

CHAPTER 2. ADMINISTRATION AND GENERAL GOVERNMENT

Section 200 – GENERAL PROVISIONS

200.01 Authority and Purpose. Pursuant to authority granted by Statute, this Chapter of the Code is enacted so as to set down for enforcement the government and good order of the City by and through the Council.

200.02 Council Meetings – Time and Place. Regular meetings of the Council shall be held in the Municipal Building on the third Monday of each month at 7:00 o'clock p.m., or at a date set at the discretion of the Council. Council workshops will, as necessary, be held on the first Monday of each month at 7:00 p.m. or at a time set at the discretion of the Council. Special and adjourned meetings shall be held at the time and in the place as set by the City Council, or at the time and in the place specified in the Notice of Meeting. In the event that any regular meeting falls on a holiday, then the meeting shall be held the following Monday or other such date as scheduled by the City Council at the same time. All Council meetings, including special and adjourned meetings, shall be open to the public unless such meeting is closed pursuant to the Minnesota Open Meeting law. Notice of all meetings, including closed meetings, shall comply with the notice requirements of the Open Meeting law.

200.03 Special Meetings. Special meetings of the Council may be called by the Mayor or by any two members of the Council, in writing, filed with the City Administrator. At least one day before the meeting the City Administrator shall in writing notify each member of the time, place and purpose of the meeting. Special meetings may be held without prior written notice when all Council members are present at the meeting or consent in writing to the special meeting. Such consent shall be filed with the City Administrator prior to the beginning of the meeting. Any special meeting attended by a quorum of Council members shall be a valid meeting for the transaction of any business that may come before the meeting. A written notice shall be posted in the Municipal Building in addition to the notices given to members of the Council.

200.04 Organizational Meeting. The organizational meeting shall be held on the first business day of January of each year or other date in January at the discretion of the Council. No later than the first regular Council meeting in January of each year, the Council shall (1) designate the depositories of City funds; (2) designate the official newspaper; (3) choose an acting Mayor from the Council members, 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; (4) appoint officers, employees and members of boards, commissions and committees as may be necessary.

200.05 Council Rules.

Subd. 1 Presiding Officer.

A. 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 City Administrator shall call the meeting to order and preside until the Council members present at the meeting choose one of their number to act temporarily as presiding officer.

B. The presiding officer shall preserve order, enforce the rules of procedure prescribed in this Code, and determine without debate, subject to the final decision of the Council on appeal, all questions of procedure and order. Except as otherwise provided by Statute or by these rules, the proceedings of the Council shall be conducted in accordance with Roberts' Rules of Order (Newly Revised).

C. 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/her ruling, but no other Council member 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.

Subd. 2 Minutes.

A. Minutes of each Council meeting shall be kept by the City Administrator, or designee. In the absence of the City Administrator, the presiding officer shall appoint a secretary. Ordinances, resolutions and claims need not be recorded in full in the minutes if they appear in other permanent records of the City Administrator and can be accurately identified from the description given in the minutes.

B. The minutes of each meeting shall be reduced to legible handwritten or typewritten form, shall be signed by the City Administrator or his designee, and copies shall be delivered to each Council member with the packet of information for the next regular Council 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. The Council will then vote on the minutes or the minutes as corrected.

Subd. 3 Order of Business.

A. Council business shall be conducted according to an agenda adopted at each meeting.

B. Matters not on the agenda, or not in the order specified, shall not be considered except (1) with the unanimous consent of the members of the Council present, or (2) scheduled public hearings or bid lettings at the time stated in the notice, or (3) emergency matters.

Subd. 4 Quorum and Voting.

A. At all Council meetings a majority of all the Council members elected shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time.

B. The votes of the members on any question pending before the Council may be by voice vote, standing vote, or in any other manner of voting which signifies the intention of the members, and the names of those voting for and against the question shall be recorded in the minutes. If any member, being present, does not vote, the minutes, as to the member's name, shall be marked "Present – Not Voting".

C. A majority 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.

Subd. 5 Ordinances, Resolutions, Motions, Petitions, and Communications.

A. Every ordinance shall be presented in writing and shall be read in full before a vote is taken; but reading in full may be dispensed by a unanimous consent. Resolutions may be presented either in writing or verbally. All motions shall be recorded in the minutes and stated in full before they are submitted to a vote by the presiding officer. All petitions and other communications addressed to the Council shall be in writing and shall be read in full upon presentation of the same to the Council. They shall then be recorded in the minutes by title and filed with the minutes in the office of the City Administrator.

B. Every ordinance and resolution passed by the Council shall be signed by the Mayor, attested by the City Administrator, and filed by the Administrator in the ordinance or resolution book. Proof of publication of every ordinance shall be attached to and filed with the ordinance. Publication of summaries of resolutions, ordinances and minutes is specifically authorized under this Section.

C. 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 resolution to be repealed in whole or in

part. No ordinance or resolution or subdivision shall be amended by reference to the title alone, but such an amending ordinance or resolution shall set forth in full each section or subdivision to be amended.

D. All closed meetings and emergency meetings shall conform with Minnesota Statutes Section 13D.01 et. seq., as amended or renumbered.

Subd. 6 Committees.

