

TITLE I

CITY GOVERNMENT - GENERAL PROVISIONS

CHAPTERS:

- 1-01. General Provisions.
- 1-02. City Council.
- 1-03. City Officers and Departments.
- 1-04. Municipal Airport.
- 1-05. Municipal Finances.
- 1-06. Boards and Commissions.
- 1-07. City Property.
- 1-08. Special Assessments.
- 1-09. Rates and Fines.
- 1-10. Jurisdiction and General Penalty.

CHAPTER 1.01

GENERAL PROVISIONS AND DEFINITIONS APPLICABLE TO THE ENTIRE CITY CODE INCLUDING PENALTY FOR VIOLATION

SECTIONS:

1-0101.	Application.
1-0102.	Definitions.
1-0103.	Violation a Misdemeanor or a Petty Misdemeanor.
1-0014.	Otherwise Unlawful.
1-0105.	Preservation of Existing Rights.
1-0106.	Severability.
1-0107.	Payment into City Treasury of Fines and Penalties.
1-0108.	Meanings.
1-0109.	Code Citation.
1-0110.	Penalties for Each Offense.
1-0111.	Titles.
1-0112.	Reference to a Public Official.

SEC. 1-0101. APPLICATION. The provisions of this Chapter shall be applicable to all the chapters, sections, subdivisions, paragraphs and provisions in the City Code, and the City Code shall apply to all persons and property within the City of Barnesville, Minnesota, and within such adjacent areas as may be stated in specific provisions.

SEC. 1-0102. DEFINITIONS. Unless the language or context clearly indicates that a different meaning is intended, the following words, terms and phrases, for the purpose of every chapter, section, subdivision, paragraph and provision of this City Code, shall have the following meanings and inclusions:

Subd. 1. "City" means the City of Barnesville, Minnesota, acting by or through its duly authorized representative.

Subd. 2. "Council" and "City Council" mean the City Council of the City of Barnesville, Minnesota.

Subd. 3. "City Administrator" means the person duly appointed by the City Council and acting in such capacity. Such person may also be appointed to other administrative duties.

Subd. 4. "City Clerk-Treasurer" means the person duly appointed by the City Council and acting in such capacity. Such person may also be appointed to other administrative duties.

Subd. 5. "Person" includes all firms, partnerships, associations, corporations and natural persons.

Subd. 6. "Written" and "In Writing" mean any mode of representing words and letters in the English language.

Subd. 7. "Street" means the entire area dedicated to public use, or contained in an easement or other conveyance or grant to the City, and shall include, but not be limited to, roadways, boulevards, sidewalks, alleys, and other public property between lateral property lines in which a roadway lies.

Subd. 8. "Public Property" and "Public Place" mean any place, property or premises dedicated to public use, owned by the City, occupied by the City as a lessee, or occupied by the City as a street by reason of an easement, including, but not limited to, streets, parks or parking lots so owned or occupied.

Subd. 9. "Private Property" means all property not included within the definition of public property or public place.

Subd. 10. "Intersection" means the area embraced within the prolongation or connection of the lateral curb line or, if no curb, then the lateral boundary lines of the roadways or streets which join one another at, or approximately at, right angles or the area within which vehicles traveling upon different streets joining at any other angle may come in conflict.

Subd. 11. "Roadway" means that portion of a street improved, designed, or ordinarily used for vehicular travel. In the event a street includes two or more separate roadways, the term "roadway" as used herein shall refer to any such roadway separately but not to all such roadways collectively.

Subd. 12. "Police Officer" and "Peace Officer" mean every officer, including special police, authorized to direct or regulate traffic, keep the peace, and appointed or employed for the purpose of law enforcement.

Subd. 13. "Misdemeanor" means the crime for which a sentence of not more than ninety (90) days or a fine of not more than \$1,000.00, or both, may be imposed.

Subd. 14. "Petty Misdemeanor" means an offense, which does not constitute a crime, and for which a sentence of a fine of not more than \$300.00 may be imposed.

Subd. 15. "Conviction" means either of the following accepted and recorded by the Court:

- A. A plea of guilty; or,
- B. A verdict of guilty by a jury or a finding of guilty by the Court.

Subd. 16. "Crime" means conduct which is prohibited by ordinance and for which the actor may be sentenced to imprisonment or fine.

Subd. 17. "Ordinance" means an ordinance duly adopted by the City Council of Barnesville, Minnesota.

Subd. 18. "Ex-Officio Member" means a person who is not counted for the purpose of determining a quorum, and has no right to vote, but shall have the right and obligation (within his/her discretion) to speak to any question coming before the board, commission or other deliberative body of which he/she is such member.

