

Every elected officer may be removed from this office by vote of two-thirds of the City Council, provided that such official shall not be removed except for cause, after having been furnished with a written statement of the reasons therefore and after being given a reasonable opportunity to be heard in his/her defense. The City Council shall fix a date for a hearing on such charges not less than 10 days after notice to the accused officeholder and shall have authority to compel the attendance of witnesses and to request any necessary records and papers. In the event the officeholder neglects to appear to answer the charges or the City Council finds that the charges are sustained and provides sufficient cause for removal, it may, by two-thirds vote, declare the office vacant. Nothing contained in this section shall preclude the Council from establishing by ordinance criteria whereby an elected official who is absent from a prescribed number of meetings is deemed to have resigned.

Section 2.06 Vacancies

A vacancy in the Council or office of Mayor shall be deemed to exist when any of the following events occur:

- 1) The failure of the candidate elected to qualify on or before the date of the second regular meeting after the new Council's organizational meeting;
- 2) By reason of the death, resignation, removal from office, change of residence from the ward or wards from which elected, or continuous absence from the ward or wards from which elected for more than three months;
- 3) By reason of the conviction of a felony which disqualifies an individual from holding office.

Procedure for resignations shall be as provided by State law. In the case of a vacancy, the Council shall, by resolution adopted within seven days of the vacancy, declare such vacancy to exist and shall fill the vacancy by special election held on a date authorized by Minnesota Statutes section 205.10, subdivision 3a, as amended. The special election will be held on the first possible date authorized by said statute where the City can also follow the affidavit of candidacy filing period and notice of filing period requirements in Minnesota Statutes section 205.13, as amended. The vacant seat shall remain vacant until the replacement elected at the special election qualifies and takes office. The replacement elected at the special election shall fill the unexpired part of the term of the person requiring replacement.

If, however, a vacancy occurs in a general election year on or after April 1 and the term of the vacant seat is scheduled to expire the following year (in January), no special election shall be held. The vacant seat shall remain vacant until the replacement elected at the general election qualifies and takes office.

***No Appointment**

***Special Election at next Uniform Election
Date**

Section 2.05. Vacancies.

Subdivision 1. Existence.

- (1) A vacancy shall exist as of the date of death or resignation of a Council Member.
- (2) As soon as it is determined that a Council Member is ineligible because of any of the following reasons:
 - (i) the failure of any person elected to the Council to qualify on or before the date of the second regular meeting of the Council in the year following the year of election;
 - (ii) the Council Member ceasing to be a resident of the City;
 - (iii) a district Council Member ceasing to be a resident of the district which the member represents;
 - (iv) continuous absence of the Council Member from the City for more than 90 days;
 - (v) conviction of a Council member of a felony whether before or after qualification;
 - (vi) any other reason specified by law except those reasons specified in paragraph (1) of this subdivision; or
 - (vii) by reason of the failure of the Council Member without good cause to perform any of the duties of a Council Member for a period of 90 days, the Council shall, by resolution at a regular or special Council meeting, declare a vacancy on the Council to exist.

Subd. 2. Procedure Following Vacancy.

- (1) If 90 days or less remain in the Council Member's term after the vacancy, the person elected to that office for the term commencing on January 1 of the next year shall be appointed by the Council to fill the remaining portion of the unexpired term at the next regular Council meeting following the declaration of the results of the election with the City Clerk. The appointment shall be the first order of business of such meeting.
- (2) If less than 180 days and more than 90 days remain in the Council Member's term of office after the vacancy, the Council shall appoint an eligible person to fill the vacancy for the unexpired term. If the Council fails to agree upon an appointee to fill the vacancy within 30 days after the vacancy, the Mayor shall appoint a person to fill the vacancy.
- (3) If 180 days or more remain in the Council Member's term of office after the vacancy, the Council shall call a special election to fill the vacancy for the balance of the Council member's term. The special election shall be called at the same Council meeting at which the vacancy is declared to exist or at the next regular Council meeting following the death or resignation of a Council Member, as the case may be. The special election shall be held not less than 30 nor more than 60 days after the Council meeting at which the election is called. The election to fill the unexpired term shall be in accordance with the provisions of Section 4.03, except that there shall be no primary election and the candidate receiving the highest number of votes shall be elected to fill the unexpired term.

The term of the person so elected shall start as soon as the declaration of the results has been filed with the City Clerk and the person has qualified for office. (Amended, Bill No. 199 2-10)

***Special Election if more than 180 days left in term**
***If between 90 and 180 days left, Council makes an appointment**

audits as it deems necessary. Such audits shall be made by the State or by a certified public accountant or firm or such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the City government or any of its officers. The Council may, without requiring competitive bids, designate such accountant or firm annually.