A. The Council may create committees, standing or special, as it deems necessary. Such committees shall perform duties as may be required. Each committee member shall serve as appointed by the Council unless excused by a majority of the members of the Council. The chairman of each committee if necessary shall be designated by the Mayor or by the committee.

B. Any matter before the Council for consideration may be referred by the Council to the appropriate committee or to a special committee appointed by them for a written or oral report and recommendations signed by the Chairperson of the committee, as may be required by the Council, before it is considered by the Council. Each committee shall act promptly and faithfully on any matter referred to it.

C. All standing or special committees shall keep, review, and approve written minutes of each meeting. The minutes may be kept and drafted by committee members, or City staff attending the meetings. All approved minutes of committee meetings shall be forwarded to the City Administrator who shall, in turn, distribute copies of the approved committee meeting minutes to the City Council as part of the regular Council meeting agendas. For the purposes of this subdivision, the term "special or standing committee" shall apply to and include all subcommittees of the City Council, committees/boards established under Chapter 2 of the City Code, and any other committee so established and/or directed by the City Council.

Subd. 7 Suspension or Amendment of the Rules. The rules may be temporarily suspended by a majority vote of all the Council members, and shall not be repealed or amended except by a majority vote of the whole Council after notice has been given at some preceding Council meeting.

Subd. 8 Limitation on Council Members.

A. Prohibition on Individual Council Member Involvement in City Administration. As individuals, Council members have no administrative authority and shall not give orders or otherwise supervise city employees unless the Council specifically directs them to do so and this direction is

not otherwise precluded by Minnesota law or city ordinance. Knowledge of the prohibitions contained in this Section is imputed to all Council members.

B. Penalties. Any Council member who violates Section 200.05, Subd. 8, (A) is guilty of a misdemeanor, which is punishable by up to 90 days in jail, a fine of up to \$1,000.00, or both. A defendant convicted of a misdemeanor under this Section of the City Ordinances, in addition to the other penalties proscribed by law, shall be made responsible for reimbursing the City its costs of prosecution. This Section is adopted in conformance with Minnesota Statutes Section 412.231, as it may be amended from time to time, which the City hereby adopts and incorporates herein.

Subd. 9 Roberts' Rules of Order. Except as otherwise provided, all meetings shall be conducted following Roberts' Rules of Order.

200.06 City Administrator.

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

Subd. 2 Appointment. The City Administrator shall be appointed by the Council for an indefinite term.

Subd. 3 Duties. The City Administrator shall at all times be responsible to the Council for the proper administration of all affairs of the City and accordingly, subject to such Council approval, shall be the administrative officer, and the Council hereby delegates to the Administrator the following:

A. The City Administrator shall perform all duties of Clerk and Treasurer of a statutory city. These duties may be performed by the Administrator's designee with approval of the City Council.

B. The City Administrator and the Personnel Committee shall interview and screen all prospective city employees as permitted by law and shall make recommendations to the Council before the Council makes any appointment; the Administrator shall also make recommendations for terminating and suspending employees.

C. The City Administrator and the Personnel Committee shall develop and, after consultation with the Council issue all administrative rules, regulations and procedures necessary to ensure the proper functioning of all departments and offices under the Administrator's jurisdiction as permitted by law and Council approval.

D. The City Administrator shall 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 the Administrator may from time to time determine desirable and necessary.

E. The City Administrator shall 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 prerogative of the Mayor. The Administrator shall be entitled to notice of all regular and special meetings of the Council.

F. The City Administrator shall see that all laws and provisions of the Code are duly enforced.

G. The City Administrator shall purchase or enter into contracts for previously budgeted items when the amount thereof does not exceed \$5,000.00 and shall receive estimates, quotations, sealed bids, purchases and contracts in excess of \$5,000.00 and present them to the Council for official action. In the event of an emergency where public health and safety is at risk and an emergency meeting of the City Council is not attainable the City Administrator may enter contracts and/or purchases that exceed \$5,000.00.

H. The City Administrator shall 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.

I. The City Administrator shall 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, which may be an individual or blanket bond covering all city employees, approved by the Council; said bond to be conditioned on the faithful performance of the Administrator's duties. The premium on the bond shall be paid by the City.

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

200.08 Facsimile Signatures. The 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 the Mayor's or the Administrator's signature, and to charge the same to the account designated thereon or upon which it is drawn, as effectively as though it were such person's manually written signature. Such authority is granted only for the purpose of permitting such officers an economy of time and effort.

200.09 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 (5) days prior to any regular Council meeting. This 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 deemed 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 the presiding officer's 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.

200.10 Rules of Procedure for Appeals and Other Hearings. The Council may adopt by resolution certain written rules of procedure to be followed in all administrative appeals and other hearings to be held before the Council or other bodies authorized to hold hearings and determine questions therein presented. Such rules of procedure shall be effective thirty (30) days after adoption and shall be for the purpose of establishing and maintaining order and decorum in the proceedings.

200.11 Salaries of Mayor and Council Members. Salaries of the Mayor and Council are hereby fixed as follows, which amounts are deemed reasonable:

Subd. 1 Mayor. The annual salary of the Mayor shall be \$3,000.00.

Subd. 2 Council Members. The annual salary of each Council member shall be \$2,400.00.

