

TITLE III: ADMINISTRATION

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CHAPTER 30: CITY COUNCIL; CITY OFFICIALS

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GENERAL PROVISIONS

§ 30.01 SALARIES OF MAYOR AND COUNCIL MEMBERS.

(A) The monthly salary of the Mayor of the City of Roseau and the monthly salary of the non-mayor members of the City Council shall be as determined from time to time by the City Council by ordinance as provided by M.S. § 415.11, as it may be amended from time to time.

(B) In addition, the Mayor and each member of the City Council shall receive a sum designated by ordinance of the City Council for each special meeting attended by them.
(1986 Code, § 2.10) (Ord. 32, 2nd Series, passed 10-25-90; Am. Ord. 125, 2nd Series, passed 10-17-00)

CITY COUNCIL

§ 30.15 AUTHORITY AND PURPOSE.

Pursuant to authority granted by statute, this title of the city code is enacted so as to set down for enforcement the government and good order of the city by and through the Council.
(1986 Code, § 2.01)

§ 30.16 COUNCIL MEETINGS; TIME AND PLACE.

Regular meetings of the Council shall be held in the Municipal Building at the time and place set by resolution of the Council. Special and adjourned meetings shall be held at a location at the discretion of the Council.
(1986 Code, § 2.02)

§ 30.17 SPECIAL MEETINGS.

Special meetings of the Council may be called by the Mayor or by any two other members of the Council by writing filed with the City Clerk-Treasurer stating the time, place and purpose of the meeting. Notice of a special meeting shall be given by the City Clerk-Treasurer to each member of the Council by mailing a copy of such filing to all members who did not sign or issue the call at least three days prior to the time stated therein or by personal service at least 72 hours prior to the projected time of meeting. Special meetings may be held without prior written notice to the Council when all Council members are present at the meeting or consent thereto in writing. Any such consent shall be filed with the City Clerk-Treasurer prior to the beginning of the meeting. Any special meeting attended by all Council members shall be a valid meeting for the transaction of any business that may come before the meeting. Meetings of the Council which are adjourned from time-to-time shall not be subject to the foregoing notice requirements; nor shall special meetings which, in the judgment of the Council, require immediate consideration to meet an emergency require the notice, but may be called by telephone communication or any other expeditious means. Notice to the public and to news media shall be given as required by M.S. Ch. 13D, the Open Meeting law, as it may be amended from time to time.
(1986 Code, § 2.03) (Ord. 60, 2nd Series, passed 4-14-93)

§ 30.18 COUNCIL PROCEDURE AT REGULAR MEETINGS.

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

- (1) An agenda for the forthcoming meeting;
- (2) A report from the City Clerk-Treasurer on administrative activities of the preceding month;

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(3) 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;"

(4) A copy of all minutes to be considered; and

(5) Copies of such 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 forthwith cause to be mailed or delivered to each member of the Council copies of all said documents. *Robert's Rules of Order* (Newly Revised) shall govern all Council meetings as to procedural matters not set forth in the city code. The order of business at regular meetings shall be as follows:

(1) Call to order;

(2) Roll call;

(3) Determination of quorum;

(4) Approval of minutes; (Actual reading may be waived if each member of the Council was furnished with a copy thereof as hereinbefore set forth.)

(5) Licenses and permits;

(6) Correspondence;

(7) Meeting opened in the order stated in the agenda to persons requesting to appear before the Council. The presiding officer may advise any person appearing as to the amount of time allowed prior to his or her speaking or later limit the time. Persons speaking shall give their name, address and state their business;

(8) Reports of staff members;

(9) Reports from boards and commissions;

(10) Reports of Council members;

(11) Report from Mayor;

(12) Meeting opened to the public. The presiding officer shall limit the time allowed. Persons speaking shall give their name, address and state their business;

(13) Old business;

- (14) New business;
- (15) Payment of claims and approval for payment of claims and appropriations; and
- (16) Adjournment.

(C) Matters inappropriate for consideration at a meeting, or not in the order specified, shall not be considered except:

- (1) With the unanimous consent of the members of the Council; or
- (2) Scheduled public hearings or bid lettings at the time stated in the notice.

