

## **ORDINANCE NO. 2025-3**

### **ESTABLISHING BUFFALO MUNICIPAL UTILITIES COMMISSION**

#### **01. Buffalo Municipal Utilities Commission.**

(a) **Commission Generally.** There is hereby created the Buffalo Municipal Utilities Commission ("the Commission") which shall have exclusive jurisdiction, control, and management of all the City's municipal electric, water, and water reclamation operations, as authorized by Minnesota Statutes, sections 412.321 to 412.391. The City Council may also, upon the request of the Commission, grant to the Commission the non-exclusive right to operate any fiber/telecommunications, natural gas, or other public utility for supplying its own needs for utility service or for supplying utility service to private consumers or both. The Commission may construct all facilities reasonably needed for those purposes.

(b) **Specific Circumstances.** It is the goal of Buffalo Municipal Utilities to serve all properties within the City. Buffalo Municipal Utilities shall serve all electric customers within City limits. If extraordinary or temporary circumstances prevent such service, any other utility shall first obtain a limited franchise from the City Council. For water, wastewater, or other utility services where the Commission determines it cannot adequately serve at retail, the City Council may grant a limited franchise to an alternate supplier upon the Commission's request or recommendation.

(c) *Abolition of Commission.* The Commission may be abolished in accordance with Minnesota Statutes, section 412.391.

#### **02. Organization of the Commission.**

(a) *Appointment of members; qualifications.* All appointments to the Commission shall be made by the City Council and such appointment confirmed prior to expiration of the existing term. Applicants will submit an interest form to be evaluated and considered for an appointed seat on the commission. All members of the Commission are required to be residents of the City and customers of the City's municipal electric, water, and water reclamation utilities. No appointed member shall be an employee of the city.

(b) *Number of Commissioners.* The Commission shall consist of five members. Three members shall be citizens serving staggered three-year terms. In addition, there shall be no fewer than one and not more than two members of the City Council. Such positions may be filled either by two members of the City Council, or by the Mayor and one member of the City Council, each serving as voting members for one-year terms. If only one member of the City Council is appointed, the Commission shall include four citizen members serving staggered three-year terms, so that the total membership of the Commission shall always be five.

*(c) Attendance and Removal.* Any commissioner who misses three meetings in a year without being excused prior to the meeting shall be removed at the end of that appointment year. Any commissioner may be removed by the City Council for misfeasance, malfeasance, or nonfeasance in office, and the position shall be filled as any other vacancy.

*(d) Officers.* The Chair, Vice-Chair, and Secretary shall be elected from and by the membership annually to serve for one year. No person shall be elected Chair who has not completed at least one year as a member of the Commission; however, this one-year requirement shall not apply during the first year following the establishment of the Commission.

*(e) Compensation.* Commissioners shall receive compensation in an amount set by the City Council, not to exceed the compensation received by a City Council member. All compensation shall be paid exclusively from the revenues of Buffalo Municipal Utilities. Members of the Commission who are appointed from the City Council shall not receive additional compensation for serving on the Commission. In addition to compensation, commissioners shall be entitled to reimbursement for actual expenses incurred while carrying out their duties, including meals and travel.

*(f) Meetings.* The Commission shall establish a regular monthly schedule of meetings. Special meetings may be held as required following proper notice. No action shall be taken by the Commission except by the affirmative vote of at least three commissioners, which shall constitute a quorum.

*(g) Indemnification.* The Commission shall indemnify and hold harmless its commissioners, agents, and employees to the full extent permitted by law, including liability, expenses, and losses incurred in connection with acts of error or omission, other than willful violations of law, committed within the scope of their duties. The Commission shall defend such individuals, at the Commission's expense, in connection with claims and suits brought against them in their official capacity.

### **03. Organization of Departments.**

*(a) Divisions.* Within Buffalo Municipal Utilities there shall be separate divisions for electric, water, water reclamation, as well as any other utility service provided to consumers. Funds for each division shall be maintained and accounted for separately in accordance with the Generally Accepted Accounting Principles (GAAP). Each division shall be operated independently of the others except where the Commission determines joint operations are advisable and economical, in which case expenses shall be equitably prorated.

*(b) Policies.* The Commission shall establish written policies to govern its operations, including customer service rules, billing and termination procedures, expenditures of funds, employee responsibilities, rate setting, operational regulations, and processes.