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

200.13 Interim Emergency Succession and Civil Defense.

Subd. 1 Purpose. Due to the existing possibility of a man-made or natural disaster requiring a declaration of a state of emergency, it is found urgent and necessary to ensure 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 man-made 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 Chair and Secretary to preside and keep minutes, respectively.
- B. They shall review and record the specific facts relating to the man-made or natural disaster and injuries to persons or damage to property already done, or the imminence thereof.
- C. They may, based on such facts, declare a state of emergency.
- D. By majority vote of those persons present, regardless of number, they shall fill all positions on the Council (including the office of Mayor) of those persons upon whom notice could not be served or who are unable to be present.
- E. Such interim successors shall serve until such time as the duly elected official is again available and returns to the 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 Council may appoint a Civil Defense Coordinator either for the City or in conjunction with another unit of government, and provide for coordinator's compensation.

Section 201 – EMPLOYMENT BACKGROUND CHECKS

201.01 Purpose. The purpose and intent of this Section is to establish regulations that will allow law enforcement access to Minnesota's computerized criminal history information for specified non-criminal purposes of employment background checks for all regular part-time or fulltime employees of the City of Montgomery and other positions that work with children or vulnerable adults.

201.02 Criminal History Employment Background Investigations. The Montgomery Police Department is hereby required, as the exclusive entity within the City, to do a criminal history background investigation on the applicants for the following positions within the City, unless the City's hiring authority concludes a background investigation is not needed:

A. All regular part-time or fulltime employees of the City of Montgomery and other positions that work with children or vulnerable adults.

B. In conducting the criminal history background investigation in order to screen employment applicants, the Montgomery Police Department is authorized to access data maintained in the Minnesota Bureau of Criminal Apprehension's computerized criminal history information system in accordance with BCA policy. Any data that is accessed and acquired shall be maintained at the Police Department under the care and custody of the chief law enforcement official or his designee. A summary of the results of the computerized criminal history data may be released by the Police Department to the hiring authority, including the City Council, the City Administrator, the City Attorney, or other City staff involved in the hiring process.

C. Before the investigation is undertaken, the applicant must authorize the Police Department by written consent to undertake the investigation. The written consent must fully comply with the provisions of Minnesota Statutes Chapter 13 regarding the collection, maintenance, and use of the information. Except for the positions set forth in Minnesota Statutes Section 364.09, the City will not reject an applicant for employment on the basis of the applicant's prior conviction unless the crime is directly related to the position of employment sought and the conviction is for a felony, gross misdemeanor, or misdemeanor with a jail sentence. If the City rejects the applicant's request on this basis, the City shall notify the applicant in writing of the following:

1. The grounds and reasons for denial.
2. The applicant complaint and grievance procedures set forth in Minnesota Statutes Section 364.06.
3. The earliest date the applicant may reapply for employment.

4. That all competent evidence of rehabilitation will be considered upon reapplication.

201.03 Applicants for City Licenses.

A. Purpose. The purpose and intent of Section 201.02 is to establish regulations that will allow law enforcement access to Minnesota's computerized criminal history information for specified non-criminal purposes of licensing background checks.

B. Criminal History License Background Investigations. The Montgomery Police Department is hereby required, as the exclusive entity within the City, to do a criminal history background investigation on the applicants for the following licenses within the City: applicants for tobacco licenses, and peddler licenses.

C. Information Storage. In conducting the criminal history background investigation to screen license applicants, the Police Department is authorized to access data maintained in the Minnesota Bureau of Criminal Apprehension's computerized criminal history information system in accordance with BCA policy. Any data that is accessed and acquired shall be maintained at the Police Department under the care and custody of the chief law enforcement official or his designee. A summary of the results of the computerized criminal history data may be released by the Police Department to the licensing authority, including the City Council, the City Administrator, the City Attorney, or other City staff involved in the license approval process.

D. Authorization. Before the investigation is undertaken, the applicant must authorize the Police Department by written consent to undertake the investigation. The written consent must fully comply with the provisions of Minnesota Statutes Chapter 13 regarding the collection, maintenance, and use of the information. Except for the positions set forth in Minnesota Statutes Section 364.09, the City will not reject an applicant for a license on the basis of the applicant's prior conviction unless the crime is directly related to the license sought and the conviction is for a felony, gross misdemeanor, or misdemeanor with a jail sentence. If the City rejects the applicant's request on this basis, the City shall notify the applicant in writing of the following:

1. The grounds and reasons for the denial.
2. The applicant complaint and grievance procedure set forth in Minnesota Statutes Section 364.06.
3. The earliest date the applicant may reapply for the license.
4. That all competent evidence of rehabilitation will be considered upon reapplication.

SECTION 205 – DEPARTMENTS GENERALLY

205.1 General.

Subd. 1 Control. All Departments of the City are under the overall control of the Council. Heads of all Departments are responsible to the City Administrator and are subject to his or her supervision and direction, except as otherwise provided in this Section.

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 wage and salary scales shall be fixed and determined by the Council, except as otherwise provided by law.

Subd. 4 Budgetary Information. The heads of all Departments shall, prior to August 1 of each year, file with the City Administrator the projected financial needs of the Department for the ensuing year. Such projections shall include information as to maintenance and operation of equipment, new equipment, personnel, and such other information as may be requested by the Council.

205.02 Police Department. A Police Department is hereby established. The head of this Department shall be known as the Chief of Police, and the number of additional members and employees of the Police Department shall be determined by the Council. The Mayor shall have, without the approval of the Council, authority to appoint additional members of the Police Department for temporary duty when in the Mayor's judgment an emergency exists for the preservation of life or property. The Chief of Police shall supervise the operation of the Police Department and shall, at each regular Council meeting in each month, make an oral or written report on the activities of the Department during the preceding month and any recommendations for significant repairs or improvements the Chief deems advisable. The Chief of Police shall also make and file such other reports as may be requested by the Council. The Chief of Police shall also supervise the Police Reserve, which as established by the Council shall be placed under the control of the Chief of Police.

205.03 Fire Department.

Subd. 1 Volunteer 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, Assistant Chief, and other officers subject to confirmation and approval by the Council.

Subd. 2 Chief of Fire Department. 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 the 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 Assistant Chief shall exercise all the powers, perform all of the duties and be subject to all the responsibilities of the Chief. It is also the duty of the Chief of the Fire Department, on or before the date of the regular Council meeting in each quarter, to file with the City Administrator a report as to all fires occurring during the previous three-month period, stating the probable cause thereof and estimated damages. The report shall also state the other activities of the Department. The Chief of the Fire Department shall make and file quarterly written reports and shall also make and file such other reports as may be requested by the Council.

205.04 Public Works Department. A Public Works Department is hereby established. The head of this Department shall be known as the Public Works Superintendent. Streets, alleys, weed control, underground sewers, wastewater treatment facilities, water system, forestry duties and parks shall be under the direct supervision of the Public Works Superintendent, and the Superintendent shall have supervision of all labor and custody of all property used and maintained for the purposes of such Department. It is also the duty of the Public Works Superintendent, at each regular Council meeting in each month, to make a written or oral report with any recommendations for significant repairs or improvements the Superintendent deems advisable, together with a report on the activities of the Department during the preceding month and a proposed plan of action for the upcoming month. The Public Works Superintendent shall also make and file such other reports as may be requested by the Council.

205.05 Building Department. A Building Department is hereby established. The head of the Building Department shall be the Building Inspector (referred to in the State Building Code as the "Administrative Authority"), together with such assistants and staff members as may be authorized from time to time by the Council. It shall be the duty and power of the Building Inspector to carry out the provisions of the State Building Code and the provisions of the City Code relating to construction. The Building Inspector shall submit a periodic report to the Council covering the work of the Department for intervals required by the Council.

205.06 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 of the attorney by law or referred to

the attorney by the Council. It shall be the official duty of the City Attorney to act as “Revisor of Ordinances.”

205.07 Ambulance Service.

Subd. 1 Purpose. This Section is enacted for the purpose of providing adequate transportation for the sick and injured and promoting the public health, safety, comfort and welfare of the citizens of the City and surrounding areas.

Subd. 2 Establishment. There is hereby established an ambulance service for the City and surrounding areas to provide adequate provisions for the transportation of the sick and injured to and from hospitals, asylums, medical centers, or institutions where proper treatment and assistance may be administered.

Subd. 3 Duties and Charges.

A. The Ambulance Service shall be directed and supervised by the Chairperson. It shall be the Chairperson’s duty to keep all ambulance equipment in order, to establish rules and regulations for the use and operation of same and that such rules and regulations are duly executed; and otherwise do and perform with the assistance of such additional personnel as necessary to accomplish the objects and aims of this Section. The Chairperson shall make and file quarterly written reports and shall also make and file such other reports as may be requested by the Council.

B. The rates to be charged for the Ambulance Service shall be fixed from time to time by resolution of the Council.

Subd. 4 Agreements – Other Political Subdivisions.

A. The City may enter into a contract with another political subdivision for the purpose of providing ambulance service to persons living in such political subdivisions in consideration of payment to the City for such services. Upon entering into an agreement, the City Administrator shall inform the Chairperson of the Ambulance Service, which shall thereafter answer calls for individuals living within such political subdivisions.

B. When any service has been rendered in accordance with an agreement, the Chairperson of the Ambulance Service shall record the time and place, name and address of patient or patients, names of service attendants responding to the call, time involved, and so inform the City Administrator. The City Administrator shall thereafter bill the responsible party or parties for the amount of services, and all monies received shall be placed in the Ambulance Fund.

205.08 Emergency Preparedness Unit. An Emergency Preparedness Unit may be established by the City Council. The size, composition and remuneration shall 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 Department. The members of the Department shall elect their own Director and other officers subject to confirmation and approval by the Council. The Director shall submit a written report to the Council on the Department's activities on a quarterly basis or at such other times as the Council requires.

SECTION 210 – BOARDS AND COMMISSIONS GENERALLY

210.01 Boards and Commissions Generally. Appointments to any board or commission, whether now existing or hereafter created, shall be made by the Council, and such appointment confirmed prior to the expiration of the existing term. The term of each appointee shall be established and stated at the time of the appointment, and terms of present board and commission members may be re-established and changed so as to give effect to this Section. 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. All vacancies shall be filled in the same manner as for an expired term, but the appointment shall be effective immediately when made and only for the unexpired term. 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 Secretary shall be chosen from and by the board or commission membership annually to serve for one year. Any board or commission member may be removed by the Council for misfeasance, malfeasance or non-feasance in office and the position filled as any other vacancy. A member of a board or commission shall be removed from the board or commission for missing three (3) consecutive meetings without notification to the Chair or Administrator. Additionally, a member of a board or commission who does not attend at least 66% of the scheduled meetings may be removed by the Council. Each board and commission shall hold its regular meetings at a time established and approved by the Council. The City Administrator shall be an ex officio member of all boards and commissions; provided that if the Administrator is unable to attend a meeting or act in the capacity of such membership, the Administrator may be represented by an assistant or some person duly authorized by the Administrator. No more than two members of the Council shall serve on a board or commission. Except as otherwise provided, this Section shall apply to all boards and commissions.

210.02 Planning and Zoning Commission.

Subd. 1 Establishment and Composition. A Planning and Zoning Commission is hereby established under Minnesota Statutes Section 462.254 as may be amended from time to time. Such Commission shall be composed of five members with staggered three-year terms. One member of the Council shall be appointed to the Commission as a non-voting liaison. Members should reside within the corporate limits of the City of Montgomery; however, if there are not enough citizens to serve on the Commission, the Mayor may recommend appointment of no more than two (2) non-resident local business owners.

Subd. 2 Reports. On or before March 1 of each year, the Commission shall submit a report of its work during the preceding year to the Council.

Subd. 3 Adoption of Program of Work. Upon the appointment and organization of the Commission, it shall proceed with the preparation and adoption of

resolution of a program of work, outlining activities proposed to be undertaken in the exercise of its powers and the performance of its duties. Such a program will include:

- A. An outline of data and information to be assembled as a basis for the City Plan;
- B. An outline of subjects to be covered by the City Plan;
- C. An outline of types of procedure necessary to make the City Plan effective; and,
- D. Drafting of a proposed Building Code for the City.

Subd. 4 Preparation of City Plan. It shall be the function and duty of the Planning and Zoning Commission to prepare and adopt a Comprehensive City Plan for the physical development of the City, including proposed public buildings, street arrangements and improvements, public utility services, parks, playgrounds, and other similar developments, the use of property, the density of population, and other matters relating to the physical development of the City. Such Plan may be prepared in sections, each of which shall relate to a major subject of the Plan, as outlined in the Commission's program of work.

Subd. 5 Procedure for Adoption of Plan. Before adopting the City Plan, any section or substantial amendment, the Commission shall hold at least one public hearing. Notice of the time and place of the hearing shall be given by publication in a newspaper of general circulation at least ten days before the day of the hearing. The adoption of the City Plan, any section or amendment, shall be by resolution of the Commission, approved by the affirmative votes of not less than two-thirds of its total membership. The Commission may from time to time amend or add to the City Plan or section as provided in this Section for the adoption of the original Plan, whenever changed conditions of further studies by the Commission indicate that such amendment or addition is necessary. An attested copy of the Plan or any section, amendment, or addition to the City Plan adopted by the Planning and Zoning Commission shall be certified to the Council.

Subd. 6 Means of Executing Plan. Upon the adoption of the City Plan or any section thereof, it shall be the duty of the Planning and Zoning Commission to recommend to the Council reasonable and practicable means for putting into effect such Plan or section thereof in order that the same will serve as a pattern and guide for the orderly physical development of the City and as a basis for the efficient expenditure of funds relating to the subjects of the City Plan. Such means shall consist of a zoning plan, the control of subdivision plats, a plan of future streets, coordination of the normal public improvements of the City, a long-term program of capital expenditures and such other matters as will accomplish

the purposes of this Section. The Council has the power to adopt, reject or amend the City Plan adopted by the Planning and Zoning Commission.

Subd. 7 Zoning Plan. The Planning and Zoning Commission upon its own motion may, and upon instructions by the Council, shall prepare a proposed zoning plan for the City. Before recommending such plan to the Council, the Planning and Zoning Commission shall hold at least one public hearing after a notice similar to that required by Subd. 5. The same procedure shall apply for the preparation of any plan of proposed rights-of-way for future streets or highways, or the future widening of existing streets or highways, or for the reservation of lands for other public purposes.

Subd. 8 Official Map of Street Extensions. The Planning Commission, with the assistance of the City Engineer, may and upon instructions by the Council shall, prepare an official map of the platted and unplatted portions of the City and adjoining territory, or portions thereof, indicating upon such map the proposed future extension of widening of streets of the City within such existing platted and developed territory or across such unplatted territory. After such map has been prepared and a hearing on it has been held as provided in Subd. 7, it shall be submitted to the Council, which shall thereupon consider such map and may adopt it or any part of it with such amendments as it deems advisable. Before such adoption by the Council, a public hearing shall be held upon the proposal at least ten days after a notice has been published in a newspaper published in the City. After such map has been adopted by the Council and filed with the County Recorder; whenever any existing street or highway is widened or improved, or any new street is opened, or lands for other public purpose are acquired by action of the City it shall not be required in such proceedings to pay for any building or structure placed without a permit or in violation of conditions of a permit after the filing of such a map within the limits of the mapped street, or outside of any building line that may have been established upon the existing street, or within any area thus reserved for public purposes.

Subd. 9 Plats. Every proposed plat of land within the City or within two miles of the limits of the City and not within a town which itself requires the approval of plats, shall be submitted to the Council before being filed and no plat of land shall be filed unless and until the same shall first have been approved by the Council. The procedure for submitting and approving a proposed plat is set out in the subdivision regulations of Chapter Twelve (12) of this Code.