Subd. 19. "May" is permissive.

Subd. 20. "Shall" is mandatory.

Subd. 21. "Violate" includes failure to comply with.

Subd. 22. "Premises" means any lot, piece or parcel of land within a continuous boundary whether publicly or privately owned, occupied or possessed.

SEC. 1-0103. VIOLATION A MISDEMEANOR OR A PETTY MISDEMEANOR. Every person violates a title, chapter, section, subdivision, paragraph or provision of this City Code when s/he performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof shall be punished as for a misdemeanor, or as for a petty misdemeanor, except as otherwise stated in specific provisions herein, as set forth in the specific chapter in which the section, subdivision, paragraph or provision violated appears. Upon conviction for a crime, the actor may be convicted of either the crime charged if it is a misdemeanor, or a petty misdemeanor as an included offense necessarily proved if the misdemeanor charge were proved, together with additional costs levied for the costs of prosecution.

SEC. 1-0104. OTHERWISE UNLAWFUL. The City Code does not authorize an act or omission otherwise prohibited by law.

SEC. 1-0105. PRESERVATION OF EXISTING RIGHTS. The repeal of any ordinance or portion thereof by the adoption of the City Code shall not affect or impair any act done or right vested or accrued, or any proceeding, suit or prosecution had or commenced in any cause before such repeal takes effect; but every such act done shall remain in full force and effect to all intents and purposes as if such repeal had not taken place. No offense committed and no liability, penalty or forfeiture, either civilly or criminally incurred prior to the time when any such ordinance or part thereof shall be repealed by the adoption of the City Code, shall be discharged or affected by such repeal; but prosecutions and suits for such offenses, liabilities, penalties or forfeitures shall be instituted and proceeded with in all respects as if such prior ordinance or part thereof had not been repealed.

SEC. 1-0106. SEVERABILITY. Every chapter, section, subdivision, paragraph or provision of the City Code shall be, and is hereby declared, severable from every other such chapter, section, subdivision, paragraph or provision and if any part or portion of any of them shall be held invalid, it shall not affect or invalidate any other chapter, section, subdivision, paragraph or provision.

SEC. 1-0107. PAYMENT INTO CITY TREASURY OF FINES AND PENALTIES. All fines, forfeitures and penalties recovered by the City for the violation of any ordinance, charter, rule or regulation of the City shall be paid into the City Treasury by the Court or officer thereof receiving such monies. Payment shall be made in the manner, at the time, and in the proportion provided by law.

SEC. 1-0108. MEANINGS. As used in this City Code, words of either gender shall include both genders, and the singular shall include the plural and the plural shall include the singular.

SEC. 1-0109. CODE CITATION. This codification of the ordinances of the City of Barnesville shall henceforth be known as the City Code and cited thus: "CITY CODE, TITLE _____, CHAPTER _____, SEC. _____."

SEC. 1-0110. PENALTIES FOR EACH OFFENSE. When a penalty or forfeiture is provided for the violation of a chapter, section, subdivision, paragraph or provision of this City Code, such penalty or forfeiture shall be construed to be for each such violation.

SEC. 1-0111. TITLES. A title or caption to or in any chapter, section, subdivision, subparagraph or other provision of the City Code is for convenience only and shall not limit, expand, or otherwise alter or control the content, wording or interpretation thereof.

SEC. 1-0112. REFERENCE TO A PUBLIC OFFICIAL. Wherever an appointed public official is referred to in the City Code, the reference shall include such public official or his/her designee.

CHAPTER 1-02

CITY COUNCIL

SECTIONS:

- 1-0201. Authority and Purpose.
- 1-0202. Council Meetings - Time and Place.
- 1-0203. Special Meetings.
- 1-0204. Council Procedure at Regular Meetings.
- 1-0205. Salaries of Mayor and Council Members.
- 1-0206. City Seal.
- 1-0207. Right to Administrative Appeal.
- 1-0208. Rules of Procedure for Appeals and Other Hearings.
- 1-0209. Facsimile Signatures.

SEC. 1-0201. AUTHORITY AND PURPOSE. Pursuant to authority granted by Charter, this Chapter 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.

SEC. 1-0202. COUNCIL MEETINGS - TIME AND PLACE. Regular meetings of the Council shall be held in the Council Chambers on the second Monday of each month at 7:00 p.m. Special and adjourned meetings shall also be held in the Council Chambers, or such other public place designated. In the event that any regular meeting falls on a holiday, election day, or the precinct caucus day set by State Statute, the meeting will normally be held on the next business day at the same time or on another date set by the Council.