*(d) Employees.* Employees whose compensation is funded entirely by the Utility shall be appointed and removed by the Commission. Employees whose compensation is funded jointly by the Utility and the City shall be appointed and removed by the Commission with the approval of the City Council. The Commission and City Council should avoid duplication of central service positions like human resources, information technology, finance, and others that are jointly funded and support Utility and City services. These decisions need to be jointly approved by both the Commission and City Council. All employees shall be subject to the City of Buffalo Personnel Policy, and compensation and benefits shall be consistent with those provided to City employees, unless otherwise agreed upon by the Commission and the City Council.

*(e) Surety Bonds.* The Commission may require surety bonds for officers and employees in such amounts as deemed necessary, premiums to be paid as an operating expense.

## **04. Powers and Duties of the Commission.**

*(a) Contracts and Real Estate.* The Commission may purchase, sell, or lease property, franchises, and rights, and enter contracts and easements necessary for the efficient operation of Buffalo Municipal Utilities. Any contract exceeding ten years shall require City Council approval.

*(b) Extensions of Service.* The Commission may adopt regulations governing the extension of services inside and outside City limits. Each project shall be compensatory and, upon completion, shall become the property of Buffalo Municipal Utilities.

*(c) Joint Operations.* The Commission may enter agreements with other entities for joint ownership, financing, or operation of facilities and services.

*(d) Eminent Domain.* The Commission is authorized to exercise eminent domain, subject to the provisions Minnesota Statutes, chapter 117.

*(e) Use of Public Rights-of-Way.* The Commission may use public rights-of-way as defined by City Code for utility facilities, subject to restoration obligations and general City Code requirements.

*(f) Rates.* The Commission shall establish fair, reasonable, and compensatory rates for all utility services, uniform within classes of customers, as authorized under Minnesota Statutes, section 412.351. Rates shall be sufficient to cover operations, maintenance, debt service, and reserves.

*(g) Expenditures.* No funds shall be expended except upon authorization of the Commission, and all claims shall be properly documented and approved in accordance with City procurement policies.

*(h) Bonding and Debt.* Subject to law and City Council approval, the Commission may issue revenue bonds and other indebtedness to finance improvements under Minnesota Statutes, chapter 475. The Commission may also borrow funds through short-term notes payable within one year, secured by utility revenues, as permitted under Minnesota Statutes, section 412.301.

*(i) Public Information.* The Commission may authorize expenditures to inform the public about operations, programs, and conservation initiatives.

*(j) Investment of Funds.* Surplus funds shall be invested in accordance with Minnesota Statutes, section 118A.04, and the City's investment policies. Investments shall be managed by the Finance Department to ensure compliance with statutory and policy requirements, as well as to maintain a single, consolidated bank account for the City and the Commission. For purposes of reporting and allocation, the Commission shall receive its proportionate share of investment earnings based on the cash balances within each of the utility funds.

*(k) Accounting and Reports.* Annual financial reports shall be prepared for each division, in compliance with Minnesota Statutes, section 412.591. These reports shall be incorporated into the City's annual audit, and the audited statements shall be provided to the City Council and made available for public inspection.

*(l) Payments to General Fund.* The Commission will make payments in lieu of taxes or transfers to the City's General Fund on a regular basis. Payments shall be negotiated between the Commission and the City Council and must be reasonable and transparent. Any negotiated agreement shall specify the calculation formula, timeline, and terms. The formula shall be based on the most recent audited financial statements, using an agreed-upon percentage of gross operating revenues from each utility fund, as approved jointly by the Commission and the City Council.

## **05. Disposition and Continuity.**

*(a) Disposition of Utilities.* The City shall not cease to operate, sell, lease, abandon, or otherwise dispose of the municipal electric, water or water reclamation utilities without meeting the requirements of Minnesota Statutes, section 412.321, subdivision 4. Other utility services may be discontinued by ordinance or resolution of the City Council.

*(b) Existing Obligations.* Contracts and obligations of Buffalo Municipal Utilities incurred prior to this ordinance shall not be impaired and remain binding.

*(c) Repeal of Conflicting Ordinances.* Any ordinances inconsistent with this division are hereby repealed.

*(d) Severability.* If any section is held unconstitutional or invalid, the remainder shall not be affected.

## **06. Effective Date.**

This ordinance shall take effect upon passage and publication as provided by law.

Passed by the Council on the 3<sup>rd</sup> day of November, 2025.

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Steve Downer, Mayor

ATTEST:

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Susan Johnson, City Clerk