The Council may investigate the affairs of the City and the conduct of any City department, office or agency, and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence. Any person who fails or refuses to obey a lawful order issued in the exercise of these powers by the Council shall be guilty of a misdemeanor.

Sect. 4.12. Council -- Meetings and Procedures. The Council shall make its rules of procedure and shall be the judge of the qualifications and election of its members and of the grounds for forfeiture of their offices, and for this purpose shall have the power to subpoena witnesses, administer oaths, and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in the official newspaper at least one week in advance of the hearing. Decisions made by the Council under this section shall be subject to review by the courts.

Council vacancies shall be filled by appointment when the remaining term of office is less than six (6) months. The appointment shall be by majority vote of the Council. Notice of the vacancy shall be published by the City Clerk in the official newspaper one week prior to the meeting for the appointment.

Council vacancies shall be filled by special election when the remaining term of office is six (6) months or greater. The City Clerk shall, within fifteen (15) days of the vacancy, give legal notice in the official newspaper of the vacancy, with dates for filing and the date(s) of the special election(s). The period for filing for the vacancy shall be ten (10) calendar days from (including) the date of the legal notice. The special election shall occur within fifteen (15) to twenty (20) days after the close of filing. If more than two (2) candidates have filed for the vacancy, the first election date shall be considered the primary election with general election date occurring fourteen (14) days later. When two (2) or fewer candidates have filed for the vacancy, the general election shall occur on the first election date.

The Council at its first regular meeting in January following the annual municipal election shall set the day of its regular monthly meetings for the year. Special meetings may be called by the Mayor or by the Chair of the Council at any time. Reasonable public notice shall be given for all special Council meetings through the media. (Ref. Ord. 898, 8/24/93)

Three (3) members shall constitute a quorum for the transaction of business, but a lesser number may adjourn from time to time. The Council shall have the power to compel the attendance of its members at regular and special meetings. The absence of a member from three (3) consecutive regular meetings shall be deemed as sufficient cause for removal from office.

Sect. 4.13. Chair of the Council -- Acting Mayor. At the first regular meeting of the Council in January following the annual municipal election, the Council shall elect one

***Appointment if less than 6 months
remaining in term**

***Special Election if 6 months or more
remaining in term**

election and qualification of such elective officer and shall continue until a successor is elected and qualified. If the first Monday is a holiday, the term of office shall then begin the first Tuesday in January.

Section 2.05. APPOINTIVE OFFICER. The appointive officer of the City, not including members of boards or commissions established herein or by ordinance, shall be appointed by majority vote of the council, and shall consist of a city administrator.

Section 2.06. MAYOR AND MAYOR PROTEM. The mayor shall be the presiding officer of the council. At its first regular meeting in January after each city election, the council shall choose a mayor protem who shall serve as presiding officer in the mayor's absence and as acting mayor in case of the mayor's disability or absence from the City, or in case of a vacancy in the office of mayor. The mayor shall have a vote as a member of the council. The mayor protem shall exercise all powers and perform all duties conferred and imposed upon the mayor by this Charter, the ordinances of the City and laws of the State of Minnesota.

The mayor shall be recognized as the official head of the City for all ceremonial purposes, by the courts for the purposes of serving civil process, and by the governor for the purposes of martial law. The mayor shall study the operations of the city government and shall report to the council any neglect, dereliction of duty, or waste on the part of any officer or department of the City. In time of public danger or emergency the mayor may, with the consent of the council, take command of the police, maintain order and enforce the law.

Section 2.07. INCOMPATIBLE OFFICES. No elective officer shall hold any other paid municipal office or employment for the City, and no former elective officer shall be appointed to any paid appointive office or employment for the city which office or employment was created or the compensation for which was increased during such elective officer's term of office, within one year of leaving such elective office.

Section 2.08. SALARIES. The salaries of the elective officers shall be established by Minnesota Statute 415.11, as such statute may be amended from time to time. The council shall establish the salary of the city administrator.

Section 2.09. VACANCIES IN THE COUNCIL. A vacancy in the council shall be deemed to exist in case of expiration of the term of any elective officer without an elected successor, the failure of any elective officer to qualify on or before the date of the second regular meeting of the new council, or by reason of the death, resignation, removal from office, removal from the city, continuous absence from the city of more than three months, conviction of a felony of any such elective officer whether before or after such qualification, or by reason of the failure of any elective officer without good cause to perform any of the duties of membership in the council for a period of three months. In each such case the council shall by resolution declare such vacancy to exist and shall forthwith appoint an eligible person to fill the same. In the case of a tie vote in the council, the mayor shall make the appointment. In the event the unexpired term of

the vacant seat is one year or less, such appointee shall complete the unexpired term. In the event the unexpired term of the vacant seat exceeds one year, a special election shall be held at or before the next regular municipal election to fill the remainder of the vacancy. The city administrator shall give published notice of such special election in the official newspaper of general circulation, at least 30 days prior to said special election.