SEC. 1-0203. 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 Administrator stating the time, place and purpose of the meeting. Notice of a special meeting shall be given by the City Administrator 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 (3) days prior to the time stated therein, or by personal service at least seventy-two (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 Administrator 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 such 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 statute.

SEC. 1-0204. COUNCIL PROCEDURE AT REGULAR MEETINGS. The City Administrator shall prepare the following items: (1) an agenda for the forthcoming meeting; (2) a compiled list, satisfactory to the Council, of all claimants who have filed written accounts, claims or demands seeking payment for goods or services rendered the City during the preceding month; (3) a copy of all minutes to be considered; and, (4) copies of such other proposals, communications, or other documents as the City Administrator deems necessary or proper for advance consideration by the Council. The City Administrator shall forthwith cause to be mailed

or delivered to each member of the Council copies of all said documents. Roberts' Rules of Order (Newly Revised) shall guide conduct of all Council meetings as to procedural matters not set forth in the City Code.

SEC. 1-0205. SALARIES OF MAYOR AND COUNCIL MEMBERS. Salaries of the Mayor and Council are hereby fixed as follows, which amounts are deemed reasonable:

Subd. 1. The monthly salary of the Mayor shall be \$675.00.

Subd. 2. The monthly salary of each Council member shall be \$600.00.

Subd. 3. In addition to said monthly salaries, the Mayor and Council members shall be compensated \$15.00 for each special Council meeting attended.

Subd. 4. Premiums for single coverage health insurance shall be deducted from the specified salaries. Additional premium amounts to upgrade from single to family health insurance coverage may also be deducted at the direction of the covered individual.

Subd. 5. The salaries provided for herein shall be effective commencing with calendar year 2002.

SEC. 1-0206. CITY SEAL. All contracts to which the City is a party shall be sealed with the City Seal. Said Seal shall be kept in the custody of the City Clerk-Treasurer and affixed by him/her. The official City Seal shall be a circular disc having engraved thereupon "CITY OF BARNESVILLE" and such other words, figures or emblems as the Council may, by resolution, designate.

SEC. 1-0207. RIGHT TO ADMINISTRATIVE APPEAL. If any person shall be aggrieved by any administrative decision of the City Administrator, any other elected or appointed City official or employee, or any Board or Commission not having within its structure an appellate procedure, such aggrieved person is entitled to a full hearing before the Council upon serving a written request therefor upon the Mayor and City Administrator at least five (5) days prior to any regular Council meeting. Such request shall contain a general statement setting forth the administrative decision to be challenged by the appellant. At such hearing the appellant may present any evidence s/he 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/her 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 such time or place shall be fixed and determined before adjournment so as to avoid the necessity for formal notice of reconvening. The Council shall issue a formal determination within 30 days of completion of such hearing and/or submission of written arguments.

SEC. 1-0208. 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. Such rules of procedure shall be effective thirty (30) days after adoption and shall be for the purpose of establishing and maintaining order and decorum in the proceedings.

SEC. 1-0209. FACSIMILE SIGNATURES. The Mayor and City Administrator are hereby authorized to request a depository of City funds to honor an order for payment when such instrument bears a facsimile of his/her signature, provided the Mayor has a letter on file in the

office of the City Administrator providing written instructions as to the use of his/her facsimile signature. Such authority is granted only for the purpose of permitting such officers an economy of time and effort.

SEC. 1-0210. ACCOUNTS, CLAIMS OR DEMANDS.

Subd. 1. 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 shall not be allowed until the person, or his/her agent, claiming payment reduces it to writing, itemized, and signs a declaration to the effect that such account, claim or demand is just and correct and that no part of it has been paid.

Subd. 2. Discretionary Exception. The Council may, in its discretion, allow a claim prepared by the City Administrator prior to such declaration by the claimant if the declaration is made on the check by which the claim is paid.

Subd. 3. Form of Declaration. The declaration provided for in Subdivision 1 hereof 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".

Subd. 4. Form and Effect of Declaration on Check. The declaration provided for in Subdivision 2 hereof shall be printed on the reverse side of the check, above the space for endorsement thereof 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, such statement shall operate and shall be deemed sufficient as the required declaration of claim.

Subd. 5. Signing Checks. All checks shall be signed by the Mayor and the City Administrator.

CHAPTER 1-03.