Subd. 10 Procedure for Changes. No change shall be made in the zoning plan, future street and public lands plan, or regulations governing the platting of land after such plans or regulations have been adopted by the Council, until the proposed change has been referred to the Planning and Zoning Commission for report and an attested copy of such report has been filed with the Council. No ordinance or resolution establishing any of such plans or specifications shall be adopted by the Council until such ordinance or resolution has been referred to the

Planning and Zoning Commission for a report and an attested copy of such report has been filed with the Council. Failure of the Planning and Zoning Commission to so report within forty days or such longer period as may be designated by the Council after such reference shall be deemed to be approval of the proposed change.

Subd. 11 List of Recommended Public Works. Each officer, department, board or commission of or in the City, by July 1 of each fiscal year, shall submit to the Planning and Zoning Commission a list of proposed capital improvement projects which are included in the City Comprehensive Plan. The Planning and Zoning Commission shall request from the local School District a similar list of its proposed public works. The Planning and Zoning Commission shall list and classify all such proposed public works and shall prepare a coordinated program of proposed public works for the ensuing fiscal year. Such program shall be recommended by the Commission to the Council and to such other officer, departments, boards or public bodies as have jurisdiction over the recommendation, planning or construction of such public works. A copy of such recommended program of public works shall be included in the annual report of the Planning and Zoning Commission provided for in Subd. 2.

210.03 Park and Recreation Advisory Commission.

Subd. 1 Establishment Composition, and Term Limit. A Parks and Recreation Advisory Commission established pursuant to Minnesota Statutes Section 412.111 as may be amended from time to time, consisting of five members serving staggered three-year terms is hereby established. A non-voting seat on the commission shall also be open to a Montgomery resident attending high school. TCU Public School's Director of Community Education shall be an ex officio member of the Commission. A member of the Park and Recreation Advisory Commission can be reappointed at the end of the three-year term. The initial staggering shall be accomplished as follows: two members' terms shall each be up at the end of years 1 and 2 of the cycle, with the remaining member's term up at the end of year 3 of the cycle. The initial terms of the commission members may be shorter than the ultimate two-year term to accomplish the staggered terms sought herein. The Council shall appoint one Council member to serve as a non-voting liaison to the Board. Members should reside within the corporate limits of the City of Montgomery; however, if there are not enough citizens to serve on the Commission, the Mayor may recommend appointment of no more than two (2) non-resident local business owners.

Subd. 2 Duties and Responsibilities. It is the duty and responsibility of the Park and Recreation Advisory Commission to advise the Planning and Zoning Commission and the Council in all matters relating to acquisition and development of property for future recreational needs. These duties and responsibilities shall relate, but not be limited to the following:

- A. Plan future park and recreation development.
- B. Propose rules and regulations for use and maintenance of these public facilities.
- C. Plan events and activities for the community.
- D. Prepare before September 1 of each year, a proposal for the future year together with a proposed budget for the ensuing year.

Subd. 3. Organization and Meetings. The Board shall meet monthly and appoint its own officers and keep minutes of its proceedings. A majority of the members shall constitute a quorum for the transaction of business.

Subd. 4 Powers. The Parks and Recreation Advisory Commission shall have all the powers granted or delegated to it by the City Council.

210.04 Library Board. This subdivision repealed at regular Council meeting of January 20, 2010, Ordinance No. 1-2010.

210.05 Board of Zoning Adjustments and Appeals. The Council shall serve as the Board of Zoning Adjustments and Appeals under provisions of the City Code, Chapter 11.

210.07 Public Works Advisory Board.

Subd. 1 Establishment and Term Limit. A Public Works Advisory Board consisting of five members is hereby established under Minnesota Statutes Section 412.111 as may be amended from time to time. The members shall serve three-year staggered terms. A member can be reappointed at the end of the three-year term. The initial staggering shall be accomplished as follows: two members' terms shall each be up at the end of years 1 and 2 of the cycle, with the remaining member's term up at the end of the 3rd year of the cycle. The initial terms of the committee members may be shorter than the ultimate two-year term to accomplish the staggered terms sought herein. The Council shall appoint one Council member to serve as a non-voting liaison to the Board. Members should reside within the corporate limits of the City of Montgomery; however, if there are not enough citizens to serve on the Commission, the Mayor may recommend appointing of no more than two (2) non-residential local business owners.

Subd. 2 Duties and Responsibilities. It is the duty and responsibility of the Public Works Advisory Board to review and make recommendations to the City Council on:

1. Street maintenance and improvement plan
2. Sidewalk maintenance and improvement plan
3. Equipment purchases
4. Capital improvements and maintenance to utility infrastructure

5. Annual review of utility and assessment rates

Subd. 3 Organization and Meetings. The Committee shall meet monthly and appoint its own officers and keep minutes of its proceedings. A majority of the members shall constitute a quorum for the transaction of business.

Subd. 4 Powers. The Public Utilities Committee shall have all the powers granted or delegated to it by the City Council.

