

TITLE III: ADMINISTRATION

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CHAPTER 30: CITY COUNCIL

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SECTION 30.01 AUTHORITY AND PURPOSE.

Pursuant to authority granted by Charter, this chapter of the city code is enacted to set down for enforcement the government and good order of the city by and through the City Council. ('83 Code, SEC. 2.01)

SEC. 30.02 COUNCIL PROCEDURE.

(A) The City Clerk-Treasurer shall prepare the following items:

- (1) An agenda for the forthcoming meeting;
- (2) A compiled list of all claimants who have filed verified accounts claiming payment for goods or services rendered the city during the preceding month, the list to be called the "Claim Report" and bearing headings "Claimant," "Purpose," and "Amount;"
- (3) A copy of all minutes to be considered; and
- (4) Copies of the other proposals, communications, or other documents as the City Clerk-Treasurer deems necessary or proper for advance consideration by the Council.

(B) The City Clerk-Treasurer shall cause to be mailed or delivered to each member of the Council copies of all documents. Those items that are to appear on the Council agenda which are considered routine or about which no controversy or need for discussion can be foreseen by the Mayor and City Clerk-Treasurer may be placed on the consent agenda. The Council may approve all actions on the consent agenda with one vote. The motion to approve the consent agenda shall not be debated or discussed. At the request of any individual member of the Council prior to a vote upon the consent agenda, an item shall be removed from the consent agenda and placed upon the regular agenda for debate or discussion. Roberts' Rules of Order (Newly Revised) shall govern all Council meetings as to procedural matters not set forth in the Charter or this code.

(C) The order of business at regular meetings shall be as follows:

1. CALL TO ORDER
2. ROLL CALL
3. CROOKSTON FORUM – Individuals may address the Council about any item not contained on the regular agenda. Maximum of 15 minutes is allotted for the Forum. If the full 15 minutes are not needed for the Forum, the City Council will continue with the agenda. The City Council will take no official action on items discussed at the Forum, with the exception of referral to staff or Commission for future report.
4. PRESENTATIONS AND PUBLIC INFORMATION ANNOUNCEMENTS
5. APPROVE AGENDA
6. CONSENT AGENDA – These items are considered to be routine and will be enacted by one motion. There will be no separate discussion of these items unless a Council member or citizen so requests, in which event the item will be removed from the Consent Agenda and placed elsewhere on the agenda.
7. PUBLIC HEARINGS
8. REGULAR AGENDA

9. REPORTS AND STAFF RECOMMENDATIONS

10. ADJOURNMENT

(D) Matters inappropriate for consideration at a meeting, or not in the order specified, shall not be considered except with the unanimous consent of the members of the Council, or scheduled public hearings or bid lettings at the time stated in the notice. All claims for payment must be filed at or before 12:00 noon on the Wednesday preceding the regular Council meeting at which they are to be considered.

(‘83 Code, SEC. 2.02) (Ord. 98, 2nd Series, effective 2-25-95)

SEC. 30.03 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, the 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 ten days prior to any regular Council meeting. The request shall contain a general statement setting forth the administrative decision to be challenged by the appellant. At the hearing the appellant may present any evidence he or she deems 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 Mayor’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 the time or place shall be fixed and determined before adjournment to avoid the necessity for formal notice of reconvening. (‘83 Code, SEC. 2.04)

SEC. 30.04 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. The rules of procedure shall be effective 30 days after adoption and shall be for the purpose of establishing and maintaining order and decorum in the proceedings. (‘83 Code, SEC. 2.05)

SEC. 30.05 ACCOUNTS, CLAIMS OR DEMANDS.

(A) *Generally.* Except as to an annual salary, fees of jurors or witnesses fixed by law, or wages or salaries of employees which have been fixed on an hourly, daily, weekly or monthly basis by the Council and which by law are authorized to be paid on a payroll basis, any account, claim or demand against the city which can be itemized in the ordinary course of business, the Council shall not audit or allow the claim until the person claiming payment, or his agent, reduces it to writing, in items, and signs a declaration to the effect that the account, claim or demand is just and correct and that no part of it has been paid.

(B) *Discretionary exception.* The Council may, in its discretion, allow a claim prepared by the City Clerk-Treasurer prior to the declaration by the claimant if the declaration is made on the check by which the claim is paid.

(C) *Form of declaration.* The declaration provided for in division (A) is sufficient in the following form: “I declare under the penalties of law that this account, claim or demand is just

and correct and that no part of it has been paid. Signature of Claimant.”

(D) *Form and effect of declaration on check.* The declaration provided for in division (B) shall be printed on the reverse side of the check, above the space for endorsement by the payee, as follows: “The undersigned payee, in endorsing this check declares that the same is received in payment of a just and correct claim against the city, and that no part of it has heretofore been paid.” When endorsed by the payee named in the check, the statement shall operate and shall be deemed sufficient as the required declaration of claim.

(‘83 Code, SEC. 2.07)

SEC. 30.06 SALARIES.

(A) The Mayor shall receive an annual salary established by ordinance from time to time, which salary shall be paid to him or her in equal monthly installments. In the absence or disability of the Mayor, the Vice-Chairperson of the Council, after having served in place of the Mayor a continuous period of 30 days, shall be entitled to receive the same amount of salary as the Mayor, for all service beyond the initial 30-day period.

(B) The Council members shall receive an annual salary established by ordinance from time to time, which salary shall be paid in equal monthly installments. The Assistant Mayor shall not receive the Council member salary during any period for which he or she receives the Mayor salary as hereinabove provided. (Ord. 58, 2nd Series, effective 1-1-90)

(C) Nothing contained herein shall alter the rules set out in Section 2.07 of the City Charter regarding expenses.

(‘83 Code, SEC. 2.10)

SEC. 30.07 CITY SEAL.

All contracts to which the city is a party may be sealed with the City Seal. The seal shall be kept in the custody of the Clerk-Treasurer and affixed by the Clerk-Treasurer. The official City Seal shall be a circular disc having engraved thereupon “CITY OF CROOKSTON” and other words, figures or emblems as the Council may, by resolution, designate.

(‘83 Code, SEC. 2.03)

SEC. 30.08 FACSIMILE SIGNATURES.

The Mayor and City Clerk-Treasurer are hereby authorized to request a depository of city funds to honor an order for payment when the instrument bears a facsimile of his or her signature, and to charge the same to the account designated thereon or upon which it is drawn, as effectively as though it were his or her manually written signature. The authority is granted only for the purpose of permitting the officers an economy of time and effort.

(‘83 Code, SEC. 2.06)

SEC. 30.09 INTERIM EMERGENCY SUCCESSION.

(A) *Purpose.* Due to the existing possibility of a nuclear attack or a natural disaster requiring a declaration of a state of emergency, it is found urgent and necessary to insure 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.

(B) *Succession to local offices.* In the event of a nuclear attack upon the United States, a natural disaster affecting the vicinity of the city, or a disaster in the nature of an accident or occurrence involving one or more members of the Council, the Mayor, Council and City Administrator shall be forthwith notified by any one of the 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:

(1) By majority vote of those persons present, regardless of number, they shall elect a Chairperson and Secretary to preside and keep minutes, respectively.

(2) They shall review and record the specific facts relating to the nuclear attack or disaster and injuries to persons or damage to property already done, or the imminence thereof.

(3) They may, based on the facts, declare a state of emergency.

(4) 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.

(5) The interim successors shall serve until the time as the duly elected official is again available and returns to his or her position, or the state of emergency has passed and a successor is designated and qualifies as required by law, whichever shall occur first.

(C) *Duties of the Interim Emergency Council.* The Interim Emergency Council shall exercise the powers and duties of their offices, and appoint other key government officials to serve during the emergency.

('83 Code, SEC. 2.09)

CHAPTER 31: CITY OFFICIALS

Section

31.01 City Administrator

SECTION 31.01 CITY ADMINISTRATOR.