CITY OFFICERS AND DEPARTMENTS

SECTIONS:

1-0301.	Accounts, Claims or Demands.
1-0302.	City Administrator.
1-0303.	City Clerk-Treasurer.
1-0304.	Finance Director.
1-0305.	City Attorney.
1-0306.	Interim Emergency Succession.
1-0307.	Emergency Management.
1-0308.	Issuance of Citations.
1-0309.	Worker's Compensation.
1-0310.	Departments Generally.
1-0311.	Police Department.
1-0312.	Fire Department; Joint Powers.
1-0313.	Ambulance Service.
1-0314.	Streets and Parks Department.
1-0315.	Water and Wastewater Department.
1-0316.	Telephone Department.
1-0317.	Electric Department.
1-0318.	Personnel Rules and Regulations.
1-0319.	Administrative Citations and Civil Penalties.

SEC. 1-0301. CITY ADMINISTRATOR.

Subd. 1. Position Established. The position of City Administrator is hereby established.

Subd. 2. Appointment and Removal. The City Administrator shall be appointed by the Council for an indefinite term. He/She shall not be removed except by affirmative action taken by the Council twice at two regular meetings held within sixty days. The action taken at the first such meeting shall be an expression of intent to vote thereon at the second such regular meeting not to be held sooner than ten days thereafter. If, at any time after he has completed six months of continuous service, the Council takes such action, the City Administrator may within thirty days after written notice of removal, request a public hearing which the Council must grant and which must be started within thirty days after the request. The Council shall affirm or rescind the City Administrator's removal within 30 days of the hearing and/or submission or written arguments.

Subd. 3. Qualifications. The City Administrator shall be selected solely on the basis of his/her executive and administrative qualifications with special reference both to his/her experience, formal education, as well as his/her knowledge of accepted practices pertaining to the duties of his/her office.

Subd. 4. Duties. The City Administrator shall be the chief administrative officer of the City and he/she shall be responsible to the Council for the proper administration of all affairs of the City and to that end shall have the power and shall be required to:

A. Supervise the administration of all Departments, offices and divisions of the City except as otherwise provided by law and carry out any other responsibilities placed under his/her jurisdiction by this Chapter or by subsequent Council action. He/She shall interview and screen all prospective City employees as permitted by law and shall make recommendations for terminating and suspending employees and may suspend any employee until the next Council meeting when the Council shall affirm, modify or rescind the suspension.

B. Develop and issue all administrative rules, regulations and procedures necessary to insure the proper functioning of all departments and offices under his/her jurisdiction as permitted by law and Council approval.

C. Prepare and submit an annual budget to the Council and keep the Council advised of the financial condition of the City and make such recommendations as he/she may from time to time determine desirable and necessary.

D. Attend and participate in discussions at all meetings of the Council and other official bodies as directed by the Council. The City Administrator shall also represent the City at all official or semi-official functions as may be directed by the Council and not in conflict with the prerogatives of the Mayor. He/She shall be entitled to notice of all regular and special meetings of the Council.

E. See that all laws and provisions of the City Code are duly enforced.

F. Make or let purchases and contracts when the amount thereof does not exceed the amount approved in the budget or \$25,000, whichever is less, and to receive estimates, quotations, sealed bids, purchases or contracts according to what is required by State Statute and present them to the Council for official action if the amount exceeds the approved budget or \$25,000, whichever is less.

Source: Ord. 2013-06, Sec. 1 (2013)

G. Recommend from time to time the adoption of such measures as he/she may deem necessary or expedient for the health, safety and welfare of the community or for the improvement of the administration.

H. Perform such other duties as may be required by the Council and consistent with Minnesota Statutes and the City Code.

Subd. 5. Bond Required. The City Administrator shall furnish a surety bond to be approved by the Council, said bond to be conditioned on the faithful performance of his/her duties. The premium of the bond shall be paid by the City.

Subd. 6. Compensation. The City Administrator shall receive such compensation as the Council shall fix from time to time by resolution.

SEC. 1-0302. CITY CLERK-TREASURER.

Subd. 1. Position Established. The position of City Clerk-Treasurer is hereby established and will be performed by the City Administrator.

Subd. 2. Provisions Applicable. All provisions applicable to the City Administrator shall likewise apply to the City Clerk-Treasurer.

SEC. 1-0303. FINANCE DIRECTOR.

Subd. 1. Position Created. The position of Finance Director is hereby created. The Finance Director shall be appointed by the Council on the basis of his/her ability, training, and special fitness. The Finance Director shall be appointed for an indefinite period and shall be an employee at will and may be removed by the Council at any time. The Finance Director shall serve directly under the supervision of the City Administrator and the City Clerk-Treasurer.

Subd. 2. Duties and Responsibilities. The duties and responsibilities of the Finance Director shall be as follows:

A. Develop and maintain a sound fund accounting system which complies with GAAFR laws.

B. Analyze and interpret accounting records and prepare monthly/annual financial statements and reports.

C. Be Responsible for all the financial transactions of the City including, but not limited to, accounts receivable, accounts payable, receipts, disbursements, and payroll.

