARTMENT.

Subd. 1 Creation. The City Council may establish a Park Department. The department may consist of one director and as many officers or employees as the City Council shall appoint. The Council may appoint a member to be a liaison to this department. A member of the Council shall be appointed to serve as a liaison between the Park Department and the Council.

Subd. 2 Powers, Duties. The Park Department shall maintain city parks, beaches, recreation areas, and shall regulate activities therein. It shall make quarterly reports of its activities to the City Council. Minnesota Statutes, Chapter 412, Section 521, relating to powers of park boards is hereby adopted by reference and made a part of this Code as if set out in full.

240.05 WATER DEPARTMENT. The Council shall provide for and maintain a Water Department which shall perform any and all duties prescribed under this Code. One member of the Water Department shall be designated Water Superintendent. The Water Department shall also be the Sewer Department. The council may appoint one of its members to be a liaison to the Water Department.

240.06 PLANNING COMMISSION.

Subd. 1 Appointment. The Council may appoint a Planning Commission consisting of five members.

Subd. 2 Terms. The term of office for each member of the Planning Commission shall be two years, except that the Council shall provide for staggered terms with the appointment of the first Commission. A Commission member may be reappointed to serve additional terms. Council may limit the number of successive terms if it so chooses.

Subd. 3 Vacancies. Whenever a vacancy shall occur on the Planning Commission, the Council shall appoint a new member to serve the remainder of the vacated term in office.

Subd. 4 Chairperson. The Commission shall designate one of its members as the Chairperson of the Commission and may appoint from its membership additional offices as it finds necessary.

Subd. 5 Powers and Duties. The Planning Commission shall have the following powers and duties:

(A) To fulfill the statutory requirements of the city's planning agency and its Board of Adjustments in the exercise of these duties, the Planning Commission shall:

- (1) Prepare and maintain (amend) a comprehensive plan for the city.
- (2) Review the proposed acquisitions and disposal of real property and improvements and proposed improvements, and to advise the Council on the acquisition, disposal, or development of real property.
- (3) Conduct public hearings as required by state law or this code.

- (4) Hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative officer in the enforcement of the city's official land use controls.
 - (5) Hear and decide on request for variances from the city's land use controls.
 - (6) Review and decide on an application for a building permit pursuant to the requirements of this code or any other ordinance or official and use control.
- (B) Except as specifically provided, the Planning Commission shall be advisory to the Council and shall recommend to the Council any amendments to zoning regulations, comprehensive plans, and any other land use controls as the Commission deems appropriate.

Subd. 6 Rules of Procedure. The Planning Commission shall prescribe its own rules of procedure to the extent permissible under state law and this code.

Subd. 7 Records. The Planning Commission shall provide a written record of its proceedings, including the minutes of its meetings, findings and action taken by the Commission on each matter referred and heard by it, and all final recommendations to the Council.

Subd. 8 Hearings. The Planning Commission shall hold public hearings in all matters where hearings are required by state law or this code, and on any other matter where the Commission deems appropriate.

Subd. 9 Reports. The Planning Commission shall submit directly to the Council, reports containing the findings, conclusions, and recommendations of the Commission as to action to be taken by the Council. In addition, the Commission shall send copies of its report on variances to the Board of Appeals.

240.07 BOARD OF ADJUSTMENTS AND APPEALS. The City Council shall be the Board of Adjustments and Appeals for the City as provided for by Minnesota Statutes § 462.354, Subd. 1, and have all of the duties and responsibilities provided for by Minnesota Statutes.

SECTION 250 - DESIGNATIONS

250.01 OFFICIAL NEWSPAPER. The Council shall, annually at its first meeting of the year, designate a legal newspaper of general circulation in the City as its official newspaper, in which shall be published such Ordinances and other matters as are required by law to be so published and such other matters as the Council may deem advisable and in the public interest to have published in this manner.

250.02 OFFICIAL DEPOSITOR. The Council shall, annually at its first meeting of the year, designate a savings institution as its official depositor. Such official depositor shall carry appropriate federal insurance. The Council may thereafter deposit, or direct to be deposited, such of its funds according to any terms or contract which, in the Council's discretion, it deems wise and expedient.

SECTION 260 - FINANCING

260.01 FINANCING. The City Council shall have any and all powers permitted by Federal or State law relating to taxation and/or bonds, including, but not limited to, those powers permitted under Minnesota Statutes, Chapter 412.