- (A) The City Administrator shall be the chief administrative officer of the City. The City Administrator shall be chosen by the Council solely on the basis of training, experience, executive and administrative qualifications. The City Administrator need not be a resident of the City at the time of the appointment, but may reside outside the City while in office only with approval of the Council. The City Administrator shall be appointed for an indefinite term and may be removed at any time by an affirmative vote of five Council Members or four Council Members and the Mayor or Assistant Mayor in the event of a tie.
- (B) Powers And Duties Of The City Administrator.
- a. Subdivision 1. The City Administrator shall be responsible to the Council for the administration of the City's affairs. The City Administrator shall have the powers and duties set forth in the following subdivisions:
 - b. Subdivision 2. The City Administrator shall see that this Charter and the laws, ordinances and resolutions of the City are enforced.
 - c. Subdivision 3. The City Administrator shall appoint and may suspend, remove, promote, demote, transfer and otherwise discipline upon the basis of merit and fitness and subject to applicable personnel rules, all subordinate officers and City employees, except that the approval of the Council shall be necessary before any such action affecting heads of departments shall be effective.
 - d. Subdivision 4. The City Administrator shall direct and supervise all departments, offices and agencies of the City, except as otherwise provided by law or Charter.
 1. Administration Department;
 2. Clerk-Treasurer Department;
 3. Fire Department/Emergency Management/Building Inspector;
 4. Police Department;
 5. Public Works Department;
 6. Community Development Department;
 7. Information Technology Department;
 8. Airport;
 9. City Attorney;
 10. Financial Advisor/Bond Consultant; and
 11. City Engineer Consultant.
 - e. Subdivision 5. The City Administrator or the City Administrator's designee shall attend all meetings of the Council and may take part in discussion but not vote. The Council may, in its discretion, exclude the City Administrator from any meetings at which the employment terms and conditions, removal, suspension or other discipline of the City Administrator is considered.
 - f. Subdivision 6. The City Administrator shall recommend to the Council for adoption such measures as the City Administrator deems necessary for the welfare of the people and the efficient administration of the City's affairs.
 - g. Subdivision 7. The City Administrator shall keep the Council fully advised on the financial condition and needs of the City, and shall prepare and submit to the Council the annual budget and capital plan.
 - h. Subdivision 8. The City Administrator shall submit to the Council and make available to the public a complete report on the finances and administrative activities of the City at the end of each fiscal year.
 - i. Subdivision 9. The City Administrator shall assist the Council with long term and strategic planning.

- j. Subdivision 10. The City Administrator shall perform such other duties as are prescribed by Charter or may be required by the Council.
- k. Section 5.03, Administrative Organization. The Council may by ordinance establish City departments, offices and agencies and prescribe their functions. No power or duty conferred by this Charter upon a particular office or agency shall be transferred to any other.
- l. Section 5.04, Subordinate Officers. There shall be a Clerk, Treasurer and such other subordinate officers to the City Administrator as the Council may establish by ordinance. The Clerk and Treasurer shall be subject to the direction of the City Administrator and shall have such duties as the Council may prescribe. The Council may by ordinance abolish offices which have been created by ordinance and it may combine the duties of various offices.
- m. Section 5.05, Purchase And Contracts. The City Administrator shall be the chief purchasing agent of the City. All City purchases and contracts shall be made or let by the City Administrator when the amount involved does not exceed any limit set by Council resolution. All other purchases shall be made and all contracts let by the Council after the recommendation of the City Administrator has first been obtained. All purchase contracts above the amount set by Council resolution, all other contracts, bonds and instruments of any kind to which the City is a party shall be signed by the Mayor and the City Administrator on behalf of the City and shall be executed in the name of the City. The Council may, by ordinance, adopt further regulations for the making of bids and the letting of contracts including, but not limited to, regulations authorizing life cycle or total cost bidding.

CHAPTER 32: DEPARTMENTS, BOARDS AND COMMISSIONS

Section

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GENERAL PROVISIONS

SECTION 32.001 DEPARTMENTS GENERALLY.

(A) *Control.* All departments of the city are under the overall control of the City Administrator. Heads of all departments are responsible to the City Administrator and subject to his or her supervision and direction, except as otherwise provided herein.

(B) *Appointment.* All department heads shall be appointed by the Council, except those as are created under statute. All appointments shall be for an indeterminate term and subject to any applicable civil service regulations in effect in the city.

(C) *Compensation.* All wages and salaries shall be fixed and determined by the Council.

(D) *Table of organization and lines of responsibility.* The Council may by resolution adopt, amend, and from time to time revise, a table of organization and define lines of responsibility and authority for the efficient governmental organization of the city.

(E) *Budgetary information.* The City Administrator shall keep the Council fully advised on the financial condition and needs of the city, and shall prepare and submit to the Council the annual budget and capital plan.

('83 Code, SEC. 2.30)

SEC. 32.002 BOARDS AND COMMISSIONS GENERALLY.

(A) All Board and Commission appointments authorized by ordinance or resolution shall be made by the Mayor, brought to the Ways and Means Committee for approval, and the appointment confirmed by the Council at the first regular meeting in January of each year. The term of each appointee shall be established and stated at the time of appointment, and terms of present Board and Commission members may be re-established and changed to give effect to this section. No Board or Commission member shall be appointed to more than two full consecutive terms. Terms of elected officials serving on a Board or Commission shall coincide with their term of office as members of the City Council. New appointees shall assume office on January 1, December 31 being the date of expiration of terms. Provided, however, that all appointees to Boards and Commissions shall hold office until their successor is appointed and qualified. 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.

(B) No appointed Board or Commission member shall be an employee of the city except those who are members by virtue of their office. 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 the expenses have been authorized by the Council before they were incurred.

(C) The Chairman and Secretary shall be chosen from and by the Board or Commission membership at its first regular meeting in December of each year to serve for the next calendar year. Any Board or Commission member may be removed by the Council for misfeasance, malfeasance or non-feasance in office and his position filled as any other vacancy.

(D) The City Administrator shall be an ex officio member of all Boards and Commissions; provided, that if he or she is unable to attend a meeting or act in the capacity of membership, he or she may be represented by his or her assistant or some person duly authorized by him or her. Except as otherwise provided, this section shall apply to all Boards and Commissions. ('83 Code, SEC. 2.50)

ADMINISTRATION DEPARTMENT

SEC. 32.010 ESTABLISHMENT.

(A) An Administration Department is hereby established. The head of the Department shall be the City Administrator.

(B) The City Administrator shall be responsible to the City Council. The City Administrator shall also make and file reports as may be requested by the City Council.

(C) Powers and duties of the City Administrator are as presented in SEC. 31.01(B).

CLERK / TREASURER DEPARTMENT

SEC. 32.020 ESTABLISHMENT.

(A) A Clerk/Treasurer Department is hereby established. The head of the Department shall be the Clerk/Treasurer.

(B) The Clerk/Treasurer shall be responsible to the City Administrator. The Clerk /Treasurer shall also make and file reports as may be requested by the City Administrator.

COMMUNITY DEVELOPMENT DEPARTMENT

SEC. 32.030 ESTABLISHMENT.

(A) A Community Development Department is hereby established. The head of the Department shall be the Community Development Director who is responsible to the City Administrator.

(B) The Director shall see that all rules and regulations and all provisions of the State of Minnesota and ordinances of the city relative to the operation of the Department are observed. The Director shall also file the reports as may be requested by the City Administrator.

FIRE DEPARTMENT

SEC. 32.040 ESTABLISHMENT.

(A) A Fire Department is hereby established. The Fire Chief shall direct and supervise the Fire Department and be responsible to the City Administrator.

(B) The Chief of the Fire Department shall have general supervision of the Fire Department and custody of all property used and maintained for the purposes of the Fire 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 of Minnesota and ordinance of the city relative to a Fire Department and prevention and extinguishment of fires are duly observed. The Chief shall supervise the preservation of all property endangered by fire and shall control and direct all persons engaged in preserving property. Building regulations are also administered by the Fire Department. In case of absence or disability of the Chief for any cause, the next in command shall exercise all powers, perform all the duties and be subject to all the responsibilities of the Chief.

(C) Chief of the Fire Department shall also make and file reports as may be requested by the Administrator.
(‘83 Code, SEC. 2.32)

(D) The Building Official shall enforce the building and zoning regulations of the city and shall perform all duties assigned as follows:

(1) Issue occupancy, building and other permits, and make and maintain records thereof.

(2) Conduct inspections of buildings and use of land to determine compliance with the terms of the city’s building and zoning regulations.

(3) Maintain permanent and current records, including, but not limited to, all maps, amendments, and conditional use permits, variances, appeals and applications thereof.

(4) Receive, file, and forward all applications for appeals, variances, conditional uses or other matters to the proper designated officials or bodies.

(5) Notify the City Attorney of any violations of the building and zoning regulations for appropriate action.

