

TITLE III: ADMINISTRATION

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CHAPTER 30: GENERAL PROVISIONS

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§ 30.01 CITY COUNCIL MEETINGS.

(A) *Regular meetings.* Regular meetings of the City Council shall be held at least once each month, at a date, time and place as established by the City Council. Any regular meeting falling upon a holiday shall be held on the next following business day at the same time and place. All meetings, including special and adjourned meetings, shall be held in the city hall unless the City Council decides otherwise at a prior meeting, or meeting in the city hall is impossible.

(B) *Special meetings.* The Mayor or any two members of the City Council may call a special meeting of the City Council upon at least 24 hours written notice to each member of the City Council. This notice shall be delivered personally to each member or shall be left at the member's usual place of residence with some responsible person. Pursuant to M.S. Ch. 13D, as it may be amended from time to time, written notice of any special meeting shall be posted giving the date, time, place and purpose of the meeting at least three days before the meeting. Written notice shall be mailed at least three days before the meeting to anyone who has filed a written request for notice of special meetings. In calculating the three days, if the last day falls on a Saturday, Sunday or legal holiday, the next regular business day shall be counted as the third day.

(C) *Emergency meetings.* Notice of emergency meetings shall be given as required by M.S. Ch. 13D, as it may be amended from time to time. An emergency meeting is a meeting defined by M.S. Ch. 13D, as it may be amended from time to time.

(D) *Initial meeting.* At the first regular City Council meeting in January of each year, the City Council shall:

(1) Designate the depositories of city funds;

(2) Designate the official newspaper;

(3) Choose one of the Council Members as Acting Mayor, who shall perform the duties of the Mayor during the disability or absence of the Mayor from the city or, in case of a vacancy in the office of Mayor, until a successor has been appointed and qualifies;

(4) Appoint officers and employees and members of departments, boards, commissions and committees as may be necessary;

(5) Establish and appoint Council Members to those City Council committees as are deemed appropriate for the efficient and orderly management of the city.

(E) *Public meetings.* All City Council meetings, including special, emergency and adjourned meetings and meetings of City Council committees, as well as meetings of City Commissions and Boards, shall be conducted in accordance with the Minnesota Open Meeting Law, M.S. Ch. 13D, as it may be amended from time to time.

§ 30.02 PRESIDING OFFICER.

(A) *Who presides.* The Mayor shall preside at all meetings of the City Council. In the absence of the Mayor, the Acting Mayor shall preside. In the absence of both, the City Clerk shall call the meeting to order and shall preside until the Council Members present at the meeting choose one of their number to act temporarily as presiding officer.

(B) *Procedure.* The presiding officer shall preserve order, enforce any rules of procedure adopted by the City Council, and determine without debate, subject to the final decision of the City Council on appeal, all questions of procedure and order.

(C) *Appeal procedure.* Any member may appeal to the City Council a ruling of the presiding officer. If the appeal is seconded, the member may speak once solely on the question involved and the presiding officer may explain the ruling, but no other Council Member shall participate in the discussion. The appeal shall be sustained if it is approved by a majority of the members present, including the presiding officer.

§ 30.03 MINUTES.

(A) *Generally.* Minutes of each City Council meeting shall be kept by the City Clerk or, in the City Clerk's absence, by the Deputy City Clerk. In the absence of both, the presiding officer shall appoint a secretary pro tem. Ordinances, resolutions and claims need not be recorded in full in the minutes if they appear in other permanent records of the City Clerk and can be accurately identified from the description given in the minutes.

(B) *Approval.* The minutes of each meeting shall be reduced to typewritten form, shall be signed by the City Clerk, and copies thereof shall be delivered to each Council Member as soon as practicable after the meeting. At the next regular City Council meeting following the delivery, approval of the minutes shall be considered by the City Council. The minutes need not be read aloud, but the presiding officer shall call for any additions or corrections. If there is no objection to a proposed addition or correction, it may be made without a vote of the City Council. If there is an objection, the City Council shall vote upon the addition or correction. If there are no additions or corrections, the minutes shall stand approved.