Section 2.10. INVESTIGATION OF CITY AFFAIRS. The council and any person formally authorized by the council shall have power to make investigations into the City's affairs, to subpoena witnesses, administer oaths, and compel the production of books and papers. The council may at any time provide for an examination or audit of any commission, board, department or employee of the city government and it may cause to be made any survey or research study of any subject of municipal concern.

Section 2.11. INTERFERENCE WITH ADMINISTRATION. Neither the council nor any of its members shall dictate the appointment or removal of any city employee, but the council may express its views and freely discuss with the city administrator anything pertaining to appointment and removal of city employees. Except for the purpose of inquiry and investigation under Section 2.10, the council and its members shall deal with and control city employees under the jurisdiction of the city administrator solely through the city administrator, and neither the council nor any council member shall give orders to any city employee either publicly or privately.

CHAPTER 3

Procedure of Council

Section 3.01. COUNCIL MEETINGS. On the first Monday in January following a regular municipal election the council shall meet at the usual place and time for the holding of council meetings. If the first Monday is a holiday, the first Tuesday in January shall then be used. At this time the newly elected members of the council shall assume their duties. Thereafter the council shall meet at such time each month as may be prescribed by ordinance and resolution. The mayor or any other three members of the council may call special meetings of the council upon at least twelve hours notice to each member of the council and such reasonable public notice as may be prescribed by council rule in compliance with the laws of Minnesota. To the extent provided by law all meetings of the council shall be public, and any citizen shall have access to the minutes and records thereof at all reasonable times.

Section 3.02. SECRETARY OF THE COUNCIL. The city administrator may designate any employee of the City (except a member of the council) to act as secretary of the council. The secretary shall keep a journal of council proceedings and such other records and perform such other duties as this charter or the council may require. The council may provide for such other officers and employees as may be necessary to serve at its meetings.

Section 2.09. Vacancy - How Filled.

A vacancy in the office of any elected official shall be filled by city council appointment until an election is held as provided in this section. If the vacancy occurs before the first day to file affidavits of candidacy for the next regular city election and more than two years remain in the unexpired term, a special election shall be held at the next regular city election and the appointed person shall serve until the qualification of a successor elected at a special election to fill the unexpired portion of the term. If the vacancy occurs on or after the first day to file affidavits of candidacy for the regular city election, or when less than two years remain in the unexpired term, there shall be no special election to fill the vacancy and the appointed person shall serve until the qualification of a successor elected at a regular city election.

***Appointment if less than 2 years
remaining in term**

***Special Election if 2 years or more
remaining in term**

3.03 Filling of vacancies.

When a vacancy occurs in the office of Mayor or on the Council, the Council by majority vote of all remaining members shall appoint a qualified person to fill the vacancy to serve the remainder of the term. If this action is not taken within 60 days following the occurrence of the vacancy, a special election shall be called to fill the vacancy, to be held not sooner than 90 days and not later than 120 days following the occurrence of the vacancy, and to be otherwise governed by law. When a vacancy occurs in the office of the Mayor, the Vice-Mayor shall act as Mayor until the vacancy is filled.

(Ord. No. 822, 5-21-96; Ord. No. 1083, § 1, 10-6-15)

***Option - Appoint or hold Special Election**

1-205 Vacancies in the Council.

- (1) A vacancy in the membership of the Council shall be deemed to exist if a person elected thereto:
- (a) Fails to qualify on or before the date of the second regular meeting of the new Council.
 - (b) Dies before completing the term of office to which elected.
 - (c) Resigns from the office.
 - (d) Is removed from the office by a court of competent jurisdiction.
 - (e) Removes from the City or removes from the Ward to which elected.
 - (f) Attends no regular, special or emergency meetings of the City Council during any period of seventy (70) consecutive calendar days.
 - (g) Is convicted of a felony, whether before or after qualifying.

[Revised 1/3/95, Ordinance 1517]

- (2) In each such case, the Council shall, by resolution, declare such vacancy to exist and the Council shall, by resolution, within 30 days thereafter, either:
- (a) Appoint an eligible person to fill the office until the next regular municipal election when the office shall be filled for the unexpired term, unless the unexpired term is in its final two years in which case the person appointed shall serve until the term expires, or

[Revised 4/19/05, Ordinance 1887]

- (b) Order a special municipal election to fill such vacancy for the unexpired term.

The Council shall set times for filings for such office provided filings shall close not sooner than seven (7) days after the adoption of the resolution. Such election shall be held no less than 45 nor more than 60 days after the adoption of such resolution. If more than two candidates file for such office, a special primary election shall be held two weeks prior to the special municipal election.

[Revised 04/27/93, Ordinance 1449]

***Option - Appoint or hold Special Election**