(D) All claims for payment must be filed at or before 12:00 noon on the Friday preceding the regular Council meeting at which it is to be considered, unless the City Clerk-Treasurer consents to a later filing of a claim or claims.

(1986 Code, § 2.04)

§ 30.19 RIGHT TO ADMINISTRATIVE APPEAL.

If any person shall be aggrieved by any administrative decision of the City Clerk-Treasurer, 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 Clerk-Treasurer at least five 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 his or her own motion or the motion of the appellant, the City Clerk-Treasurer 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 so as to avoid the necessity for formal notice of reconvening.

(1986 Code, § 2.06)

§ 30.20 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 to 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.

(1986 Code, § 2.07)

*CITY OFFICIALS***§ 30.35 COMBINED OFFICE OF CITY CLERK AND CITY TREASURER**

(A) Pursuant to the authority granted by M.S. § 412.591, as it may be amended from time to time, the offices of the Clerk and Treasurer shall be, and are, combined in the office of the Clerk-Treasurer, and thereafter the duties of the Treasurer and Clerk shall be performed by the Clerk-Treasurer.

(B) *Term of Office.*

The Clerk-Treasurer shall be appointed by the City Council for an indefinite term and until a successor is sworn into office.

(C) *Compensation.*

The City Council shall determine the compensation to be paid to the City Clerk-Treasurer.

(D) *Audit Standards if Combined.*

(1) Pursuant to Minnesota Statutes §412.591 “If the offices of clerk and treasurer are combined as provided by this section, and the city’s annual revenue for all governmental and enterprise funds combined is more than the amount in paragraph (2), the council shall provide for an annual audit of the city’s financial affairs by the state auditor or a certified public accountant in accordance with minimum procedures prescribed by the state auditor. If the offices of clerk and treasurer are combined and the city’s annual revenue for all governmental and enterprise funds combined is the amount in paragraph (2), or less, the council shall provide for an audit of the city’s financial affairs by the state auditor or a certified public accountant in accordance with minimum audit procedures prescribed by the state auditor at least once every five years, which audit shall be for a one-year period to be determined at random by the person conducting the audit.

(2) For the purposes of paragraph (1), the amount in 2004 is \$150,000, and in 2005 and after, \$150,000 adjusted for inflation using the annual implicit price deflator for state and local expenditures as published by the United States Department of Commerce.”

(1986 Code, § 2.12)

CHAPTER 31: DEPARTMENTS, BOARDS, COMMISSIONS AND COMMITTEES

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- 31.002 Boards, commissions and committees generally
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GENERAL PROVISIONS**§ 31.001 DEPARTMENTS GENERALLY.**

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

(B) *Appointment.* All department heads and employees shall be appointed by the Council. All appointments shall be for an indeterminate term and subject to any applicable civil service regulations in effect in the city.

(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 heads of all departments shall, prior to August 1 in each year, file with the City Clerk-Treasurer the projected financial needs of his or her department for the ensuing year. The projections shall include information as to maintenance and operation of equipment, new equipment, personnel and such other information as may be requested by the city.

(F) *Department heads; meeting with the Council.* All department heads shall meet monthly with the Council at its regular meeting and at such other times as the Council may direct.

(1986 Code, § 2.30)

§ 31.002 BOARDS, COMMISSIONS AND COMMITTEES GENERALLY.

All board, commission and committee appointments authorized by ordinance or resolution shall be made by the Mayor and the appointment confirmed prior to expiration of the existing term. The term of each appointee shall be established and stated at the time of his or her appointment, and terms of present board, commission and committee members may be reestablished and changed so as to give effect to this section. New appointees shall assume office on the first day of the first month following their appointment and qualification or on the first day of the first month following the expiration of the prior term and qualification, whichever shall occur last; provided, however, that all appointees to boards, commissions and committees 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 only for the unexpired term. No appointed board, commission or committee member shall be an employee of the city except those who are members by virtue of their office. All appointed board, commission and committee 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. The Chairperson and the Secretary shall be chosen from and by the board, commission or committee

membership annually to serve for one year. Any board, commission or committee member may be removed by the Council for misfeasance, malfeasance or nonfeasance in office and his or her position filled as any other vacancy. Each board, commission and committee shall hold its regular meeting at a time established and approved by the Council. Except as otherwise provided, this section shall apply to all boards, commissions and committees. All meetings of boards and commissions and committees shall comply with M.S. Ch. 13D, the Open Meeting Law, as it may be amended from time to time. (1986 Code, § 2.50)

§ 31.003 COMMITTEES AND BOARDS.