210.08 Economic Development Authority (EDA).

Subd. 1 Establishment, Composition, and Term Limit. An Economic Development Authority consisting of seven members is hereby established under Minnesota Statutes Sections 469.090-469.1082. Two of the members shall be City Council members appointed by the Council. The remaining five members shall serve six-year staggered terms. A non-Council member of the EDA can be reappointed at the end of the six-year term. The initial staggering shall be accomplished as follows: one non-Council member's term shall be up at the end of year 1, one non-Council member's term shall be up at the end of year 2, and one non-Council member's term shall be up at the end of year 3 of the cycle. The initial terms of the three non-Council commission members may be shorter than the ultimate six-year term to accomplish the staggering terms sought herein. Members should reside within the corporate limits of the City of Montgomery; however, if there are not enough citizens to serve on the Commission, the Mayor may recommend appointment of no more than two (2) non-resident local business owners.

Subd. 2 Duties and Responsibilities. It is the duty and responsibility of the EDA to review and make recommendations to the City Council on all matters concerning the economic development of the City of Montgomery.

Subd. 3 Organization and Meetings. The EDA shall meet monthly and appoint its own officers and keep minutes of its proceedings. A majority of the members shall constitute a quorum for the transaction of business.

Subd. 4 Powers. The EDA shall have all the powers granted or delegated to it by the State of Minnesota and the Montgomery City Council.

Section 215 – FRANCHISES

215.01 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 the City or by the State of Minnesota, or shall hereafter be granted by the City or by the State of Minnesota.

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

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

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

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

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

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

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

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

C. That the Council shall have the right to require reasonable extensions of any public service system from time to time, and to make such rules and regulations as may be required to secure adequate and proper service and to provide sufficient accommodations for the public.

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

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

F. That every grant contained in said franchise for 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 re-routing thereof, as the Council may at any time deem necessary for the safety, health, or convenience of the public, and particularly that it shall have the power to require the removal of poles, masts, and other fixtures bearing

wires and the placing underground of all facilities for whatsoever purpose used.

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

H. That the franchisee may be obligated by the City to pay the City fees to raise revenue or defray increased costs accruing as a result of utility operations, or both, including, but not limited to, a sum of money based upon gross operating revenues or gross earnings from its operation 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, shall not be construed as impairing the right of the City to insert in any such franchise or renewal or extension 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.

Section 220 – DISPOSAL OF ABANDONED MOTOR VEHICLES, UNCLAIMED
PROPERTY AND EXCESS PROPERTY

220.01 Definitions. Unless the context indicates otherwise, the following terms have the stated meanings:

Subd. 1 Abandoned Motor Vehicle. A motor vehicle as defined in Minn. Stat. Chap. 169, that has remained for a period of more than forty-eight hours on public property illegally or lacking vital component parts, or has remained for a period of more than forty-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 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 Minn. Stat. Chap. 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 this Code, shall not be considered abandoned motor vehicles within the meaning of this Section.

Subd. 2 Vital Component Parts. 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.

220.02 Custody. The City shall take into custody and impound any abandoned motor vehicle.

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

220.04 Notice.

Subd. 1 Within Ten Days. When an abandoned motor vehicle does not fall within the provisions of 220.03 of this Section, the City shall give notice of the taking within ten days. The notice shall set forth the date and place of the taking, the year, make, model and serial number of the abandoned motor vehicle, if such information can be reasonably obtained, and the place where the vehicle is being held, shall inform the owner and any lien holders of their right to reclaim the vehicle under 220.05 of this Section, and shall state that failure of the owner or lien holder to exercise their right to reclaim the vehicle and contents be deemed a waiver by them of all rights, title and interest in the vehicle and a consent to the sale of the vehicle and contents at a public auction pursuant to 220.06 of this Section.

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

220.05 Right to Reclaim.

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

Subd. 2 Garage Keeper. Nothing in this Section 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 Section “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.

220.06 Public Sale.

Subd. 1 Sale by Public Auction. An abandoned motor vehicle and contents taken into custody and not reclaimed under 220.05 shall be sold to the highest bidder at public auction or sale, following one published notice published at least seven days prior to such auction or sale. The purchaser shall be given a receipt in a form prescribed by the Registrar of Motor Vehicles which shall be sufficient title to dispose of the vehicle. The receipt shall also entitle the purchaser to register the vehicle and receive a certificate of title, free and clear of all liens and claims of ownership. Before such a vehicle is issued a new certificate of title, it must receive a motor vehicle safety check.

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

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

220.08 Contracts and Disposal.

Subd. 1 Contract. 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.

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

Subd. 3 City Reimbursement. 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 provided in this Section.

220.09 Disposal of Unclaimed Property.

Subd. 1 Definition. Unless the context indicates otherwise, the term abandoned property means tangible or intangible property that has lawfully come into the possession of the City in the course of municipal operations, remains unclaimed by the owner, and has been in the possession of the City for at least sixty days and has been declared such by a resolution of the Council.

Subd. 2 Preliminary Notice. If the City Administrator knows the identity and whereabouts of the owner, the Administrator shall serve written notice upon the owner at least thirty days prior to a declaration of abandonment by the Council. If the City acquired possession from a prior holder, the identity and whereabouts of whom are known by the City Administrator notice shall also be served upon the prior holder. 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.