(C) *Contents.* Minutes constitute a vital record of the city and are the best means of preserving city council intent, findings of fact, and action. The city clerk must keep a minute book that shall contain at minimum:

- (1) The city council members who are present.
- (2) Type of meeting (regular, special, continued, emergency).
- (3) Date and place the meeting was held.
- (4) Time the meeting was called to order.
- (5) Approval of minutes of the previous meeting, with any corrections.
- (6) The members who make or second motions.
- (7) Roll call vote on motions.
- (8) Subject matter of proposed resolutions or ordinances.
- (9) Whether the resolutions or ordinances are defeated or adopted.
- (10) The votes of each member, including the mayor.
- (11) A statement of findings of facts and an explanation of council action, including specific reasons for approval and disapproval, on all land use and licensing matters.

- (12) Listing of all bills allowed or approved for payment, noting the recipient, purpose, and amount.
- (13) Approval of hourly rates paid for services provided, mileage rates, meal-reimbursement amounts, and per diem amounts.
- (14) List of all transfers of funds.
- (15) Authorizations and directions to invest excess funds, and information on investment redemptions and maturities.
- (16) Approval of minutes of the previous meeting, with any corrections.
- (17) Identity of parties to whom contracts were awarded.
- (18) Abstentions from voting due to a conflict, and the member's name and reason for abstention.
- (19) Appointments of representatives to committees or outside organizations.
- (20) Name and brief summary of subject matter of citizens appearing before council during public comment period.

§ 30.04 ORDER OF BUSINESS.

(A) *Order established.* Each meeting of the City Council shall convene at the time and place appointed therefor. City Council business shall be conducted in the following order unless varied by the presiding officer or by-laws or other procedures adopted by Council resolution:

- (1) Call to order.
- (2) Roll call.
- (3) Approval of minutes.
- (4) Consent agenda.
- (5) Public hearings.
- (6) Petitions, requests, and communications.
- (7) Ordinances and resolutions.
- (8) Reports of officers, boards, and committees.

(9) Unfinished business.

(10) New business.

(11) Miscellaneous.

(12) Adjournment.

(B) *Petitions and agenda.* Petitions and other papers addressed to the City Council shall be read or copies distributed by the City Clerk upon presentation of the same to the City Council. All persons desiring to present new business before the City Council shall inform the City Clerk thereof at least 72 hours before new business is to be heard. The City Clerk may prepare an agenda of the new business for submission to the City Council on or before the time of the next regular meeting.

§ 30.05 VOTING.

The votes of the Council Members on any question may be taken in any manner which signifies the intention of the individual members, and the votes of the Council Members on any action taken shall be recorded in the minutes. The vote of each Council Member shall be recorded on each appropriation of money, except for payments of judgments, claims and amounts fixed by statute. If any Council Member is present but does not vote, the minutes, as to his or her name, shall be marked "Present-Not Voting." The Mayor is a member of City Council and has an equal vote to each Council Member unless a Charter provision or state statute specifies otherwise.

§ 30.06 ORDINANCE, RESOLUTIONS, MOTIONS, PETITIONS AND COMMUNICATIONS.

(A) *Signing and publication proof.* Every ordinance and resolution passed by the City Council shall be signed by the Mayor, attested by the City Clerk, and filed by the City Clerk in the ordinance or resolution book. Proof of publication of every ordinance shall be attached and filed with the ordinance.

(B) *Repeals and amendments.* Every ordinance or resolution repealing a previous ordinance or resolution or a section or subdivision thereof shall give the number, if any, and the title of the ordinance or code number of the ordinance or resolution to be repealed in whole or in part. Each ordinance or resolution amending an existing ordinance or resolution or part thereof shall set forth in full each amended section or subdivision as it will read with the amendment.

§ 30.07 SUSPENSION OR AMENDMENT OF RULES.

(A) *Suspension.* These rules shall govern all actions of the city council unless suspended or amended by a majority vote of the city council members present and voting. Amendments shall be noted in the meeting minutes and shall only apply to the rules under consideration. Any action taken by council that is inconsistent with the rules shall not be invalidated by the inconsistency or intentional ignoring of the rules. No prosecution for violating the rules shall be allowed and violations shall not be considered a misdemeanor nor other offense.