(A) In addition to other committees and boards set forth in this chapter, certain citizen committees and boards are established as advisory to the Council, namely:

- (1) Airport Committee;
- (2) Convention & Visitors Bureau;
- (3) Beautification Committee;
- (4) Arena Board;
- (5) Park Board;
- (6) Library Board;
- (7) Economic Development Authority (EDA).

(B) Policies of the committees and boards set forth in division (A) of this section may be established by resolution of the Council.

(C) All members shall be appointed by the Mayor with the approval of the City Council. (1986 Code, § 2.57)

DEPARTMENTS

§ 31.015 POLICE DEPARTMENT.

A Police Department is established. The head of this department shall be known as the Chief of Police, and the number of additional members and employees of the Police Department shall be determined by the Council, which may be changed from time to time. The Chief of Police shall have, without the approval of the Council, authority to appoint reserve officers of the Police Department for temporary duty when in his or her judgment an emergency exists for the preservation of life or property. Reserve officers shall have only the authority to provide supplementary assistance at special events, traffic or crowd control and administrative or clerical assistance. A reserve officer's duties do not include enforcement of the general

criminal laws of the state, and the officer does not have full powers of arrest. The Chief of Police and all members of the Police Department shall have the powers and authority of police officers generally and are authorized to perform the duties as are required of them by the Council or by law. The Chief of Police shall have general superintendence of the Police Department and custody of all property used and maintained for the purposes of the Department. The Chief of Police shall make and file the reports as may be required by the Council.

(1986 Code, § 2.31)

§ 31.016 FIRE DEPARTMENT

A Volunteer Fire Department under the control of the Council is established. The size, composition and remuneration shall all be established by resolution of the Council, which may be changed from time to time by subsequent resolution. The Council shall also establish written rules and regulations of the Department, a copy of which shall be distributed to each of its members. The Council shall appoint the Chief and the Chief shall recommend to the Council the appointment of his/her subordinates. The Chief of the Fire Department shall have general superintendence of the Fire Department and the custody of all property used and maintained for the purposes of said Department. He or she is authorized to see that the Fire Code is adhered to and be familiar with floor plans on all construction projects. He or she shall superintend the preservation of all property endangered by fire and shall have control and direction of all persons engaged in preserving the property. In case of the absence or disability of the Chief for any cause, the Assistant Chief shall exercise all the powers, perform all the duties and be subject to all the responsibilities of the Chief. The Chief of the Fire Department shall make and file the reports as may be requested by the Council. A copy of all reports submitted to the state by the Fire Department shall be filed with the City Clerk-Treasurer.

(1986 Code, § 2.32)

§ 31.017 LEGAL DEPARTMENT.

A Legal Department is established. The Council is authorized to appoint a City Attorney, who shall be head of the Legal Department, together with the assistants as may be necessary who shall serve at the pleasure of the Council. The City Attorney shall perform the duties as are required of him or her by law or referred to him or her by the Council. It shall be the official duty of the City Attorney to act as "Revisor of Ordinances."

(1986 Code, § 2.33)

§ 31.018 PUBLIC UTILITY DEPARTMENT.

A Public Utility Department is established. The head of the Department shall be the Superintendent of Public Utilities. The city electric, water, sewage systems, streets, parks, airport and refuse collection shall be under the direct supervision of the Superintendent, and he or she shall be responsible for and have custody of all property of the Department. The Superintendent shall make and file the reports as may be requested by the Council.

(1986 Code, § 2.34)

PLANNING COMMISSION

§ 31.030 ESTABLISHMENT AND COMPOSITION.

A Planning Commission is established. The Commission shall be composed of seven members who shall serve one year terms.
(1986 Code, § 2.51(1))

§ 31.031 POWERS AND DUTIES.