SECTION 270 - ABANDONED PROPERTY

270.01 DISPOSITION OF ABANDONED PROPERTY.

Subd. 1 Procedure. Except for abandoned and junked vehicles, all property lawfully coming into possession of the city shall be disposed of as provided in this section which is

adopted pursuant to M.S. § 471.195, as it may be amended from time to time. Abandoned and junked vehicles shall be disposed of according to the procedures of §§ 270.02 *et seq.*

Subd. 2 Storage. The department of the city acquiring possession of the property shall arrange for its storage. If city facilities are unavailable or inadequate, the department may arrange for storage at a privately-owned facility.

Subd. 3 Claim by Owner. The owner may claim the property by exhibiting satisfactory proof of ownership and paying the city any storage or maintenance costs incurred by it. A receipt for the property shall be obtained upon release to the owner.

Subd. 4 Sale. If the property remains unclaimed in the possession of the city for 60 days, the property shall be sold to the highest bidder at a public auction conducted by the City Clerk-Treasurer or his or her designee after two-weeks' published notice setting forth the time and place of the sale and the property to be sold.

Subd. 5 Disposition of Proceeds. The proceeds of the sale shall be placed in the general fund of the city. If the former owner makes application and furnishes satisfactory proof of ownership within six months of the sale, the former owner shall be paid the proceeds of the sale of the property less the costs of storage and the proportionate part of the cost of published notice and other costs of the sale.

270.02 FINDINGS AND PURPOSE. M.S. Ch. 168B, and Minn. Rules Ch. 7035, as they may be amended from time to time, are hereby adopted by reference. Sections 270.02 through 270.12 of this code are adopted under the authority of M.S. § 168B.09, Subd. 2, as it may be amended from time to time. If any of these provisions are less stringent than the provisions of M.S. § 168B or Minn. Rules Ch. 7035, as it may be amended from time to time, the statute or rule shall take precedence.

270.03 DEFINITIONS. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Subd. 1 Abandoned Vehicle.

(1) A motor vehicle, as defined in M.S. § 169.01 as it may be amended from time to time, shall mean a motor vehicle that:

(a) Has remained illegally:

1. For a period of more than 48 hours on any property owned or controlled by a unit of government, or more than four hours on that property when it is properly posted; or

2. On private property for a period of time, as determined under Section 270.05 Subd. 2(2), without the consent of the person in control of the property; and
 - (b) Lacks vital component parts or is in an inoperable condition that it has no substantial potential for further use consistent with its usual functions, unless it is kept in an enclosed garage or storage building.
- (2) A classic car or pioneer car, as defined in M.S. § 168.10 as it may be amended from time to time, is not considered an abandoned vehicle.
- (3) Vehicles on the premises of junk yards and automobile graveyards that are defined, maintained, and licensed in accordance with M.S. § 161.242 as it may be amended from time to time, or that are licensed and maintained in accordance with local laws and zoning regulations, are not considered abandoned vehicles.
- (4) A vehicle being held for storage by agreement or being held under police authority or pursuant to a writ or court order is not considered abandoned, nor may it be processed as abandoned while the police hold, writ or court order is in effect.

Subd. 2 Department. The Minnesota Department of Public Safety.

Subd. 3 Impound. To take and hold a vehicle in legal custody. There are two types of impounds: public and nonpublic.

Subd. 4 Impound Lot Operator or Operator. A person who engages in impounding or storing, usually temporarily, unauthorized or abandoned vehicles. Operator includes an operator of a public or nonpublic impound lot, regardless of whether tow truck service is provided.

Subd. 5 Junk Vehicle. A vehicle that:

- (1) Is three years old or older;
- (2) Is extensively damaged, with the damage including things as broken or missing wheels, motor, drive train or transmission;
- (3) Is apparently inoperable;
- (4) Does not have a valid, current registration plate; and
- (5) Has an approximate fair market value equal only to the approximate value of the scrap in it.

Subd. 6 Motor Vehicle or Vehicle. Has the meaning given “motor vehicle” in M.S. § 169.01, as it may be amended from time to time.

Subd. 7 Motor Vehicle Waste. Solid waste and liquid wastes derived in the operation of or in the recycling of a motor vehicle, including such things as tires and used motor oil, but excluding scrap metal.

Subd. 8 MPCA or Agency. The Minnesota Pollution Control Agency.

Subd. 9 Nonpublic Impound Lot. An impound lot that is not a public impound lot.

Subd. 10 Public Impound Lot. An impound lot owned by or contracting with a unit of government under § 90.24.

Subd. 11 Unauthorized Vehicle. A vehicle that is subject to removal and impoundment pursuant to Section 270.05 Subd. 2, or M.S. § 169.041 as it may be amended from time to time, but is not a junk vehicle or an abandoned vehicle.

Subd. 12 Unit of Government. Includes a state department or agency, a special purpose district, and a county, statutory or home rule charter city, or town.

Subd. 13 Vital Component Parts. Those parts of a motor vehicle that are essential to the mechanical functioning of the vehicle, including such things as the motor, drive train and wheels.

270.04 VIOLATION TO ABANDON MOTOR VEHICLE. Any person who abandons a motor vehicle on any public or private property, without the consent of the person in control of the property, is guilty of a misdemeanor.

270.05 AUTHORITY TO IMPOUND VEHICLES.

Subd. 1 Abandoned or Junk Vehicles. The City Clerk-Treasurer or his or her designee or any peace officer employed or whose services are contracted for by the city may take into custody and impound any abandoned or junk vehicle.

Subd. 2 Unauthorized Vehicles. The City Clerk-Treasurer, or his or her designee or any peace officer employed or whose services are contracted for by the city may take into custody and impound any unauthorized vehicle under M.S. § 169.041 as it may be amended from time to time. A vehicle may also be impounded after it has been left unattended in one of the following public or private locations for the indicated period of time:

- (1) In a public location not governed by M.S. § 169.041 as it may be amended from time to time:
 - (a) On a highway and properly tagged by a peace officer, four hours;
 - (b) Located so as to constitute an accident or traffic hazard to the traveling public, as determined by a peace officer, immediately; or
 - (c) That is a parking facility or other public property owned or controlled by a unit of government, properly posted, four hours; or
- (2) On private property:
 - (a) That is single-family or duplex residential property, immediately;
 - (b) That is private, nonresidential property, properly posted, immediately;
 - (c) That is private, nonresidential property, not posted, 24 hours; or
 - (d) That is any residential property, properly posted, immediately.

270.06 SALE; WAITING PERIODS.

Subd. 1 Sale After 15 Days. An impounded vehicle is eligible for disposal or sale under Section 270.10, 15 days after notice to the owner, if the vehicle is determined to be:

- (1) A junk vehicle, except that it may have a valid, current registration plate and still be eligible for disposal or sale under this subdivision; or
- (2) An abandoned vehicle.

Subd. 2 Sale After 45 Days. An impounded vehicle is eligible for disposal or sale under Section 270.10, 45 days after notice to the owner, if the vehicle is determined to be an unauthorized vehicle.

270.07 NOTICE OF TAKING AND SALE.

Subd. 1 Contents; Notice Given Within Five Days. When an impounded vehicle is taken into custody, the City or impound lot operator taking it into custody shall give notice of the taking within five days. The notice shall:

- (1) Set forth the date and place of the taking; the year, make, model and serial number of the impounded motor vehicle if the information can be reasonably obtained; and the place where the vehicle is being held;
- (2) Inform the owner and any lienholders of their right to reclaim the vehicle under Section 270.08; and
- (3) State that failure of the owner or lienholders to exercise their right to reclaim the vehicle and contents within the appropriate time allowed under Section 270.06 shall be deemed a waiver by them of all right, title and interest in the vehicle and contents and a consent to the transfer of title to and disposal or sale of the vehicle and contents pursuant to Section 270.10.

Subd. 2 Notice by Mail or Publication. The notice shall be sent by mail to the registered owner, if any, of an impounded vehicle and to all readily identifiable lienholders of record. The Department makes this information 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 lienholders, the notice shall be published once in a newspaper of general circulation in the area where the motor vehicle was towed from or abandoned. Published notices may be grouped together for convenience and economy.

Subd. 3 Unauthorized Vehicles; Notice. If an unauthorized vehicle remains unclaimed after 30 days from the date the notice was sent under Subd. 2. of this section, 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 lienholders of record.

270.08 RIGHT TO RECLAIM.

Subd. 1 Payment of Charges. The owner or any lienholder of an impounded vehicle shall have a right to reclaim the vehicle from the city or impound lot operator taking it into custody upon payment of all towing and storage charges resulting from taking the vehicle into custody within 15 or 45 days, as applicable under Section 270.06, after the date of the notice required by Section 270.08.