D. Prepare and monitor an annual budget keeping the Council and department heads apprised of their financial position.

E. Supervise and oversee all computer operations.

F. Make recommendations to the Council on various financial matters and provide it with financing options on projects and improvements.

G. Maintain a five-year Capital Improvement Plan.

H. Maintain City fixed asset records.

I. Complete County, State, and Federal reports as required by law.

J. Advise and review departmental purchase requests and serve as the City's Purchasing Agent.

K. Structure bond issues and assessments for improvement projects.

L. Assist in the creation of agreements with land developers making recommendations on financial matters.

M. Handle financial matters pertaining to Tax Increment Financing.

N. Maintain a record of City bond issues with payments made and balances due.

O. Maintain a record of current and delinquent taxes and City assessments.

P. Develop and maintain a separate accounting system for grants to conform with State and Federal requirements.

Q. Assume other duties as may, from time to time, be requested by the City Administrator, City Clerk-Treasurer, or the Council.

Subd. 3. Bond. The Finance Director shall furnish a surety bond in an amount to be determined by the Council, said bond to be conditioned upon the faithful performance of his/her duties. The premium for the bond shall be paid by the City.

Subd. 4. Qualifications/Compensation. The Finance Director shall be hired pursuant to criteria and qualifications adopted from time to time by resolution of the Council. The Finance Director shall receive such compensation as the Council shall fix, from time to time, by resolution.

SEC. 1-0305. CITY ATTORNEY.

Subd. 1. Position Established. The position of City Attorney is hereby established.

Subd. 2. Appointment. There is hereby created the office of City Attorney, an executive office of the City. The attorney shall be appointed by the City Council.

Subd. 3. Suits and Actions. The attorney shall prosecute or defend any and all suits or actions at law or equity to which the City may be a party, or in which it may be interested, or which may be brought against, or by, any officer of the City on behalf of the city, or in the capacity of such person as an officer of the City.

Subd. 4. Judgments. It shall be the duty of the attorney to see to the full enforcement of all judgments or decrees rendered or entered in favor of the City, and of all similar interlocutory orders.

Subd. 5. Advice. The attorney shall be the legal advisor of the city and shall render advice on all legal questions affecting the City, whenever requested to do so by any City Official. Upon request by the Mayor or by the Council, the attorney shall reduce any such opinion to writing.

Subd. 6. Special Assessments. It shall be the duty of the attorney to see to the completion of all special assessment proceedings and condemnation proceedings.

Subd. 7. Ordinances and Documents. It shall be the duty of the attorney to draft or supervise the phraseology of any contract, lease or other documents or instruments, to which the city may be a party; and upon request of the Council, to draft ordinances covering any subjects within the power of the City.

Subd. 8. Qualifications. In selecting an attorney, the City Council shall consider the training and experience of the candidate. The City Council shall consider not only past experience and training, but also willingness to attend meetings, seminars and continuing legal education programs concerning problems to be faced by the City Attorney.

SEC. 1-0306. INTERIM EMERGENCY SUCCESSION.

Subd. 1. 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.

Subd. 2. Succession to Local Offices. In the event of a nuclear attack upon the United States or a natural disaster affecting the vicinity of the City, the Mayor, Council and City Administrator shall be forthwith notified by any one of said 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:

A. By majority vote of those persons present, regardless of number, they shall elect a Chairman and Secretary to preside and keep minutes, respectively.

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

C. They may, based on such facts, declare a state of emergency.

D. 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.

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

Subd. 3. 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.

SEC. 1-0307. EMERGENCY MANAGEMENT.

Subd. 1. Statute Adopted. The "Minnesota Emergency Management Act of 1996", Minnesota Statutes, Chapter 12, insofar as it relates to cities, is hereby adopted by reference as part of this Section, as fully as if set forth explicitly herein.

Subd. 2. Establishment of an Emergency Management Agency. There is hereby created within the City government an Emergency Management Agency, which shall be under the supervision of a Director to be appointed forthwith by the Mayor. The Director shall have direct responsibility for the organization, administration and operation of said Emergency Management Agency, subject to the overall direction and control of the Council.

Subd. 3. Emergency Operation Plan. The Council may, by resolution, adopt, from time-to-time amend, or repeal an emergency operation plan for the City.

SEC. 1-0308. ISSUANCE OF CITATIONS.