(A) 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 regulation and shall act in an advisory capacity to the Council in all of the areas.

(B) All decisions of the Planning Commission shall be advisory to the Council.
(1986 Code, § 2.51(2))

Cross reference:

Subdivision regulations, see Ch. 152

Zoning Code, see Ch. 154

(C) It is the duty of the Board to hear and consider all permits for moving buildings from without the city into the city, and all permits for moving buildings from one location to another within the city and also permits for use of exterior facing materials prohibited by § 154.283.

(1986 Code, § 2.54(2))

Cross reference:

Moving buildings, see §§ 150.30 et seq.

BOARD OF ADJUSTMENT AND APPEALS

§ 31.045 ESTABLISHMENT AND COMPOSITION.

A Board of Adjustments and Appeals, composed of the Chairperson and two members of the Planning Commission, the Mayor and one member of the Council, is established for the purpose of handling all appeals and adjustments under provisions of the city code relating to zoning and land use in the city. The members of the Council and Planning Commission shall be chosen by their respective bodies on an annual basis to serve one year terms. The City Attorney shall be an ex officio member and no decisions or deliberations shall take place in his or her absence. The Chairperson and Secretary shall be chosen from and by the Board membership at its first regular meeting in January of each year to serve for the current calendar year.

(1986 Code, § 2.52(1))

§ 31.046 DUTIES, DECISIONS AND REVIEW.

It is the duty of the Board of Adjustments and Appeals to hear and decide all petitions for adjustment and appeals from decisions of the Planning Commission or an administrative officer relating to the enforcement of any zoning or subdivision provision of the city code or a statute of the state. Its decisions shall be final, subject only to judicial review.

(1986 Code, § 2.52(2))

§ 31.047 TIME OF FILING.

All petitions and appeals shall be filed with the Board within 30 days after written notice of the adverse decision by service of the petition or written notice of appeal upon the City Clerk-Treasurer.

(1986 Code, § 2.52(3))

§ 31.048 FORM AND CONTENTS.

All petitions and appeals shall be filed by the aggrieved person and shall briefly state the facts and circumstances giving rise to the petition or appeal.

(1986 Code, § 2.52(4))

§ 31.049 HEARING AND PROCEDURE.

(A) Upon receipt of any petition or appeal, the City Clerk-Treasurer shall forthwith forward a copy thereof to the Secretary of the Board, the Secretary of the Planning Commission, any administrative officer involved in the enforcement thereof and the City Attorney, showing the date of receipt thereof.

(B) Within 30 days after receipt of the petition or notice of appeal by the City Clerk-Treasurer, the Board shall call a hearing thereon and give notice thereof in writing to all petitioners, appellants and such other persons as the Board may determine to have an interest or property right in any decision made pursuant thereto, which shall include the Planning Commission by notice to its Secretary and such administrative officers as it may determine. The notice shall be mailed at least 20 days prior to the date set for hearing. Notice shall also be given to the public by publication thereof once in the city's legal newspaper at least 14 days prior to the date set for hearing.

(C) At any such hearing, all persons desiring to be heard shall have the opportunity, including the Planning Commission, it being deemed to have completed its investigation by the date set for hearing.

(1986 Code, § 2.52(5))

HUMAN RIGHTS COMMISSION

§ 31.090 PURPOSE.

The purpose of the Human Rights Commission is to secure for all citizens equal opportunity in employment, housing, public accommodations, public services and education and full participation in the affairs of this community by assisting the State Department of Human Rights in implementing the Minnesota State Act Against Discrimination and by advising the city on long range programs to improve community relations in the city.

(1986 Code, § 2.55(1))

§ 31.091 ESTABLISHMENT AND COMPOSITION.

A Human Rights Commission composed of one member of the Council and two citizen members is established. The members shall serve one year terms. The City Attorney shall be an ex officio member, and no decisions or deliberations shall take place in his or her absence.

(1986 Code, § 2.55(2))

§ 31.092 DUTIES.