(6) The Fire Chief shall see that all rules and regulations and all provisions of the State of Minnesota and ordinances of the city relative to the operation of the Department are observed.

INFORMATION TECHNOLOGY DEPARTMENT

SEC. 32.050 ESTABLISHMENT.

(A) An Information Technology Department is hereby established. The head of the Department shall be the Information Technology Director.

(B) The Information Technology Director shall be responsible to the City Administrator. The technology facilities and equipment, including, but not limited to, computer programming and maintenance, as well as electronic communications, shall be under the supervision and control of all property of the Department. The Director shall also make and file reports as may be requested by the City Administrator.(Ordinance 158, 2nd Series, 8/15/03)

PARKS AND RECREATION DEPARTMENT

SEC. 32.060 ESTABLISHMENT.

(A) A Parks and Recreation Department is hereby established. The head of this Department shall be the Parks and Recreation Director. All park facilities and recreational programs and equipment shall be under the direct control of the Director.
(‘83 Code, SEC. 2.36)

(B) The Parks and Recreation Director shall be responsible to the City Administrator. The Parks and Recreation Director shall also make and file reports as may be requested by the City Administrator.

POLICE DEPARTMENT

SEC. 32.070 ESTABLISHMENT.

(A) A Police Department is hereby established. The Chief of Police shall direct and supervise the Police Department and be responsible to the City Administrator.

(B) The Chief of the Police Department shall have general supervision of the Police Department and custody of all property used and maintained for the purpose of public safety. 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 of Minnesota and ordinances of the city relative to a Police Department are duly observed. The Chief of Police and all members of the Police Department shall have the powers and authority of police officers generally and shall perform the duties as are required of them by the law.

(C) It is the duty of the Chief of Police, on or before the first Council meeting of each month, to file with the City Administrator a report as to the activities of the Department during the previous month. The Chief of Police shall also make and file other reports as may be requested by the City Administrator.
(‘83 Code, SEC. 2.31, Subd. 1)

SEC. 32.071 POLICE RESERVE.

(A) A Police Reserve is hereby established.

(B) The purpose of this section is to provide assistance to the Police Department to ensure that the public peace, health and safety of the city is preserved.

(C) The functions of the Police Reserve are to provide supplementary assistance to the Police Department at special events, traffic or crowd control, and administrative or clerical assistance.

(D) The Police Reserve is under the direct supervision and control of the Chief of Police. The Chief is responsible for the organization, administration, and operation of the Police Reserve, subject to the direction and control of the City Administrator. The Chief of Police may designate members of the Police Reserve to serve as officers of the Reserve. The Chief may, by order, establish rules and regulations to govern the Reserve including the fixing of specific duties of its members and providing for the maintenance of discipline.

(E) The Chief of Police is responsible for coordinating functions of the Police Reserve and the Police Department. The Chief will institute training programs and establish annual requirements as he or she deems necessary. The Chief is responsible for organizing the Police Reserve, selecting its personnel, determining the number of members in the Police Reserve and discharging any member of the Police Reserve for good cause. The Chief of Police will maintain an inventory of all equipment issued to the Police Reserve. All duties of the Chief of Police described in this division are subject to the direction and control of the Administrator.

(F) General provisions for Police Reserve members.

(1) Members of the Police Reserve must be of good moral character.

(2) The Police Reserve is a volunteer organization and members are generally not compensated for their services. However, members may be compensated for certain duties, such as security for private and public events, dances, sporting events, transports, guarding prisoners in the hospital, or other special duties at the discretion of the Chief of Police.

(3) Members of the Police Reserve are covered by the provisions of the city Worker's Compensation Insurance and Liability Insurance policies while on duty.

(4) Each Police Reserve member will be provided with suitable insignia or other identification as required by the Chief of Police.

(5) No Police Reserve member shall carry any firearm while on duty.
(‘83 Code, SEC. 2.31, Subd. 2) (Ord. 89, 2nd Series, effective 4-22-94)

PUBLIC WORKS DEPARTMENT

SEC. 32.080 ESTABLISHMENT.

(A) A Public Works Department is hereby established. The head of the Department shall be the Public Works Director who is responsible to the City Administrator.

(B) The Public Works Director shall be responsible for and have custody of all property of the Department, which shall include, but not necessarily be limited to, the city sewage systems, streets, refuse collection, water systems and engineering that shall be directed by the City Administrator.

(C) The Public Works Director shall be responsible for all city water facilities, including but not limited to, pumping, filtration, distribution lines, and connections therewith, shall be under the direct supervision and control of the Director and the Director shall be responsible for and have custody and control of all property of the Department.

(D) It is also the duty of the Public Works Director, on or before the first regular Council meeting of each month, to file with the City Administrator a report as to the activities of the Department during the preceding month. The Director shall also make and file other reports as may be requested by the City Administrator.
(‘83 Code, SEC. 2.34) (Ord. 100, 2nd Series, effective 5-13-95)

AIRPORT COMMISSION

SEC. 32.100 CREATION, APPOINTMENT AND COMPENSATION.

(A) *Creation.* Pursuant to the applicable Minnesota Statutes, there is hereby created an Airport Commission composed of five members. ('83 Code, SEC. 2.52, Subd. 1)

(B) *Appointment and compensation.* The members of the Commission shall be appointed by the Mayor and all appointments shall be confirmed by a majority vote of the Council. Members shall serve without compensation. ('83 Code, SEC. 2.52, Subd. 2)

SEC. 32.101 TERM; OFFICERS.

(A) *Term of office.* The term of office shall be three years with the terms staggered. The term of office shall expire on the first Monday in January of each year. Provided, however, that one member may be selected by the Council from its membership. ('83 Code, SEC. 2.52, Subd. 3)

(B) *Officers.* The Commission shall elect one of its members to be Chairperson of the Commission, and one member thereof to be Vice-Chairperson. The Clerk-Treasurer shall be the Treasurer of the Commission. The officers so elected shall hold office for a term of one year and until their successors are appointed and qualified. The Commission may select from its membership one member to serve as Secretary, or may select a non-member to serve as Secretary. ('83 Code, SEC. 2.52, Subd. 4)

SEC. 32.102 POWERS AND DUTIES.

The Commission shall have the authority and responsibility for the construction, enlargement, maintenance, equipment, operation and regulation of the Municipal Airport, also known as the Kirkwood Airport, as may be vested in the city under the laws of the State of Minnesota and of the United States relating to the construction, management and operation of the airport, except as mentioned herein.

(A) The Commission may exercise, on behalf of the city, all the powers granted to the city by Minnesota Statutes, provided:

(1) Real property, airports, restricted landing areas, airport protection privileges or personal property costing in excess of a sum to be set by the city may be acquired and condemnation proceedings may be instituted, only by authority of the Council. All rules and regulations provided for by M.S. SEC. 360.038, Subd. (3), as it may be amended from time to time, shall be effective only upon approval of the Council.

(2) No real property and no airports, other air navigation facilities or air protection privilege shall be disposed of by the Commission, by sale, lease, or otherwise, except by authority of the Council, but the Commission may lease space, area or improvements and grant concessions for aeronautical purposes or purposes incidental thereto, subject to the provisions of M.S. SEC. 360.038, Subd. (4), as it may be amended from time to time.

(B) The Commission shall have authority to hire or retain employees and professional services as may be necessary to accomplish the purposes for which it was appointed, and to fix any salaries.

(C) The Commission shall keep and maintain full and complete financial records. The Commission shall maintain a current inventory of all airport property showing the approximate date acquired and the cost thereof.
('83 Code, SEC. 2.52, Subd. 5)

SEC. 32.103 BUDGET; ANNUAL REPORT.

(A) *Budget.* The Commission each year at the appropriate time shall prepare a budget for financing the airport for the ensuing year which shall be furnished to the Council. Final decision as to requested appropriations shall be reported to the Commission which shall adjust its budget if necessary so that its budget at all times shall be balanced. Money not expended shall be credited to the surplus of the Airport Fund.

(1) The Commission shall control the expenditures of all monies collected for or placed to the credit of the Airport Fund. All monies received shall be paid to the city treasury, credited to the Airport Fund and kept separately from other monies of the city and paid out only upon itemized vouchers approved by the Commission.