Subd. 1. Except as otherwise provided by statute, only a peace officer or part-time peace officer may:

A. Ask a person receiving a citation to give a written promise to appear in court; or

B. Take a person into custody as permitted by statute.

Subd. 2. The following City employees, or their designees, may issue citations in lieu of arrest or continued detention for violations of the City Code. Areas of jurisdiction will be contained in City policy as set forth in resolution form by the Council.

- A. Peace Officers.
- B. Animal Control Officer.
- C. Zoning Administrator.
- D. Building Official.
- E. City Administrator.
- F. Community Service Officer.

SEC. 1-0309. WORKER'S COMPENSATION.

Subd. 1. 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.

Subd. 2. City Officers. All officers of the City employed and/or appointed to conduct the affairs of the City shall be included in the definition of "employee" as defined in Minnesota Statutes relating to coverage for purposes of worker's compensation entitlement, except that the duly elected members of the Council, or appointed members of Boards or Commission, or those persons appointed to complete an unexpired portion of a regular terms shall not be considered an employee for worker's compensation purposes.

SEC. 1-0310. DEPARTMENTS GENERALLY.

Subd. 1. Appointment. All Department Heads and employees shall be appointed by the Council. All appointments shall be for an indeterminate term.

Subd. 2. Compensation. All wage and salary scales shall be fixed and determined by the Council.

Subd. 3. 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.

Subd. 4. Budgetary Information. The Heads of all Departments shall, prior to September 1 in each year, file with the City Administrator the projected financial needs of his/her Department for the ensuing year. Such 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.

SEC. 1-0311. POLICE DEPARTMENT. A Police Department is hereby 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 Mayor shall have, without the approval of the Council, authority to appoint additional members of the Police Department for temporary duty when in his/her judgment an emergency exists for the preservation of life or property. The Chief of

Police and all members of the Police Department shall have the powers and authority of police officers generally and shall perform such duties as are required of them by the Council or by law. The Chief of Police shall have overall supervision and management of the Police Department and custody of all property used and maintained for the purposes of said Department. The Chief of Police shall make and file such reports as may be required by the Council.

SEC. 1-0312. FIRE DEPARTMENT.

Subd. 1. Joint Powers. The Fire Department functions of the City shall be provided by the Barnesville Area Fire District under a joint powers agreement. The Council shall adopt specific contractual terms with the Barnesville Area Fire District from time to time and adopt such agreement by resolution. The Chief of the Barnesville Area Fire District, or his designee, shall have authority within the corporate limits of the City to superintend the preservation of all property endangered by fire and shall have control and direction of all persons engaged in preserving such 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 shall make and file such reports as may be requested by the Council.

Subd. 2. Purposes and Intent. This ordinance is adopted for the purpose of authorizing the City of Barnesville to charge for fire service as authorized by Minnesota Statutes §§ 366.011, 366.012, and 415.01.

Subd. 3. Definitions.

1. “Fire service” means any deployment of fire fighting personnel and/or equipment to extinguish a fire or perform any preventative measure in an effort to protect equipment, life, or property in an area threatened by fire. It also includes the deployment of fire fighting personnel and/or equipment to provide fire suppression, rescue, extrication, and any other services related to fire and rescue as may occasionally occur.
2. “Fire service charge” means the charge imposed by the City for receiving fire service.
3. “Motor vehicle” means any self-propelled vehicle designed and originally manufactured to operate primarily upon public roads and highways, and not operated exclusively upon railroad tracks. It includes semi trailers. It does not include snowmobiles, manufactured homes, all terrain vehicles, or park trailers.
4. “Fire protection contract” means a contract between the City and a town or other city for the City to provide fire service.
5. “Mutual aid agreement” means an agreement between the City and a town or other city for the City’s fire department to provide assistance to the fire department of a town or other city.

Subd. 4. Parties Affected.

1. Owners of property within the City who receive fire service.
2. Anyone who receives fire service as a result of a motor vehicle accident or fire within the City.
3. Owners of property in towns or cities to which the City provides fire service pursuant to a fire protection contract.

Subd. 5. Rates. The rates and charges for a fire call shall be as set by resolution of the Barnesville City Council.

Subd. 6. Billing and Collection.