The Commission shall have the following duties:

(A) To implement and administer the policies and regulations of the city with respect to preventing and prohibiting discriminatory acts relating to housing accommodations and property rights;

(B) To provide a local and confidential source of assistance, through Commission hearings, for residents and nonresidents with housing discrimination complaints based on race, creed, color, religion, national origin, sex, disability, marital status or status with regard to public assistance. The assistance may take the form of mediation, conciliation or referral of verified discriminatory acts to the State Department of Human Rights or the U.S. Department of Housing and Urban Development;

(C) To take positive measures to disseminate the nondiscriminatory policies of the city with respect to housing accommodations and property rights by conducting public information meetings with real estate salespersons and brokers, financial institutions and lenders, landlords, minority and low-income persons and fair housing special interest groups;

(D) To initiate data collection and evaluation activities that will identify minority and low-income concentrations within the city and to prepare recommendations for submission to the Planning Commission and Council that will contribute to lessening the concentrations, strengthen the fair housing policies of the city and eliminate discrimination based on race, color, creed, religion, sex, national origin, disability, marital status or status with regard to public assistance.

(1986 Code, § 2.55(3))

PUBLIC SAFETY COMMISSION**§ 31.105 ESTABLISHMENT AND COMPOSITION.**

A Public Safety Commission is established which shall be composed of the Chief of Police, the Building Inspector, the Chief of the Fire Department, the Weed Inspector and a physician duly licensed to practice medicine in the State of Minnesota.

(1986 Code, § 2.56(1))

§ 31.106 POWERS AND DUTIES.

It is the duty of the Public Safety Commission to investigate hazardous conditions and nuisances under the provisions of Ch. 93 of this code and report of the same to the City Clerk-Treasurer.

(1986 Code, § 2.56(2))

Cross reference:

Nuisances, see Ch. 93

CHAPTER 32: CITY POLICIES

Section

General Policies

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- 32.03 Employee Response Time and/or Residency Requirements/City Employees Prohibited from Serving as Mayor or Council Member of City of Roseau
- 32.04 City seal
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- 32.20 Disposal of abandoned motor vehicles
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GENERAL POLICIES

§ 32.01 FACSIMILE SIGNATURES.

The Mayor and City Clerk-Treasurer are 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.
(1986 Code, § 2.08)

§ 32.02 WORKER’S COMPENSATION.

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.
(1986 Code, § 2.11) (Ord. 28, 2nd Series, passed 9-27-90)

§ 32.03 EMPLOYEE RESPONSE TIME AND/OR RESIDENCY REQUIREMENTS/CITY EMPLOYEES PROHIBITED FROM SERVING AS MAYOR OR COUNCIL MEMBER OF CITY OF ROSEAU

(A) *Purpose.* The Council recognizes its duty to, insofar as possible, protect the health, safety and welfare of the residents of the City of Roseau and the property of said residents. In order to fulfill this responsibility it may be necessary, in times of individual need or widespread disaster giving rise to an emergency, to ensure the availability of City employees. Thus this section is adopted to require a response time for certain essential City employees, and further, to avoid conflicts of interest inherent in a City employee serving as Mayor or City Council member.

(B) *Employees classified.*

(1) Class I employees are designated as being the Superintendent of Public Utilities, all Water, Sewer & Electrical employees and the Chief and all other members of the City Police Department.

(2) Class II employees are designated as being all those employees not in Class I.

(C) *Response Time/Residency Requirements.* The following response time is deemed to be reasonable and required within Six (6) months of an employee assuming City employment:

(1) The response time for all permanent Class I employees shall be Ten (10) minutes from the place of residence of any Class I employee to his or her location of employment in the City of Roseau, said response time to be at legal speeds. No area residency requirements are imposed upon Class I employees.

(2) No response time or residency requirements are imposed upon Class II employees.

(D) *Application.* The response time set forth in subdivision (C)(1) above of this section shall not be construed to require a current City employee to move his or her place of residence; provided however, that any current permanent Class I employee who moves his or her place of residence in the future is required to comply with the response time requirements set forth in subdivision (C)(1).

(E) *Public Office.* No full-time employee and/or regular part-time employee, and/or any department head of the City of Roseau shall be eligible to serve as mayor or member of the Roseau City Council.