Subd. 2 Lienholders. Nothing in this section shall be construed to impair any lien of a garagekeeper under the laws of this state, or the right of a lienholder to foreclose. For the purposes of this section, Garagekeeper 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.

270.09 OPERATOR'S DEFICIENCY CLAIM; CONSENT TO SALE.

Subd. 1 Deficiency Claim. The nonpublic 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 costs of:

- (1) Fifteen-days' storage for a vehicle described in Section 270.06, Subd. 1; and
- (2) Forty-five-days' storage for a vehicle described in Section 270.06, Subd. 2.

Subd. 2 Implied Consent to Sale. A registered owner who fails to claim the impounded vehicle within the applicable time period allowed under Section 270.06 is deemed to waive any right to reclaim the vehicle and consents to the disposal or sale of the vehicle and its contents and transfer of title.

270.10 DISPOSITION BY IMPOUND LOT.

Subd. 1 Auction or Sale.

- (1) If an abandoned or unauthorized vehicle and contents taken into custody by the city or any impound lot is not reclaimed under Section 270.08, it may be disposed of or sold at auction or sale when eligible pursuant to Sections 270.06 and 270.07.

- (2) 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 a vehicle is issued a new certificate of title, it must receive a motor vehicle safety check.

Subd. 2 Unsold Vehicles. Abandoned or junk vehicles not sold by the city or public impound lots pursuant to Subd. 1 of this section shall be disposed of in accordance with Section 270.11.

Subd. 3 Sale Proceeds; Public Entities. From the proceeds of a sale under this section by the city or public impound lot of an abandoned or unauthorized motor vehicle, the city shall reimburse itself for the cost of towing, preserving and storing the vehicle, and all administrative, notice and publication costs incurred in handling the vehicle pursuant to this section. Any remainder from the proceeds of a sale shall be held for the owner of the vehicle or entitled lienholder for 90 days and then shall be deposited in the treasury of the city.

Subd. 4 Sale Proceeds; Nonpublic Impound Lots. The operator of a nonpublic impound lot may retain any proceeds derived from a sale conducted under the authority of Subd. 1 of this section. The operator may retain all proceeds from 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.

270.11 DISPOSAL AUTHORITY. The city may contract with others or may utilize its own equipment and personnel for the inventory of impounded motor vehicles and abandoned scrap metal and may utilize its own equipment and personnel for the collection, storage and transportation of these vehicles and abandoned scrap metal. The city may utilize its own equipment and personnel only for the collection and storage of not more than five abandoned or unauthorized vehicles without advertising for or receiving bids in any 120-day period.

270.12 CONTRACTS; REIMBURSEMENT BY MPCA.

Subd. 1 MPCA Review and Approval. If the city proposes to enter into a contract with a person licensed by the MPCA pursuant to this Section or a contract pursuant to Section 270.11, the MPCA may review the proposed contract before it is entered into by the city, to determine whether it conforms to the MPCA's plan for solid waste management and is in compliance with MPCA rules. A contract that does so conform may be approved by the MPCA and entered into by the city. Where a contract has been approved, the MPCA may reimburse the city for the costs incurred under the contract that have not been reimbursed under Section 270.10. Except as otherwise provided in Section 270.11, the MPCA shall not approve any contract that has been entered into without prior notice to and request for bids from all persons duly licensed by the MPCA to be a party to a disposal contract pursuant to M.S. § 116.07, as it may be amended from time to time; does not provide for a full performance bond; or does not provide for total collection and transportation of abandoned motor vehicles, except that the MPCA may approve a contract covering solely collection or transportation of abandoned motor vehicles where the MPCA determines total collection and transportation to be impracticable and where all other requirements herein have been met and the unit of government, after proper notice and request for bids, has not received any bid for total collection and transportation of abandoned motor vehicles.

Subd. 2 The City May Perform Work. If the city utilizes its own equipment and personnel pursuant to its authority under Section 270.11, and the use of the equipment and personnel conforms to the MPCA's plan for solid waste management and is in compliance with MPCA rules, the city may be reimbursed by the MPCA for reasonable costs incurred which are not reimbursed under Section 270.10.

Subd. 3 The City Required to Contract Work. The MPCA may demand that the city contract for the disposal of abandoned motor vehicles and other scrap metal pursuant to the MPCA's plan for solid waste disposal. If the city fails to contract within 180 days of the demand, the MPCA, through the Department of Administration and on behalf of the city, may contract with any person duly licensed by the MPCA for the disposal.