1. Parties requesting and receiving fire services may be billed directly by the City. Additionally, if the party receiving fire services did not request services but a fire or other situation exists which, at the discretion of the fire department personnel in charge requires fire service, the party will be charged and billed. All parties will be billed whether or not the fire service is covered by insurance. Any billable amount of the fire charge not covered by a party's insurance remains a debt of the party receiving the fire service.
2. Parties billed for fire service will have 30 days to pay. If the fire service charge is not paid by that time, it will be considered delinquent, and the City will send a notice of delinquency.
3. If the fire service charge remains unpaid for 30 days after this notice of delinquency is sent, the City will use all practical and reasonable legal means to collect the fire service charge. The party receiving fire service shall be liable for all collection costs incurred by the City including, but not limited to, reasonable attorney fees and court costs.
4. If the fire service charge remains unpaid for 30 days after the notice of delinquency is sent, the City Council may also, on or before October 15 of each year, certify the unpaid fire service charge to the County Auditor in which the recipient of the services owns real property for collection with property taxes. The County Auditor is responsible for remitting to the City all charges collected on behalf of the City. The City must give the property owner notice of its intent to certify the unpaid fire service charge by September 15.
5. False alarms will be billed as a fire call.

Subd. 7. Mutual Aid Agreement. When the City Fire Department provides fire service to another fire department pursuant to a Mutual Aid Agreement, the billing will be determined by the Mutual Aid Agreement.

Subd. 8. Application of Collections to Budget. All collected fire charges will be City funds and used to offset the expenses of the City Fire Department in providing fire services.

SEC. 1-0313. AMBULANCE SERVICE. There is hereby created a municipal ambulance service to provide both basic life support and advanced life support services. The ambulance service shall be identified as the Barnesville Ambulance Service.

Subd. 1. Service Area. The service area of the Barnesville Ambulance Service shall be determined by the State of Minnesota in accordance with State Statutes and Administrative Rules governing service areas for ambulance services.

Subd. 2. Employees. The Barnesville Ambulance Service shall have employees and volunteers under the direct supervision of the Ambulance Service Director, who shall answer to the City Administrator. All employees and volunteers of the Barnesville Ambulance Service shall comply with the terms and conditions of the City of Barnesville's personnel policy.

Subd. 3. Fees. The Barnesville Ambulance Service shall charge fees for services it renders in accordance with Chapter 19 of the Barnesville City Code. The revenue collected from user fees shall be used in combination with other City funds, including tax revenue, for the purpose of maintaining equipment and buildings, acquiring supplies, and paying employees. Revenues generated from fees shall be deposited into the ambulance fund.

SEC. 1-0314. STREETS AND PARKS DEPARTMENT. A Streets and Parks Department is hereby established. The Head of this Department shall be the Streets and Parks Superintendent. The City streets and parks shall be under the direct supervision of the Superintendent and he/she shall be responsible for and have custody of all property of such Department. The Superintendent shall make and file such reports as may be requested by the Council.

SEC. 1-0315. WATER AND WASTEWATER DEPARTMENT. A Water and Wastewater Department is hereby established. The Head of this Department shall be the Water and Wastewater Superintendent. The water and wastewater utilities shall be under his/her supervision and control.

SEC. 1-0316. TELEPHONE DEPARTMENT. A Telephone Department is hereby established. The Head of this Department shall be the Telephone Superintendent. He/She shall be responsible for and have custody of all property of such Department and shall make and file such reports as may be required of him/her or requested by the Council. The Telephone Department shall operate as the Barnesville Municipal Telephone Company.

SEC. 1-0317. ELECTRIC DEPARTMENT. An Electric Department is hereby established. The Head of this Department shall be the Electrical Superintendent. The electrical utilities shall be under his/her supervision and control.

SEC. 1-0318. PERSONNEL RULES AND REGULATIONS. The Council has, by resolution, established personnel rules setting forth the rights, duties and responsibilities of employees. Such rules may from time-to-time be amended.

SEC. 1-0319. ADMINISTRATIVE CITATIONS AND CIVIL PENALTIES.

Subd. 1. Purpose. The City Council finds that there is a need for alternative methods of enforcing the City Code. While criminal fines and penalties have been the most frequent enforcement mechanism, there are certain negative consequences for both the City and the accused. The delay inherent in that system does not ensure prompt resolution. Citizens resent being labeled as criminals for violations of administrative regulations. The higher burden of proof and the potential of incarceration do not appear appropriate for most administrative violations. The criminal process does not always regard City Code violations as being important. Accordingly, the City Council finds that the use of administrative citations and the imposition of civil penalties is a legitimate and necessary alternative method of enforcement. This method of enforcement is in addition to any other legal remedy that may be pursued for City Code violations.

Subd. 2. General Provisions.

A. A violation of the provisions of Chapter ____ of the City Code, in addition to being a possible criminal violation, is an administrative offense that may be subject to an administrative citation and civil penalties. Each day a violation exists constitutes a separate

offense. The City may elect to pursue either the administrative offense or the applicable criminal offense, but not both for the same offense.