This prohibition shall not apply to the following, except as set forth in paragraphs i. and ii. below:

- a. Temporary employee
- b. Seasonal employee
- c. Paid-for-call employee

i. Should any of the employees as set forth in a. through c. of this section have supervisory authority over any other city employees, they shall be considered as ineligible to serve as mayor or member of the Roseau City Council.

ii. No department of the City of Roseau shall be allowed to have more than two of the above classified employees serve as a council member and/or mayor during the same time period. The purpose of this paragraph is to insure that the Council shall always have a quorum in order to make decisions regarding individual departments as council members who are employed by particular City departments generally abstain from taking any action on issues pertaining to their department.

§ 32.04 CITY SEAL.

All contracts to which the city is a party shall be sealed with the City Seal. The Seal shall be kept in the custody of the City Clerk-Treasurer and affixed by him or her. The official City Seal shall be a circular disc having engraved thereupon "City of Roseau" and such other words, figures or emblems as the Council may, by resolution, designate.
(1986 Code, § 2.05)

§ 32.05 FRANCHISES.

(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 the privilege has heretofore been granted by it or by the state or shall hereafter be granted by the city or by the state.

(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 the 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 the franchise has been heretofore granted by it or by the state.

(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 the 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, 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 the 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 the franchise any return on account of the franchise or its value;

(5) That no sale or lease of said franchise shall be effective until the assignee or lessee shall have filed with the city an instrument, duly executed, reciting the facts of the 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 said 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 such franchise or renewal or extension thereof such other and further conditions and restrictions as the Council may deem proper to protect the city's interests, nor shall anything contained in this section limit any right or power possessed by the city over existing franchises. (1986 Code, § 2.81)

Cross reference:

Franchises, see TSO Table I

***DISPOSAL OF ABANDONED MOTOR VEHICLES, UNCLAIMED
PROPERTY AND EXCESS PROPERTY***

§ 32.20 DISPOSAL OF ABANDONED MOTOR VEHICLES.

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

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

VITAL COMPONENT PARTS. Vital Component Parts mean those parts of a motor vehicle that are essential to the mechanical functioning of the vehicle, including, but not limited to the motor, drive train and wheels.

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

(C) *Notice.*

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

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

(D) *Right to reclaim.*

(1) The owner or any lien holder of an abandoned motor vehicle shall have a right to reclaim the vehicle from the city upon payment of all towing and storage charges resulting from taking the vehicle into custody within 15 days after the date of the notice required by this section.

(2) Nothing in this section shall be construed to impair any lien of a garage keeper under the laws of this state or the right of the lien holder to foreclose. For the purposes of this division (D), **GARAGE KEEPER** is an operator of a parking place or establishment, an operator of a motor vehicle storage facility or an operator of an establishment for the servicing, repair or maintenance of motor vehicles.

(E) *Public sale.*

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

(2) From the proceeds of the sale of an abandoned motor vehicle, the city shall reimburse itself for the cost of towing, preserving and storing the vehicle and all administrative, notice and publication costs incurred pursuant to this section. Any remainder from the proceeds of a sale shall be held for the owner of the vehicle or entitled lien holder for 90 days and then shall be deposited in the fund designated by the Council.

(F) *Disposal of vehicles not sold.* Where no bid has been received for an abandoned motor vehicle, the city may dispose of it in accordance with this section.

(G) *Contracts and disposal.*

(1) The city may contract with any qualified person for collection, storage, incineration, volume reduction, transportation or other services necessary to prepare abandoned motor vehicles and other scrap metal for recycling or other methods of disposal.

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

(3) If the city utilizes its own equipment and personnel for disposal of the abandoned motor vehicle, it shall be entitled to reimbursement for the cost thereof along with its other costs as herein provided.
(1986 Code, § 2.80(1))

§ 32.21 DISPOSAL OF UNCLAIMED PROPERTY.

(A) *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.

(B) *Preliminary notice.* If the City Clerk-Treasurer knows the identity and whereabouts of the owner, he or she shall serve written notice upon him or her at least 30 days prior to a declaration of abandonment by the Council. If the city acquired possession from a prior holder, the identity and whereabouts of whom are known by the City Clerk-Treasurer, notice shall also be served upon him or her. The notice shall describe the property and state that unless it is claimed and proof of ownership or entitlement to possession established, the matter of declaring it abandoned property will be brought to the attention of the Council after the expiration of 30 days from the date of the notice.