(2) The Commission shall have no power to levy taxes or borrow money and it shall not approve any claim or incur any obligations for expenditures unless there is unencumbered cash in the appropriate Airport Fund to the credit of the Commission with which to pay the same. ('83 Code, SEC. 2.52, Subd. 6)

(B) *Report of Commission.* The Commission, as soon as possible after the end of each calendar year, shall prepare and present to the Council a report of its activities and finances. The Commission shall also prepare and present federal and state officials with reports as may be required by law, regulation or contract. ('83 Code, SEC. 2.52, Subd. 7)

CHARTER COMMISSION

SEC. 32.110 ESTABLISHMENT AND COMPOSITION.

A Charter Commission is hereby established. The Commission shall be composed of twelve members, who shall serve staggered four-year terms. The City Attorney, by reason of their position, shall be an ex officio member. The Mayor and Council shall make all appointments.

SEC. 32.111 POWERS AND DUTIES.

The Charter Commission shall have all the powers and duties defined or granted in the statutes and the city code and shall act in an advisory capacity to the Council.

PLANNING COMMISSION

SEC. 32.120 ESTABLISHMENT AND COMPOSITION.

A Planning Commission is hereby established. The Commission shall be composed of five members, four of whom shall serve staggered four-year terms. The City Attorney and a member of the City Council, by reason of their positions, shall be ex officio members. The Mayor and Council shall make all appointments. ('83 Code, SEC. 2.51, Subd. 1)

SEC. 32.121 POWERS AND DUTIES.

The Planning Commission shall have all the powers and duties defined or granted in the statutes and the city code relating to planning, zoning and subdivision regulations and shall act in an advisory capacity to the Council in all of these areas. ('83 Code, SEC. 2.51, Subd. 2)

The Planning Commission shall provide assistance to the Council and Zoning Administrator in the administration of this chapter and the recommendation of the Planning Commission shall be advisory in nature. Specifically, the Planning Commission shall review, hold public hearings, and make recommendations to the Council on all applications for zoning amendments, variances, and conditional use permits using the criteria in SEC. 152.198 through SEC. 152.200 of this

chapter.

('83 Code, SEC. 11.15, Subd. 3)

BOARD OF ZONING APPEALS

SEC. 32.130 ESTABLISHMENT AND COMPOSITION.

A Board of Zoning Appeals is hereby established, which shall consist of the Council, vested with the administrative authority as hereinafter provided.

SEC. 32.131 POWERS AND DUTIES.

(A) The Board of Zoning Appeals shall act upon all questions as they may arise in the administration of this chapter, including the interpretation of zoning maps, and it shall hear and decide appeals from and review any order, requirement, decision, or determination made by the Zoning Administrator. The appeal may be taken by any person, firm, or corporation aggrieved or by any officer, department, board or bureau of the city. The Board of Zoning Appeals shall also have the power to grant variances to the provisions of this chapter under certain conditions indicated in SEC.152.200 of this chapter. No use variances; a use different than that allowed in the zoning district, shall be issued by the Board of Zoning Appeals.

(B) Meetings by the Board of Zoning Appeals shall be held within the time and upon the notice to interested parties as is provided in this chapter and its adopted rules for the transaction of its business. The Board shall, within 60 days after receiving a request for a variance, refer the proposed variance to the Planning Commission for review and comment. After receiving the comments of the Planning Commission, the Board shall make its order deciding the matter, and shall serve a copy of the order upon the appellant or petitioner by mail. Any party may appear at the meeting in person or by agent or attorney. The Board of Zoning Appeals may reverse or affirm wholly or partially, or may modify the order, requirement, decision, or determination as in its opinion ought to be made and to that end shall have all the powers of the officer from whom the appeal was taken and may issue or direct the issuance of a permit. The reasons for the decision shall be stated and recorded. The decision of the Board shall not be final and any person having an interest affected by the decision shall have the right to appeal to District Court in the county in which the land is located on questions of law and fact. A vote of the majority of the Board of Zoning Appeals shall be necessary to reverse any decision of an administrative official of the city or to decide in favor of the applicant.

('83 Code, SEC. 11.15, Subd. 2)

LIBRARY BOARD

SEC. 32.140 ESTABLISHMENT AND COMPOSITION.

A Library Board is hereby established. The Board shall be composed of five members, who shall serve staggered three-year terms. The Mayor and Council shall make all appointments.

SEC. 32.141 POWERS AND DUTIES.

The Library Board shall have all the powers and duties defined or granted in the statutes and the city code relating to the public library (Lake Agassiz Regional Library) and shall act in an advisory capacity to the Council.

PARK BOARD

SEC. 32.150 PURPOSE; CREATION OF BOARD.

(A) *Purpose.* The nature and operation of the various parks and recreation programs of the city are uniquely allied with individual citizens. Therefore, it is in the best interests of the city and its citizens that concentration of public opinion and decision-making pertaining to city parks and recreation originate with a citizens' board established for that purpose.

(B) *Creation of Board.* There is hereby created the Parks and Recreation Board which, for the purposes of this subchapter, is referred to as the Board.
(Ord. 142, 2nd Series, passed 9-12-00)

SEC. 32.151 AUTHORITY AND DUTIES.

Subject to the reservation of powers set forth in SEC. 32.153, the Board has the following duties and powers:

(A) Establish policy for the creation, operation, maintenance and discontinuance of city parks and recreation programs;

(B) Serve as a forum for consideration, study and response to city concerns relating to parks and recreation programs and services;

(C) Establish goals and objectives for the Parks and Recreation Department;

(D) Determine facility and equipment needs;

(E) Evaluate community needs and desires for recreational programs and leisure activities;

(F) Evaluate existing facilities and programs;

(G) Develop and revise park and recreation policies;

(H) Take steps to learn the opinion of the public on parks and recreation needs by means of public hearings, surveys, informal advisory elections or by any other method which will obtain opinions from the public;

(I) Develop an annual budget for the Parks and Recreation Department which shall be included unchanged in the city's proposed budget submitted to the Council by the City Administrator unless the City Administrator attaches to the proposed budget a written explanation of each variance therefrom, along with the City Administrator's reason(s) for the variance;

(J) Develop a five-year capital improvement plan for the Parks and Recreation Department which shall be included unchanged in the city's proposed five-year capital improvement plan submitted to the Council by the City Administrator unless the City Administrator attaches to the proposed plan a written explanation of each variance therefrom, along with the City Administrator's reason(s) for the variance; and

(K) In the name of the city, approve all contracts, leases, acquisitions and disposals of property, debts, obligations, liabilities and expenditures for park and recreation purposes, provided that all purchases and contracts must be made consistent with Section 5.05 of the City Charter and no such action may be approved by the Board which cannot, at the time it is approved, be paid for in full from actual resources appropriated for the specific purpose for which the action is undertaken pursuant to a budget adopted or amended by the Council.
(Ord. 142, 2nd Series, passed 9-12-00)

SEC. 32.152 PERSONNEL; MEMBERSHIP AND ORGANIZATION.

(A) The Board, either for itself or on behalf of the city, shall have no power to employ, compensate or control employees. The Board may deal with city administrative officers and employees solely through the City Administrator and, with the City Administrator's permission, the Parks and Recreation Director. The City Administrator shall act as the purchasing agent for the Board.

(B) The membership and organization of the Board shall be as follows:

(1) *Membership.* The Board shall consist of five members, no more than one of which may be a Council member. Board members shall be appointed by the Mayor with the consent of the Council.

(2) *Term.* A member of the Board shall serve a term of three years or until the member's successor is appointed and qualified. No member shall serve for more than two successive full terms. Any person appointed as a member of the Board who was, as of December 31, 1999, a member of the Park Board shall serve out the term that the member then had; and the fact that the member has served on the Park Board and the Board through and up to the time of the member's appointment shall be taken into account for the purpose of term limitation. The remainder of the persons initially appointed as Board members shall, by designation of the Mayor as part of the Mayor's appointment, serve staggered terms so that the terms of no more than two members of the Board expire each calendar year.

(3) *Vacancies.* Vacancies on the Board shall be filled in the same manner that original appointments are made. Any member who misses three or more consecutive meetings without an excuse approved by the Board shall be deemed to have vacated his or her office and the vacancy shall be filled in the manner provided for filling vacancies.

(4) *Removal.* If the Council determines that a member of the Board has not performed his or her duties in accordance with the purposes of this subchapter or has been guilty of nonfeasance or malfeasance in office, the member shall be replaced in the manner for filling a vacancy.

(5) *Meetings.* The Board shall hold regular meetings at least quarterly. Special meetings may be called by the Chairperson or by any two members, by written notice as required by law for city meetings. Meetings of the Board shall be subject to the Open Meeting Law.

(6) *Compensation.* Members of the Board shall serve without pay, but they may be reimbursed for actual out-of-pocket expenses.

(7) *Officers.* The members of the Board shall select one of their members as Chairperson and one of their members as Secretary. The Clerk-Treasurer shall act as Treasurer of the Board.

(8) *Quorum and voting.* A vote of at least three members shall be required to pass any measures. Three members of the Board shall constitute a quorum.
(Ord. 142, 2nd Series, passed 9-12-00)

SEC. 32.153 RESERVATION OF POWERS.

If there is a conflict between a provision of this subchapter and a provision of the City Charter, the City Charter provision shall prevail. All powers and duties of the Council and the City Administrator set forth in the City Charter are preserved. However, the Council shall not, except by an affirmative vote of at least seven Council members, take any action relating to parks and recreation which has not first been approved or recommended by the Board or which has not been appealed from a Board action or decision.
(Ord. 142, 2nd Series, passed 9-12-00)

SEC. 32.154 APPEAL TO COUNCIL.

Any person aggrieved by any action or decision of the Board may appeal the action or decision to the Council by filing a notice of appeal, in writing, with the Clerk-Treasurer within ten days of the action or decision. The Council shall then consider the action or decision and a determination by the Council thereon shall be final. The appealed action or decision shall remain effective pending appeal unless it is suspended by order of the Council.
(Ord. 142, 2nd Series, passed 9-12-00)

SEC. 32.155 AMENDMENT.

Like other ordinances, this subchapter may be repealed or amended, in whole or in part, by further action of the Council in the manner provided for the passage of ordinances in the City Charter.
(Ord. 142, 2nd Series, passed 9-12-00)

CHAPTER 33: SPECIAL SERVICE DISTRICTS

Section

Flood Control District

- 33.01 Establishment
- 33.02 Flood control improvements
- 33.03 Special service charges

Downtown Special Service District

- 33.15 Establishment
- 33.16 Services
- 33.17 Service charges
- 33.18 Governing law

FLOOD CONTROL DISTRICT

SECTION 33.01 ESTABLISHMENT.

Pursuant to the authority granted by the Legislature in Laws of 1997, 2nd Special Session, Chapter 2, Section 29, and M.S. Chapter 428A, as it may be amended from time to time, a Flood Control District is established within the city. The Flood Control District shall include all property located within the corporate limits of the city. The Flood Control District shall be a special service district as described in M.S. Chapter 428A, as it may be amended from time to time, and, except as specifically provided in this section, shall be governed by, and implemented in accordance with, the provisions of M.S. Chapter 428A, as it may be amended from time to time, except that:

(A) The provisions of M.S. § 428A.08, as it may be amended from time to time, shall not apply; and

(B) The special service charges shall be levied on all property within the Flood Control District, and not limited to commercial, industrial and public utility property.
(‘83 Code, SEC. 2.68, Subd. 1) (Ord. 119, 2nd Series, effective 12-9-97)

SEC. 33.02 FLOOD CONTROL IMPROVEMENTS.

(A) The city may undertake within the Flood Control District, from time to time, flood control improvements, including:

(1) The acquisition of properties within or adjacent to the flood plain;

(2) The demolition or removal of structures or improvements within or adjacent to the flood plain or where necessary to permit the construction or extension of flood control works; and

(3) The construction, reconstruction, extension or maintenance of levees, dikes and other flood control works.

(B) The city shall, before undertaking any flood control improvements under this subchapter, submit to the Commissioner of Natural Resources a description of the proposed flood control improvements. The city may proceed with the flood control improvements upon either approval of the Commissioner of Natural Resources or failure of the Commissioner of Natural Resources to either approve or reject the improvements within 30 days of such submission.

(C) The costs of acquiring, constructing, reconstructing, extending or maintaining the flood control improvements may be paid for by the special service charges described in SEC. 33.03, from special assessments or improvement bonds issued under M.S. Chapter 429, as it may be amended from time to time, from federal or state grants, from money appropriated by the city from other sources, or from any combination of those sources.

(‘83 Code, SEC. 2.68, Subd. 2) (Ord. 119, 2nd Series, effective 12-9-97)

SEC. 33.03 SPECIAL SERVICE CHARGES.

The city shall, by resolution, establish special service charges which will be imposed annually on all owners of real property within the district. The amount of the special service charges to be imposed upon each parcel of real property shall be determined in accordance with the formula established by the governing body of the city, which formula may take into consideration such factors as the governing body shall consider relevant, including without limitation, the proximity of the property to the flood plain and the classification of the property under M.S. § 273.13, as it may be amended from time to time. The special service charges will be imposed annually for the number of years determined by the governing body, provided that no special service charges shall be imposed more than 20 years from the date of adoption of this subchapter. The collections of the special service charges shall be deposited by the city into a flood control improvement fund, to be used to pay the costs of flood control improvements or to pay principal of and interest on bonds issued pursuant to M.S. Chapter 429, as it may be amended from time to time, to pay the costs of flood control improvements.
(‘83 Code, SEC. 2.68, Subd. 3) (Ord. 119, 2nd Series, effective 12-9-97)

DOWNTOWN SPECIAL SERVICE DISTRICT

SEC. 33.15 ESTABLISHMENT.

Pursuant to the authority granted by the Legislature in Laws of Minnesota, 1991, Chapter 291, Article 4, Section 24, and M.S. § 428A.01 to § 428A.10, as it may be amended from time to time, a special service district is established wherein the city may render or contract for public services to be rendered, of a kind or degree not ordinarily provided throughout the city from general fund revenues. The special service district consists of that area described as follows:

Beginning at the intersection of the northerly side of Sixth Street and the easterly side of Burlington Northern Mainline rail bridge; then proceeding in a southerly direction along the easterly side of the main rail line to a point on the northerly bank of the Red Lake River; then proceeding in an easterly direction along the north bank of the Red Lake River to the point where it intersects with the westerly boundary of Broadway; then proceeding in an easterly direction parallel to the northerly line of Sixth Street to a point on the midline of the block bounded by Broadway on the west, Loring on the north and Ash on the east; then proceeding in a northerly direction along such midline extended to a point on the south boundary of Fletcher Street; then proceeding east along the south line of Fletcher Street to a point on the east line of Ash Street; then proceeding north along the east line of Ash Street to a point on the north line Third Street; thence proceeding west along the north line of Third Street to a point on the east line of Ash Street; thence proceeding north along the east line of Ash Street to a point on the south side of Fourth Street; thence proceeding east along the south side of Fourth Street to a point on the east side of Ash Street extended; then proceeding north along the east side of Ash Street as extended and the east side of Ash Street to a point on the north side of Fifth Street; then proceeding west along the north side of Fifth Street to a point on the east side of Broadway; then proceeding north along the east side of Broadway to a point on the north side of Sixth Street; then proceeding west along the north side of Sixth Street to the point of beginning.

(‘83 Code, SEC. 2.69, Subd. 1) (Ord. 74, 2nd Series, effective 12-30-91)

SEC. 33.16 SERVICES.

Within the special service district, the city may render or contract for any service or services to the extent that the service or services are of a kind or degree that is not ordinarily provided throughout the city from general revenues of the city, including, but not limited to, the repair, maintenance, operation, and construction of any improvement authorized by M.S. § 429.021, as it may be amended from time to time, parking services rendered or contracted for by the city, and any other service or improvement provided by the city or the Crookston Development Authority that is authorized by law or charter.

(‘83 Code, SEC. 2.69, Subd. 2) (Ord. 74, 2nd Series, effective 12-30-91)

SEC. 33.17 SERVICE CHARGES.

The city may impose service charges that are reasonably related to the special services provided. In imposing the service charges, the city must follow the procedures specified in M.S. § 428A.01 to § 428A.10, as it may be amended from time to time, including, but not limited to, imposing the service charges only after the filing of the required petition and only upon property within the special service district having the specified classification and use. Charges for service must be as nearly as possible proportionate to the cost of furnishing the service, and may be fixed on the basis of the service directly rendered, or by reference to a reasonable classification of the types of premises to which service is furnished, or on any other equitable basis.

(‘83 Code, SEC. 2.69 Subd. 3) (Ord. 74, 2nd Series, effective 12-30-91)

SEC. 33.18 GOVERNING LAW.