B. An administrative offense may be subject to a civil penalty not exceeding \$2,000.00.

C. The City Council must adopt by resolution a schedule of fines for offenses initiated by administrative citation. The City Council may adopt a schedule of fees to be paid to administrative hearing officers.

D. The City Clerk must adopt procedures for administering the administrative citation program.

Subd. 3. Administrative Citation.

A. A person authorized to enforce provision of Chapter _____ of the City Code may issue an administrative citation upon belief that a code violation has occurred. The citation must be issued in person or by mail to the person responsible for the violation or attached to the motor vehicle in case of a vehicular offense. The citation must state the date, time, and nature of the offense, the name of the issuing officer, the amount of the scheduled fine, and the manner for paying the fine or appealing the citation.

B. The person responsible for the violation must either pay the scheduled fine or request a hearing within seven (7) days after issuance. Payment of the fine constitutes admission of the violation. A late fee of one (1) percent shall be imposed for each day that the requested penalty remains unpaid after the due date, except that said late charge shall be suspended in the event an administrative hearing is requested on or before the due date.

Subd. 4. Administrative Hearing.

A. Any person contesting an administrative offense pursuant to this chapter may within seven (7) days of the time of issuance of the notice request a hearing by the hearing board who shall forthwith conduct an informal hearing to determine if a violation has occurred.

B. Notice of the hearing must be served in person or by mail on the person responsible for the violation at least ten (10) days in advance, unless a shorter time is accepted by all parties.

C. The hearing board has the authority to determine that a violation occurred, to dismiss a citation, to impose the scheduled fine, and to reduce, stay or waive scheduled fine either unconditionally or upon compliance with appropriate conditions. When imposing a penalty for violation, the hearing officer may consider any or all of the following factors:

1. the duration of the violation;
2. the frequency or recurrence of the violation;
3. the seriousness of the violation;
4. the history of the violation;
5. the violators conduct after issuance of the notice of hearing;
6. the good faith effort by the violator to comply;
7. the economic impact of the penalty on the violator.
8. the impact of the violation upon the community; and

9. any other factors appropriate to a just result.

The hearing board may exercise discretion to impose a fine for more than one day of continuing violation, but only upon a finding that (1) the violation caused a serious threat of harm to the public health, safety, or welfare or that (2) the accused intentionally and unreasonably refused to comply with the Code requirement. The hearing board's decision and supporting reasons must be in writing.

D. The failure to attend the hearing constitutes a waiver of the violator's rights to an administrative hearing and an admission of the violation. A hearing board may waive this result upon good cause shown. Examples of "good cause" are: death or incapacitating illness of the accused; a court order requiring the accused to appear for another hearing at the same time; and lack of proper service of the citation or notice of the hearing. "Good cause" does not include: forgetfulness and intentional delay.

Subd. 5. Administrative Hearing Board. The Hearing Board will consist of three individuals. Two individuals will be selected by the City Council at their January meeting and serve for that calendar year. The third individual will be one of the two City Council representatives of the ward in which the violation has occurred. The City Clerk will schedule the hearing.

Subd. 6. Recover of Civil Penalties.

A. If a civil penalty is not paid within the time specified, it will constitute:

1. A lien on the real property upon which the violation occurred if the property or improvements on the property was the subject of the violation and the property owner was found responsible for that violation; or
2. A personal obligation of the violation in all other situation.

B. A lien may be assessed against the property and collected in the same manner as taxes.

C. A personal obligation may be collected by appropriate legal means.

D. Any penalty imposed after the hearing shall become payable within seven days after notice is mailed or personally served, and a late fee of one (1) percent shall be imposed for each day that the requested penalty remains unpaid after the due date.

E. Failure to pay a fine is grounds for suspending or revoking a license related to the violation.

F. The City may request the District Court, after a hearing, to hold the violator in contempt of court for not paying the fine, and the Court may impose any such penalties that the Court could impose for not paying a fine for a criminal sentence imposed by the District court.

G. If the final adjudication in the administrative penalty procedure is a finding of no violation, then the City may not prosecute a criminal violation in district court

based on the same set of facts. This does not preclude the City from pursuing a criminal conviction for a violation of the same provision based on a different set of facts.

H. For as long as the administrative penalty (and any late charges) remain unpaid, the City reserves the right to charge and prosecute the violator for a petty misdemeanor or misdemeanor consistent with applicable statutes and ordinances, in which case the administrative penalty will be dropped.

CHAPTER 1-04.

MUNICIPAL AIRPORT

SECTIONS:

- 1-0401. Barnesville Municipal Airport.
- 1-0402. Aerial Cop Chemical Applicator.

SEC. 1-0401. BARNESVILLE MUNICIPAL AIRPORT.

Subd. 1. