

## CHAPTER 30: GENERAL PROVISIONS

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### **§ 30.01 AUTHORITY AND PURPOSE.**

Pursuant to authority granted by statute, this section of the City Code is enacted so as to set down for enforcement the government and good order of the city by and through the Council.

(Prior Code, § 2.01)

### **§ 30.02 DISPOSAL OF ABANDONED MOTOR VEHICLES, UNCLAIMED PROPERTY AND EXCESS PROPERTY.**

*(A) Disposal of abandoned motor vehicles.*

(1) *Definitions.* For the purpose of this division, the following definitions shall apply unless the context indicates or requires a different meaning.

***ABANDONED MOTOR VEHICLE.*** A motor vehicle as defined in M.S. Chapter 169, as it may be amended from time to time, that has remained for a period of more than 48 hours on public property illegally or lacking vital component parts, or has remained for a period of more than 48 hours on private property without the consent of the person in control of the property, or in an inoperable condition such that it has no substantial potential further use consistent with its usual function unless it is kept in an enclosed garage or storage building. It shall also mean a motor vehicle voluntarily surrendered by its owner to and accepted by the city. A classic car or pioneer car, as defined in M.S. Chapter 168, as it may be amended from time to time, shall not be considered an abandoned motor vehicle within the meaning of this section.

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Vehicles on the premises of junk yards or automobile graveyards, which are licensed and maintained in accordance with the City Code, shall not be considered abandoned motor vehicles within the meaning of this section.

***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.

(2) *Custody.* The city may take into custody and impound any abandoned motor vehicle.

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

(4) *Notice.*

(a) When an abandoned motor vehicle does not fall within the provisions of division (A)(3) above, 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 the 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 division (A)(5) below, and shall state that failure of the owner or lien holder to exercise his or her right to reclaim the vehicle and contents shall be deemed a waiver by him or her 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 division (A)(6) below.

(b) 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.

(5) *Right to reclaim.*

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(a) The owner or any lien holder of an abandoned motor vehicle shall have a right to reclaim the vehicle from the city upon payment of all towing and storage required by this division.

(b) Nothing in this division shall be construed to impair any lien of a garage keeper under the laws of the state, or the right of the lien holder to foreclose. For the purposes of this division, **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.

#### (6) *Public sale.*

(a) An abandoned motor vehicle and contents taken into custody and not reclaimed under division (A)(5) above shall be sold to the highest bidder at public auction or sale, following one notice published at least seven days prior to the 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 a vehicle is issued a new certificate of title, it must receive a motor vehicle safety check.

(b) 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 division. Any remainder from the proceeds of a sale shall be held for the owner of the vehicle or entitled lien holder for 90 days and then shall be deposited in the general fund of the city.

(7) *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 division.

#### (8) *Contracts and disposal.*

(a) 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.

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(b) 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.

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

*(B) Disposal of unclaimed property.*

(1) *Definition.* For the purpose of this division, the following definition shall apply unless the context indicates or requires a different meaning.

***ABANDONED PROPERTY.*** Tangible or intangible property that has lawfully come into the possession of the city in the course of municipal operations, remains unclaimed by the owner and has been in the possession of the city for at least 60 days and has been declared such by a resolution of the Council.

(2) *Preliminary notice.* If the City Clerk-Treasurer knows the identity and whereabouts of the owner, he or she shall serve written notice upon him or her at least 30 days prior to a declaration of abandonment by the Council. If the city acquired possession from a prior holder, the identity and whereabouts of whom are known by the City Clerk-Treasurer notice shall also be served upon him or her. The 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 30 days from the date of the notice.

(3) *Notice and sale.* Upon adoption of a resolution declaring certain property to be abandoned property, the City Clerk-Treasurer shall publish a notice thereof describing the same, together with the names (if known) and addresses (if known) of prior owners and holders thereof, and including a brief description of the property. The text of the notice shall also state the time, place and manner of sale of all the property, except cash and negotiables. The 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

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conducted in the manner directed by the Council in its resolution declaring property abandoned and stated in the notice.

(4) *Fund and claims thereon.* All proceeds from the sale shall be paid into the general fund of the city and expenses thereof paid therefrom. The former owner, if he or she makes claim within eight months from the date of publication of the notice herein provided, and upon application and satisfactory proof of ownership, may be paid the amount of cash or negotiables or, in the case of property sold, the amount received therefore, less a pro rata share of the expenses of storage, publication of notice and sale expenses, but without interest.

The payment shall be also made from the general fund.