The provisions of Laws of Minnesota 1991, Chapter 291, Article 4, Section 24 and M.S. § 428A.01 to § 428A.10, as it may be amended from time to time, in all respects govern the creation, existence, and operation of the special service district and the manner of imposing service charges therein and this subchapter must be construed consistently with said statutes.

(‘83 Code, SEC. 2.69, Subd. 4) (Ord. 74, 2nd Series, effective 12-30-91)

CHAPTER 34: FINANCE AND TAXATION

Section

Assessments; Funds

- 34.01 Prepayment of assessments
- 34.02 Special assessment policy
- 34.03 Airport Fund
- 34.04 Trust or escrow funds for fire or explosion losses

Lodging Tax

- 34.15 Purpose
- 34.16 Definitions
- 34.17 Imposition of tax
- 34.18 Collection
- 34.19 Refunds
- 34.20 Penalties
- 34.21 Council hearing
- 34.22 Deposit of revenue; distribution
- 34.23 Violations

ASSESSMENTS; FUNDS

SECTION 34.01 PREPAYMENT OF ASSESSMENTS.

(A) After the adoption of an assessment roll pursuant to M.S. Chapter 429, as it may be amended from time to time, and before certification of the assessment roll to the County Auditor, the City Clerk-Treasurer, or other authorized official, is authorized and directed to accept total prepayment of the assessment. As provided by law, such prepayment may be accepted only during the 30-day period following approval of the assessment roll.

(B) This section shall apply to all assessment rolls which, on the effective date hereof, have been adopted by the Council but not yet certified to the County Auditor, and to all assessment rolls subsequently adopted by the Council.
(‘83 Code, SEC. 2.73)

SEC. 34.02 SPECIAL ASSESSMENT POLICY.

The Council may, by resolution, adopt, from time to time amend, or repeal a special assessment policy.
(‘83 Code, SEC. 2.75)

SEC. 34.03 AIRPORT FUND.

(A) *Establishment.* There shall be established in the treasury of the city an Airport Fund.

(B) *Revenues and expenditures.* Any and all receipts derived by the city from property acquired, established or maintained as an airport, or available for the landing and take-off of aircraft, shall be paid into the fund, and all disbursements and expenditures from the fund shall be made only upon resolution of the Council. The fund shall be maintained by taxation, if necessary.
(‘83 Code, SEC. 2.77)

SEC. 34.04 TRUST OR ESCROW FUNDS FOR FIRE OR EXPLOSION LOSSES.

The city may use the proceeds from losses arising from fire or explosion of insured real property located in the city that are held in a trust or escrow account to secure, repair or demolish damaged or destroyed structures and clear the property in question, so that the structure and property are in compliance with local code requirements and applicable city code provisions. Any unused portion of the retained proceeds shall be returned to the insured. In addition, the regulatory and procedural provisions of M.S. § 65A.50, Trust or Escrow Accounts; Insured Real Property Fire or Explosion Loss Proceeds, as it may be amended from time to time, are hereby incorporated herein and adopted by reference, including the penalty provision thereof.
(‘83 Code, SEC. 2.79) (Ord. 124, 2nd Series, effective 5-16-98)

LODGING TAX

SEC. 34.15 PURPOSE.

The promotion of the city as a tourist or convention center would benefit the economy and recognition of the city. The creation of a tax on lodging at hotels, motels, rooming houses, tourist courts and resorts for the purpose of providing funding for a convention and visitor's bureau to promote the city's tourism and convention industry is in the best interest of the city and its citizens.(Ord. 139, 2nd Series, passed 5-9-00)

SEC. 34.16 DEFINITIONS.

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

LODGING FACILITY. A hotel, motel, rooming house, tourist court, or resort, as those terms are commonly understood, where accommodations are furnished for consideration, other than the renting or leasing of such accommodations for a continuous period of 30 days or more. The furnishing of rooms by any legally constituted religious, educational or nonprofit organization shall not constitute lodging for the purposes of this subchapter.

OPERATOR. The person who is the proprietor of the "lodging facility," whether in the capacity of owner, lessee, sublessee, licensee or any officer, agent or employee of the person.

PERSON. Any individual, corporation, partnership, association, limited liability company or partnership, estate, receiver, trustee, executor, administrator, assignee, syndicate or any other combination of individuals. Whenever the term **PERSON** is used in any provision of this section prescribing and imposing a penalty, the term as applied to a corporation, partnership, association, limited liability company or partnership, or any other combination of individuals, shall mean the officers or partners thereof as the case may be.
(Ord. 139, 2nd Series, passed 5-9-00)

SEC. 34.17 IMPOSITION OF TAX.

(A) Pursuant to the authority granted under M.S. § 469.190, as it may be amended from time to time, there is imposed a tax in the amount of 3% on the gross receipts from the furnishing for consideration of accommodations at any lodging facility in the city.

(B) The tax imposed under this subchapter shall be paid by the individual occupying the accommodations through the operator of the lodging facility at the time the charge for the accommodations is paid. The tax constitutes a debt owed to the city by the operator which is extinguished only upon payment of the tax to the city.
(Ord. 139, 2nd Series, passed 5-9-00)

SEC. 34.18 COLLECTION.

(A) *Operator's duties.* Each operator shall collect the tax imposed under this subchapter at the time the rent charge for the accommodation is paid. The amount of the tax shall be separately stated from the rent so charged. The person paying the tax shall receive a receipt of payment from the operator.

(B) *Reports.* On or before the twenty-fifth day of each month, each operator shall submit to the Clerk-Treasurer a report of the rental activities in the preceding calendar month. In the event the twenty-fifth day of the month falls on a Saturday, Sunday or legal holiday, the report shall be due on the next succeeding city business day. The report shall be on forms provided by the city and shall contain, at a minimum, the following:

- (1) Name, address, telephone number of the lodging facility.
- (2) Reporting period covered by the report.
- (3) Total gross amount of accommodation charges collected during reporting period.
- (4) The amount of lodging tax required to be collected and due during the reporting period.
- (5) Name, date of birth, and signature of the operator or the operator's agent submitting the report and the address and telephone number of the operator or agent, if different from the lodging facility.
- (6) The total amount of any uncollectable accommodation rental charges.
- (7) Other information as the city from time to time may, in its discretion, require.

(C) *Payment of tax.* Payment of the tax for the preceding calendar month shall be submitted by each operator to the city with the report provided for that reporting period.

(D) *Alternative accounting.* Upon written notice to the Clerk-Treasurer, an operator may, at the operator's option, adopt any four-week accounting period other than a calendar month. Submission of the required reports and tax payments shall not be later than 25 days after the end of any reporting period unless the twenty-fifth day falls on a Saturday, Sunday or legal holiday, in which case the report and payment shall be submitted no later than the next succeeding city business day.

(E) *Uncollectable charges.* The operator may off-set against the tax due in any reporting period the amount of any taxes imposed under this section previously paid as a result of any transaction which becomes uncollectable during such reporting period, but only in proportion to the portion of the amount which becomes uncollectable.

(F) *Examination of reports.* After a report is filed, the Clerk-Treasurer may make any reasonable examination of the records and accounts of the lodging facility for which the report is made which the Clerk-Treasurer deems necessary for determining the correctness of that report. The tax imposed on the basis of an examination shall be the tax paid. If the tax due is found to be greater than the tax paid, the operator submitting the report shall remit the difference to the city within ten days after receipt of written notice. The notice shall be given personally or sent by certified mail to the address shown on the report. If the tax paid is greater than the tax found to be due, the excess paid shall be refunded to the operator at the address shown on the report. (Ord. 139, 2nd Series, passed 5-9-00)

SEC. 34.19 REFUNDS.

(A) Any operator may file a claim for a refund of taxes paid in any reporting period that exceed the amount actually due for that period. The claim shall be in writing directed to the Clerk-Treasurer and must be received by the Clerk-Treasurer no later than one year following the payment of the contested taxes.

(B) Upon receipt of the claim for refund, the Clerk-Treasurer shall determine the validity of the claim. The Clerk-Treasurer may approve the claim, deny the claim or make any other reasonable determination regarding the claim. The city shall refund any excess payments as determined by the Clerk-Treasurer. If no excess payments are found, the Clerk-Treasurer shall so notify the operator in writing.

(Ord. 139, 2nd Series, passed 5-9-00)

SEC. 34.20 PENALTIES.

(A) Any taxes not paid within 25 days following the close of a reporting period shall be subject to a penalty of 10%.