§ 30.08 COMPENSATION OF MAYOR AND COUNCIL MEMBERS.

The compensation of the Mayor and the compensation of each Council Member shall be established from time to time by City Council ordinance pursuant to M.S. § 415.11, as it may be amended from time to time.

§ 30.09 COMPENSATION OF OFFICERS AND EMPLOYEES.

Officers and employees of the city shall be compensated at a rate as established from time to time by the City Council.

§ 30.10 QUORUM FOR CONDUCTING BUSINESS.

(A) A quorum shall consist of a majority of the entire City Council, including the Mayor. A quorum shall be necessary to transact the business of the City Council.

(B) If no quorum is present, the City Council shall not thereby stand adjourned, but the members present shall adjourn or recess the City Council by a majority vote of those present.

§ 30.11 FEES AND CHARGES.

The City Council may enact an ordinance establishing those fees and charges that are authorized by this code. Until that ordinance becomes effective, all fees and charges established by ordinance or resolution prior to the adoption of this code shall remain in effect. All fees and charges established by the ordinance establishing fees and charges may be amended from time to time by amendment of that ordinance.

§ 30.12 APPLICATION OF STATE LAWS.

(A) The provisions of the Government Data Practices Act, M.S. Ch. 13, the Opening Meeting Law, M.S. Ch. 13D, and the laws relating to Gifts to Local Officials, M.S. § 471.895, as these laws may be amended from time to time, apply to the City Council and all boards and commissions of this city and their members.

(B) *Open Meeting Law.* The Minnesota Open Meeting Law generally requires that all meetings of public bodies be open to the public.

(1) This presumption of openness serves three basic purposes:

(a) To prohibit actions from being taken at a secret meeting, where it is impossible for the interested public to become fully informed concerning decisions of public bodies, or to detect improper influences.

(b) To ensure the public's right to be informed.

(c) To afford the public an opportunity to present its views to the public body.

(2) The city council views providing and encouraging citizen access to city meetings as one of its most important duties. As a result, all council and council committee meetings, including special and adjourned meetings, with the exception of closed meetings, shall be open to the public.

(3) In calculating the number of days for providing notice under the Minnesota Open Meeting Law, the first day that the notice is given is not counted, but the last day is counted. If the last day is a Saturday, Sunday, or legal holiday, that day is omitted from the calculation and the following day is considered the last day (unless, it happens to be a Saturday, Sunday, or legal holiday).

(4) In keeping with the intent of the Minnesota Open Meeting Law, city councilmembers shall not use any form of electronic communications technology, such as text messaging or e-mail, to communicate with one another or third parties during a public meeting in a manner that is hidden or shielded from the public view.

(5) Pursuant to Minn. Stat. § 13D.01, subd. 6, at least one copy of the written materials made available to council at or before the meeting shall also be made available for inspection by the public, excluding any non-public data, attorney-client privileged data, or materials related to agenda items of closed meetings.

§ 30.13 BACKGROUND INFORMATION.

(A) *Applicants for City employment.*

(1) *Purpose.* The purpose and intent of this section is to establish regulations that will allow law enforcement access to Minnesota's Computerized Criminal History information for specified non-criminal purposes of employment background checks for the positions described in division (2) below.

(2) *Criminal history employment background investigations.* Pursuant to M.S. § 364.021 as it may be amended from time to time, with the exception of the applicants for employment listed in M.S. § 364.09, the city shall not inquire into or consider the criminal record or history of an applicant for public employment until the applicant has been selected for an interview by the city or, if there is not an interview, before a conditional offer of employment is made to the applicant.

The City Police Department or County Sheriff's Department is hereby required, as the exclusive entity within the City to do a criminal history background investigation on the applicants for the following positions within the city, unless the city's hiring authority concludes that a background investigation is not needed:

(a) Employment positions. All regular part-time or full-time employees of the City and other positions that work with children or vulnerable adults.

(b) In conducting the criminal history background investigation in order to screen employment applicants, the Police Department is authorized to access data maintained in the Minnesota Bureau of Criminal Apprehensions Computerized Criminal History information system in accordance with BCA policy. Any data that is accessed and acquired shall be maintained at the Police Department or County Sheriff's Department under the care and custody of the chief law enforcement official or his or her designee. A summary of the results of the Computerized Criminal History data may be released by the Police Department or County Sheriff's Department to the hiring authority, including the City Council, the City Clerk or other city staff involved in the hiring process.

(3) Before the investigation is undertaken, the applicant must authorize the Police Department or County Sheriff's Department by written consent to undertake the investigation. The written consent must fully comply with the provisions of M.S. Ch. 13, as it may be amended from time to time, regarding the collection, maintenance and use of the information. Except for the positions set forth in M.S. § 364.09, the city will not reject an applicant for employment on the basis of the applicant's prior conviction unless the crime is directly related to the position of employment sought and the conviction is for a felony, gross misdemeanor, or misdemeanor with a jail sentence. If the City rejects the applicant's request on this basis, the City shall notify the applicant in writing of the following:

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

(B) Applicants for City licenses.

(1) *Purpose.* The purpose and intent of this section is to establish regulations that will allow law enforcement access to Minnesota's Computerized Criminal History information for specified non-criminal purposes of licensing background checks.

(2) Criminal history license background investigations. The Police Department or County Sheriff's Department is hereby required, as the exclusive entity within the City, to do a criminal history background investigation on the applicants and their employees for the following licenses or permits within the city:

City Licenses: Liquor Licenses, under Chapter 112 of this code, and any applicants under Chapters 113, 114, 116, 118, or 119 of this code.

(3) In conducting the criminal history background investigation in order to screen license or permit applicants, the Police Department or Sheriff Department is authorized to access data maintained in the Minnesota Bureau of Criminal Apprehensions Computerized Criminal History information system in accordance with BCA policy. Any data that is accessed and acquired shall be maintained at the Police Department or Sheriff's Department under the care and custody of the chief law enforcement official or

his or her designee. A summary of the results of the Computerized Criminal History data may be released by the Police Department to the licensing authority, including the City Council, the City Clerk or other City staff involved in the license approval process.

(4) Before the investigation is undertaken, the applicant must authorize the Police Department or Sheriff's Department by written consent to undertake the investigation. The written consent must fully comply with the provisions of M.S. Ch. 13 as it may be amended from time to time regarding the collection, maintenance and use of the information. Except for the positions set forth in M.S. § 364.09 as it may be amended from time to time, the city will not reject an applicant for a license on the basis of the applicant's prior conviction unless the crime is directly related to the license sought and the conviction is for a felony, gross misdemeanor, or misdemeanor with a jail sentence. If the City rejects the applicant's request on this basis, the City shall notify the applicant in writing of the following:

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

CHAPTER 31: RESERVED

CHAPTER 32: EMERGENCY MANAGEMENT

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§ 32.01 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.

§ 32.02 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.

§ 32.03 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 Director shall be appointed by the City Council for an indefinite term and may be removed by the Council at any time. The Director shall serve with a salary as established by the City Council and shall be paid his or her necessary expenses. 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 Council. The emergency management organization shall conform to and be consistent with, where applicable, all state and federal requirements, including the National Incident Management System framework found at 44 CFR part 201, as it may be amended from time to time.

§ 32.04 POWERS AND DUTIES OF DIRECTOR.

(A) The Director shall represent the city on any regional or state conference for emergency management. The Director 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 Mayor.

(C) The Director shall prepare a comprehensive emergency plan for the emergency preparedness of the city and shall present the plan to the Council for its 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. § 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 Mayor.

§ 32.05 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.

(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.

(C) 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 § 32.99

§ 32.06 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. 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's Office shall be conspicuously posted at the front of the 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. § 12.37, 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 § 32.99

§ 32.07 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.

§ 32.08 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.

§ 32.99 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 petty misdemeanor.