#### (C) *Disposal of excess property.*

(1) *Declaration of surplus and authorizing sale of property.* The City Clerk-Treasurer may, from time to time, recommend to the Council that certain personal property (chattels) owned by the city is no longer needed for a municipal purpose and should be sold. By action of the Council, the property shall be declared surplus, the value estimated and the City Clerk-Treasurer authorized to dispose of the property in the manner stated herein.

(2) *Surplus property with a total estimated value of \$1,000.00.* The City Administrator may declare property with a total value of less than \$1,000.00 as surplus and provide for its sale through any means including a negotiated sale.

(3) *Surplus property with a total estimated value of \$1,000.00 or more.* The City Administrator shall offer for public sale, to the highest bidder, surplus property with a total estimated value of \$1,000.00 or more. Notice of the 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, and/or the city website at the City Administrator's option. The sale shall be by auction, whether on-line or live, or a sealed bid process. The sale shall be to the person submitting the highest bid.

(4) *Receipts from sales of surplus property.* All receipts from sales of surplus property under this section shall be placed in the general fund.

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### (D) *Persons who may not purchase; exception.*

(1) 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 forfeiture, if applicable, or sale, if they are the highest responsible bidder and if at least one-week's published or posted notice of sale is given.

(2) It is unlawful for any person to be a purchaser of property under this section if the purchase is prohibited by the terms of this section.  
(Prior Code, § 2.50) Penalty, see § 30.99 (Ord. 12-07, 3<sup>rd</sup> Series, passed 11-05-2012)

### **§ 30.03 ABSENTEE BALLOT PRECINCT.**

Pursuant to the provisions of M.S. § 203B.13, as it may be amended from time to time, the Council hereby authorizes the Crow Wing County Commissioners to establish an absentee ballot precinct, to be located in the Crow Wing County Courthouse Complex, for the purpose of receiving all absentee ballots for any primary or general election or special referendum held within the city. The Absentee Ballot Precinct shall be under the direct charge and supervision of the Crow Wing County Auditor and shall be administered pursuant to the Minnesota Election Laws without cost to the city.  
(Prior Code, § 2.54)

### **§ 30.04 APPLICANTS FOR CITY EMPLOYMENT – BACKGROUND CHECKS**

(A) *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 the positions as described.

(B) *Criminal History Employment Background Investigations:* The Breezy Point Police Department is hereby required, as the exclusive entity within the City, to do a criminal history background investigation on the applicants for positions within the city, unless the city's hiring authority concludes that a background investigation is not needed:

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(1) All full and part-time employees of the City of Breezy Point and other positions that work with children or vulnerable adults are required to have a background investigation accomplished. *(The city will not obtain the criminal data authorized under the Child Protection Background Check Act (Minn. Stat. 299C.61 & 62) on positions working with children. The city must access those records by using the service provided by the Bureau of Criminal Apprehension and paying the associated fee.)*

(2) In conducting the criminal history background investigation in order to screen employment applicants, the Police Department is authorized to access data maintained in the Minnesota Bureau of Criminal Apprehensions 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 or her 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, or other city staff involved in the hiring process.

(3) 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 Minn. Stat. Chap. 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:

- (a) The grounds and reasons for the denial.
- (b) The applicant complaint and grievance procedure set forth in Minnesota Statutes Section 364.06.
- (c) The earliest date the applicant may reapply for employment.
- (d) That all competent evidence of rehabilitation will be considered upon reapplication.

**§30.05 APPLICANTS FOR CITY LICENSES – BACKGROUND CHECKS**

(A) *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 licensing background checks.

(B) *Criminal History License Background Investigations*: The Breezy Point 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:

(1) City licenses:

- Liquor
- Pawn Brokers
- Sexually-Oriented Business

(2) In conducting the criminal history background investigation in order to screen license applicants, the Police Department is authorized to access data maintained in the Minnesota Bureau of Criminal Apprehensions 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 or her 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, or other city staff involved in the license approval process.

(3) 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 Minn. Stat. Chap. 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:

- (a) The grounds and reasons for the denial.

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(b) The applicant complaint and grievance procedure set forth in Minnesota Statutes Section 364.06.

(c) The earliest date the applicant may reapply for the license.

(d) That all competent evidence of rehabilitation will be considered upon reapplication.

(Ord. 124, passed 9-6-2005, Ord. 10-009, 3rd series, passed 8-6-2010, Ord. 14-02, 3<sup>rd</sup> Series, passed 2-14-2014)

### **§ 30.99 PENALTY.**

Any person violating any provision of this chapter shall be subject to § 10.99.