(B) If an operator does not include the penalty with a late payment of the tax, the Clerk-Treasurer shall notify the operator in writing, served either personally or by certified mail, of the amount of penalty due. If the operator fails to pay the penalty within ten days of that notice, the Clerk-Treasurer may proceed to collect the penalty in the same manner as provided under this subchapter for the collection of unpaid taxes.

(C) If an operator refuses or fails to pay the tax imposed by this subchapter, including any penalties, within 30 days following the close of the reporting period for which the tax is due, the Clerk-Treasurer shall determine an estimate of the tax due. For the purposes of making the estimates, the operator shall grant the Clerk-Treasurer access to all relevant books and records relating to the lodging facility. The Clerk-Treasurer shall notify the operator personally or by certified mail of the amount due. Full payment of the amount determined by the Clerk-Treasurer shall be made within ten days of the notice.

(D) If an operator fails to pay a tax and/or penalty imposed under this subchapter within ten days of receipt of notice from the Clerk-Treasurer, the tax and/or penalty may be specially assessed against the property in the same manner as a special assessment for unpaid utility charges.

(E) As an alternative to a special assessment, the City Attorney shall have the express authority to commence any legal action or actions to collect the tax and/or penalty due and, in addition, all costs of the collection including, but not limited to, reasonable attorney's fees.
(Ord. 139, 2nd Series, passed 5-9-00)

SEC. 34.21 COUNCIL HEARING.

(A) An operator aggrieved by any determination by or action(s) of the Clerk-Treasurer may request a hearing before the City Council.

(B) A request for a hearing shall be in writing and shall set forth the basis for the request. The request shall be received by the Clerk-Treasurer not more than ten days following receipt by the operator of the notice or action giving rise to the request. If no request for a hearing is received within the ten days, the determination of the Clerk-Treasurer shall be final.

(C) Upon receipt of a proper and timely request, a hearing shall be conducted at the next regular City Council meeting that is held at least 15 days after receipt of the request. The

operator shall receive written notice of the day, time and place of the hearing at least ten days in advance of the hearing date.

(D) The hearing shall be limited to the issues contained in the operator's request.

(E) The City Council may affirm, deny or modify the determination of the Clerk-Treasurer. (Ord. 139, 2nd Series, passed 5-9-00)

SEC. 34.22 DEPOSIT OF REVENUE; DISTRIBUTION.

(A) *Separate fund.* All revenue collected by the city pursuant to this subchapter shall be deposited in a separate fund created for the purpose until appropriately distributed in accordance with division (B) below of this section.

(B) *Distribution.*

(1) 95% of the gross proceeds from the tax collected pursuant to this section shall be used toward funding a local convention and tourism bureau for the purpose of marketing and promoting the city as a tourist and convention center.

(2) The city shall retain up to 5% of the gross proceeds, which may be transferred to the city's general fund to defray the costs of administering and enforcing this subchapter. (Ord. 139, 2nd Series, passed 5-9-00)

SEC. 34.23 VIOLATIONS.

In addition to any other penalties that may be provided by this chapter, any willful violation of any provision of this subchapter, or the failure to tender a required report or the tendering of a false report constitutes a misdemeanor. (Ord. 139, 2nd Series, passed 5-9-00)

CHAPTER 35: EMERGENCY MANAGEMENT

Section

- 35.01 Policy and purpose
- 35.02 Definitions
- 35.03 Establishment of emergency management organization
- 35.04 Powers and duties of Director
- 35.05 Local emergencies
- 35.06 Emergency regulations
- 35.07 Emergency management a government function
- 35.08 Participation in labor disputes or politics

- 35.99 Penalty

SECTION 35.01 POLICY AND PURPOSE.

Because of the existing possibility of the occurrence of disasters of unprecedented size and destruction resulting from fire, flood, tornado, blizzard, destructive winds or other natural causes, or from sabotage, hostile action, or from hazardous material mishaps of catastrophic measure; and in order to insure that preparations of this city will be adequate to deal with those disasters, and generally, to provide for the common defense and to protect the public peace, health, and safety, and to preserve the lives and property of the people of this city, it is hereby found and declared to be necessary:

(A) To establish a city emergency management organization responsible for city planning and preparation for emergency government operations in time of disasters.

(B) To provide for the exercise of necessary powers during emergencies and disasters.

(C) To provide for the rendering of mutual aid between this city and other political subdivisions of this state and of other states with respect to the carrying out of emergency-preparedness functions.

(D) To comply with the provisions of M.S. § 12.25, as it may be amended from time to time, which requires that each political subdivision of the state shall establish a local organization for emergency management.

SEC. 35.02 DEFINITIONS.

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

DISASTER. A situation which creates an immediate and serious impairment to the health and safety of any person, or a situation which has resulted in or is likely to result in catastrophic loss to property, and for which traditional sources of relief and assistance within the affected area are unable to repair or prevent the injury or loss.

EMERGENCY. An unforeseen combination of circumstances which calls for immediate action to prevent from developing or occurring.

EMERGENCY MANAGEMENT. The preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to prevent, minimize, and repair injury and damage resulting from disasters caused by fire, flood, tornado, and other acts of nature, or from sabotage, hostile action, or from industrial hazardous material mishaps. These functions include, without limitation, fire-fighting services, police services, emergency medical services, engineering, warning services, communications, radiological, and chemical, evacuation, congregate care, emergency transportation, existing or properly assigned functions of plant protection, temporary restoration of public utility services and other functions related to civil protection, together with all other activities necessary or incidental for carrying out the foregoing functions. Emergency management includes those activities sometimes referred to as “civil defense” functions.

EMERGENCY MANAGEMENT FORCES. The total personnel resources engaged in city-level emergency management functions in accordance with the provisions of this chapter or any rule or order thereunder. This includes personnel from city departments, authorized volunteers, and private organizations and agencies.

EMERGENCY MANAGEMENT ORGANIZATION. The staff responsible for coordinating city-level planning and preparation for disaster response. This organization

provides city liaison and coordination with federal, state, and local jurisdictions relative to disaster preparedness activities and assures implementation of federal and state program requirements.

SEC. 35.03 ESTABLISHMENT OF EMERGENCY MANAGEMENT ORGANIZATION.

There is hereby created within the city government an emergency management organization which shall be under the supervision and control of the City Emergency Management Director, called the Director. The Fire Chief shall serve as the Director unless otherwise approved by the Mayor and Council. The Director shall have direct responsibility for the organization, administration and operation of the emergency preparedness organization, subject to the direction and control of the City Administrator.

SEC. 35.04 POWERS AND DUTIES OF DIRECTOR.

(A) The Director, with the consent of the City Administrator, shall represent the city on any regional or state conference for emergency management. The Director, with the City Administrator, shall develop proposed mutual aid agreements with other political subdivisions of the state for reciprocal emergency management aid and assistance in an emergency too great to be dealt with unassisted, and shall present these agreements to the Council for its action. These arrangements shall be consistent with the State Emergency Plan.

(B) The Director shall make studies and surveys of the human resources, industries, resources, and facilities of the city as deemed necessary to determine their adequacy for emergency management and to plan for their most efficient use in time of an emergency or disaster. The Director shall establish the economic stabilization systems and measures, service staffs, boards, and sub-boards required, in accordance with state and federal plans and directions subject to the approval of the City Administrator.

(C) The Director shall prepare a comprehensive emergency plan for the emergency preparedness of the city and shall present the plan to the City Administrator for approval. When the Council has approved the plan, it shall be the duty of all city agencies and all emergency preparedness forces of the city to perform the duties and functions assigned by the plan as approved. The plan may be modified in like manner from time to time. The Director shall coordinate the emergency management activities of the city to the end that they shall be consistent and fully integrated with the emergency plans of the federal government and the state and correlated with emergency plans of the county and other political subdivisions within the state.

(D) In accordance with the State and City Emergency Plan, the Director shall institute training programs, public information programs and conduct practice warning alerts and emergency exercises as may be necessary to assure prompt and effective operation of the City Emergency Plan when a disaster occurs.

(E) The Director shall utilize the personnel, services, equipment, supplies, and facilities of existing departments and agencies of the city to the maximum extent practicable. The officers and personnel of all city departments and agencies shall, to the maximum extent practicable, cooperate with and extend services and facilities to the city's emergency management organization and to the Governor upon request. The head of each department or agency in cooperation with the Director shall be responsible for the planning and programming of those emergency activities as will involve the utilization of the facilities of the department or agency.