Subd. 3 Notice and Sale. Upon adoption of a resolution declaring certain property to be abandoned property, the City Administrator shall publish a notice describing the same, together with the names (if known) and addresses (if known) of prior owners and holders, and including a brief description of such property. The text of such notice shall also state the time, place and manner of sale of all such property, except cash and negotiables. Such notice shall be published once at least three weeks prior to sale. Sale shall be made to the highest bidder at public auction or sale conducted in the manner directed by the Council in its resolution declaring property abandoned and stated in the notice.

Subd. 4 Fund and Claims Thereon. All proceeds from such sale shall be paid into the General Fund of the City and expenses from the sale paid, throughout these proceeds. If the former owners makes claim within eight months from the date of publication of the notice provided in this Section, and upon application and satisfactory proof of ownership, the owner may be paid the amount of cash and negotiables or, in the case of property sold, the amount received, less a pro-rata share of the expenses of storage, publication of notice, and sale expenses, but without interest. Such payment shall be also made from the General Fund.

220.10 Disposal of Excess Property.

Subd. 1 Declaration of Surplus and Authorizing Sale of Property. The City Administrator may, from time to time, recommend to the Council that certain personal property 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 in this Section.

Subd. 2 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.

Subd. 3 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 by auction.

Subd. 4 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. The notice shall be by publication once in the official newspaper. Such sale shall be to the person submitting the highest bid.

Subd. 5 Receipts from Sales of Surplus Property. All receipts from sales of surplus property under this Section shall be placed in the General Fund.

220.11 Persons Who May Not Purchase – Exception.

Subd. 1 City Employees. 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.

Subd. 2 Unlawful. 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.

Section 225 – SPECIAL ASSESSMENTS

225.01 Partial Prepayment of Special Assessments. After the adoption of an assessment roll pursuant to Minn. Stat. Chap. 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 thirty-day period following approval of the assessment roll.

225.02 Deferment of Special Assessments for Senior Citizens.

Subd. 1 Conditions. The Council may defer the payment of any special assessment on homestead property owned by a person who is 65 years of age or older, and the City Administrator is hereby authorized to record the deferment of special assessments where the following conditions are met:

- A. The applicant must apply for the deferment within ninety days after the assessment is adopted by the Council.
- B. The applicant must be 65 years of age or older.
- C. The applicant must be the owner of the property.
- D. The applicant must occupy the property as the owner's principal place of residence.
- E. The applicant's income from all sources shall not exceed the low income limit as established by the Department of Housing and Urban Development as used in determining the eligibility for Section VIII housing.

Subd. 2 Deferment Period. The deferment shall be granted for as long a period of time as the hardship exists and the conditions as aforementioned have been met. However, it shall be the duty of the applicant to notify the City Administrator of any change in the applicant's status that would affect eligibility of deferment.

Subd. 3 Loss of Deferment. The entire amount of deferred special assessments shall be due within sixty days after loss of eligibility by the applicant. If the special assessment is not paid within sixty days, the City Administrator shall add interest at 8% per annum from the due date through December 21 of the following year and the total amount of principal and interest shall be certified to the County Auditor for collection with taxes the following year. Should the applicant plead and prove, to the satisfaction of the Council, that full repayment of the deferred special assessment would cause the applicant particular undue financial hardship,

the Council may order that the applicant pay within sixty days a sum equal to the number of installments of deferred special assessments outstanding and unpaid to date (including principal and interest) with the balance thereafter paid according to the terms and conditions of the original special assessment.

Subd. 4 Conditions for Terminating Deferment. The option to defer the payment of special assessments shall terminate and all amounts accumulated plus applicable interest shall become due upon the occurrence of any one of the following:

- A. The death of the owner when there is no spouse who is eligible for deferment.
- B. The sale, transfer or subdivision of all or any part of the property.
- C. Loss of homestead status on the property.
- D. Determination by the Council for any reason that there would be no hardship to require immediate or partial payment.

225.03 Scope. This Section shall apply to all assessment rolls which, on January 1, 1981, have been adopted by the Council but not yet certified to the County Auditor, and to all assessment rolls subsequently adopted by the Council.

Section 226 – ELECTIONS

226.01 Abolishment of the Ward System and Establishment of At-Large for all Elections for City Office.

Subd. 1 Abolishment of the Ward System. Effective April 28, 2002, all City voting wards are hereby abolished and eliminated.

Subd. 2 Candidates for City Elections Shall be from the City at Large. Effective April 29, 2002, the concept of wards as limiting the candidacy of persons for election to City office shall be illegal. In order to run for any City office, a candidate need only be a resident of the City of Montgomery, and meet all other requirements established by federal, state and local law.

Subd. 3 Construction. This ordinance is to be construed by any reviewing court or other body liberally to effectuate the intended purpose of this Ordinance, which is to eliminate and abolish the Ward system of election within the City of Montgomery and replace it with an at-large system of election in which the eligibility of candidates for City elections is not tied to the candidates' residency in any particular ward within the City.

Subd. 4 This Section of the Montgomery Code revives and renumbers the portion of the Montgomery Code which had previously been identified as Section 230.30 and which was inadvertently and through mistake repealed as part of Ordinance No. 30-2007. The City Council hereby repeals the portion of Ordinance No. 30-2007 which repealed Section 230.30 and hereby amends its City ordinances to renumber Section 230.30 as Section 226.01.

Section 230 – PERSONNEL RULES AND REGULATIONS

This Section of the Montgomery City Code is hereby repealed.