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

(D) *Fund and claims thereon.* All proceeds from the sale shall be paid into the fund designated by the Council and expenses thereof paid therefrom. The former owner, if he or she makes claim within eight months from the date of publication of the notice herein provided and upon application and satisfactory proof of ownership, may be paid the amount of cash or negotiables or, in the case of property sold, the amount received therefore, less a pro rata share of the expenses of storage, publication of notice and sale expenses but without interest. The payment shall be also made from the fund designated by the Council.
(1986 Code, § 2.80(2))

§ 32.22 DISPOSAL OF EXCESS PROPERTY.

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

(B) *Surplus property with a total estimated value of less than \$100.* The City Clerk-Treasurer may sell surplus property with a total value of less than \$100 through negotiated sale.

(C) *Surplus property with a total estimated value between \$100 and \$500.* The City Clerk-Treasurer 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 Clerk- Treasurer's option. The sale shall be by auction.

(D) *Surplus property with a total estimated value over \$500.* The City Clerk-Treasurer 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.

(E) *Receipts from sales of surplus property.* All receipts from sales of surplus property under this subchapter shall be placed in the fund designated by the Council.
(1986 Code, § 2.80(3))

§ 32.23 PERSONS WHO MAY NOT PURCHASE; EXCEPTION.

(A) No employee of the city who is a member of the administrative staff, department head, a member of the Council or an advisor servicing the city in a professional capacity may be a purchaser of property under this subchapter. 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.

(B) It is unlawful for any person to be a purchaser of property under this subchapter if the purchase is prohibited by the terms of this subchapter.
(1986 Code, § 2.80(4)) Penalty, see § 10.99

CHAPTER 33: CIVIL DEFENSE

Section

- 33.01 Purpose
- 33.02 Succession to local offices
- 33.03 Duties of Interim Emergency Council
- 33.04 Civil Defense Director

§ 33.01 PURPOSE.

In the event of a conventional and/or nuclear attack, or a natural disaster or similar situation 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.

(1986 Code, § 2.09) (Ord. passed 12-1-86)

§ 33.02 SUCCESSION TO LOCAL OFFICES.

(A) In the event of a conventional and/or nuclear attack upon the United States, or a natural disaster affecting the vicinity of the City, the Mayor, Council and City Clerk-Treasurer 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.

(B) 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 conventional and/or nuclear attack or natural disaster and injuries to persons or damage to property already done, or the imminence thereof;

(3) They may, based on such 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; and

(5) The interim successors shall serve until such 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.

(1986 Code, § 2.09) (Ord. passed 12-1-86)

§ 33.03 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.
(1986 Code, § 2.09) (Ord. passed 12-1-86)

§ 33.04 CIVIL DEFENSE DIRECTOR.

The Council hereby designates the Chief of Police to be the Civil Defense Director.
(1986 Code, § 2.13) (Ord. passed 12-1-86)

CHAPTER 34: TAXATION AND FINANCE

Section

34.01 Lodging tax

§ 34.01 LODGING TAX.

(A) *Imposition of lodging tax.* There is imposed a tax of 3% on the gross receipts from the furnishing for consideration of lodging at a hotel, motel, rooming house, tourist court or resort other than the renting or leasing of it for a continuous period of 30 days or more.

(B) *Disposition of proceeds.* 95% of the gross proceeds from any tax imposed under division (A) of this section shall be used by the city to fund a local convention or tourism bureau for marketing and promoting the city as a tourist or convention center.

(C) *Collection.* The city may agree with the Commissioner of Revenue that the tax imposed pursuant to this section shall be collected by the Commissioner, together with the tax imposed by M.S. Chapter 297A and subject to the same interest penalties and other rules, and that its proceeds, less the cost of collection, shall be remitted to the city.

(Ord. 99, 2nd Series, passed 11-4-96; Am. Ord. 106, 2nd Series, passed 6-2-97)