(F) The Director shall, in cooperation with those city departments and agencies affected, assist in the organizing, recruiting, and training of emergency management personnel, which may be required on a volunteer basis to carry out the emergency plans of the city and state. To the extent that emergency personnel are recruited to augment a regular city department or agency

for emergencies, they shall be assigned to the departments or agencies and shall be under the administration and control of the department or agency.

(G) Consistent with the state emergency services law, the Director shall coordinate the activity of municipal emergency management organizations within the city and assist in establishing and conducting training programs as required to assure emergency operational capability in the several services as provided by M.S. SEC. 12.25, as it may be amended from time to time.

(H) The Director shall carry out all orders, rules, and regulations issued by the Governor with reference to emergency management.

(I) The Director shall prepare and submit reports on emergency preparedness activities when requested by the City Administrator.

SEC. 35.05 LOCAL EMERGENCIES.

(A) A local emergency may be declared only by the Mayor or his or her legal successor. It shall not be continued for a period in excess of three days except by or with the consent of the Council. Any order, or proclamation declaring, continuing, or terminating a local emergency shall be given prompt and general publicity and shall be filed in the office of the City Clerk-Treasurer.

(B) A declaration of a local emergency shall invoke necessary portions of the response and recovery aspects of applicable local or inter-jurisdictional disaster plans, and may authorize aid and assistance thereunder.

(A) No jurisdictional agency or official may declare a local emergency unless expressly authorized by the agreement under which the agency functions. However, an inter-jurisdictional disaster agency shall provide aid and services in accordance with the agreement under which it functions.

Penalty, see SEC. 35.99

SEC. 35.06 EMERGENCY REGULATIONS.

(A) Whenever necessary, to meet a declared emergency or to prepare for an emergency for which adequate regulations have not been adopted by the Governor or the Council, the Council may by resolution promulgate regulations, consistent with applicable federal or state law or regulation, respecting the conduct of persons and the use of property during emergencies, the repair, maintenance, and safeguarding of essential public services, emergency health, fire, and safety regulations, drills or practice periods required for preliminary training, and all other matters which are required to protect public safety, health, and welfare in declared emergencies.

(B) Every resolution of emergency regulations shall be in writing, shall be dated, shall refer to the particular emergency to which it pertains, if so limited, and shall be filed in the office of the City Clerk-Treasurer. A copy shall be kept posted and available for public inspection during business hours. Notice of the existence of these regulations and their availability for inspection at the City Clerk-Treasurer's Office shall be conspicuously posted at the front of City Hall or other headquarters of the city or at other places in the affected area as the Council shall designate in the resolution. By resolution, the Council may modify or rescind a regulation.

(C) The Council may rescind any regulation by resolution at any time. If not sooner

rescinded, every regulation shall expire at the end of 30 days after its effective date or at the end of the emergency to which it relates, whichever comes first. Any resolution, rule, or regulation inconsistent with an emergency regulation promulgated by the Council shall be suspended during the period of time and to the extent conflict exists.

(D) During a declared emergency, the city is, under the provisions of M.S. § 12.31, as it may be amended from time to time and notwithstanding any statutory or Charter provision to the contrary, empowered, through its Council, acting within or without the corporate limits of the city, to enter into contracts and incur obligations necessary to combat the disaster by protecting the health and safety of persons and property and providing emergency assistance to the victims of a disaster. The city may exercise these powers in the light of the exigencies of the disaster without compliance with the time-consuming procedures and formalities prescribed by law pertaining to the performance of public work, entering rental equipment agreements, purchase of supplies and materials, limitations upon tax levies, and the appropriation and expenditure of public funds, including, but not limited to, publication of resolutions, publication of calls for bids, provisions of personnel laws and rules, provisions relating to low bids, and requirement for bids.

Penalty, see SEC. 35.99

SEC. 35.07 EMERGENCY MANAGEMENT A GOVERNMENT FUNCTION.

All functions and activities relating to emergency management are hereby declared to be governmental functions. The provisions of this section shall not affect the right of any person to receive benefits to which he would otherwise be entitled under this resolution or under the worker's compensation law, or under any pension law, nor the right of any person to receive any benefits or compensation under any act of Congress.

SEC. 35.08 PARTICIPATION IN LABOR DISPUTES OR POLITICS.

The emergency management organization shall not participate in any form of political activity, nor shall it be employed directly or indirectly for political purposes, nor shall it be employed in a labor dispute.

SEC. 35.99 PENALTY.

Any person who violates any provision of this chapter or any regulation adopted thereunder relating to acts, omissions, or conduct other than official acts of city employees or officers is guilty of a misdemeanor.

CHAPTER 36: CITY POLICY

Section

- 36.01 Worker's compensation requirement
- 36.02 Absentee ballot precinct
- 36.03 Franchise ordinances
- 36.04 Disposal of unclaimed and excess property

SECTION 36.01 WORKER'S COMPENSATION REQUIREMENT.

(A) *Contractors.* The city shall not enter into any contract for doing public work before receiving from all other contracting parties acceptable evidence of compliance with the worker's compensation insurance coverage requirement of Minnesota Statutes.

(B) *City officers.* 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.

('83 Code, SEC. 2.11) (Ord. 62, 2nd Series, effective 7-21-90)

SEC. 36.02 ABSENTEE BALLOT PRECINCT.

Pursuant to the provisions of M.S. SEC. 203B.13, as it may be amended from time to time, the Council hereby authorizes the Polk County Commissioners to establish an Absentee Ballot Counting Precinct and ratifies the ordinance of the Polk County Board of Commissioners adopted on the 20th day of August, 1986. The Absentee Ballot Precinct shall be located in the Polk County Courthouse for the purpose of receiving all absentee ballots for any state-wide 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 Polk County Auditor and shall be administered pursuant to the Minnesota Election Laws without cost to the city.

('83 Code, SEC. 2.56) (Ord. 51, 2nd Series, effective 9-27-88)

SEC. 36.03 FRANCHISE ORDINANCES.

(A) *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 it or by the State of Minnesota, or shall hereafter be granted by the city or by the State of Minnesota.

(B) *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 semipermanent 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 the utility, or for any other purpose, shall be required to obtain a franchise before proceeding to make the use of the streets or public places or before proceeding to place the fixtures in such places.

(C) *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.

(D) *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:

(1) 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.

(2) That the grantee shall in no case claim or pretend to exercise any power to fix fares, rates, and charges, but that the 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:

(a) 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.

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

(c) If direct negotiations fail to produce agreement, the Council shall, not less than 30 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.

(3) 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.

(4) 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.

(5) That no sale or lease of the 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 thereunder.

(6) That every grant in the franchise contained of 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 the alterations therein, or relocation or rerouting 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.

(7) Every franchise shall contain a provision granting the city the right to acquire the same in accordance with statute.

(8) 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 operations in the city.

(E) *Further provisions of franchises.* The enumeration and specification of particular matters which must be included in every franchise or renewal or extension thereof, shall not be construed as impairing the right of the city to insert in any franchise or renewal or extension

thereof any 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.

('83 Code, SEC. 2.74)

SEC. 36.04 DISPOSAL OF UNCLAIMED AND EXCESS PROPERTY.

(A) Disposal of unclaimed property.

(1) *Definition.* 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 60 days and has been declared such by a resolution of the Council.

(2) *Preliminary notice.* If the City Administrator knows the identity and whereabouts of the owner, he shall serve written notice upon him 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 Administrator notice shall also be served upon him. 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 Administrator 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 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 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 therefor, 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.

(B) Disposal of excess property.

(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 (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 Administrator authorized to dispose of the property in the manner stated herein.

(2) *Surplus property with a total estimated value of less than \$100.* The City Administrator may sell surplus property with a total value of less than \$100 through negotiated

sale.

(3) *Surplus property with a total estimated value between \$100 and \$500.* The City Administrator shall offer for public sale, to the highest bidder, surplus property with a total estimated value of from \$100 to \$500. 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 at the City Administrator's option. The sale may be by auction or sealed bids.

(4) *Surplus property with a total estimated value over \$500.* The City Administrator shall offer for public sale, to the highest bidder, surplus property with a total estimated value over \$500. Notice of the 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 by publication once in the official newspaper. The sale shall be to the person submitting the highest bid.

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

(C) *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 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.
(‘83 Code, SEC. 2.70, Subds. 2, 3, 4) Penalty, see SEC. 10.99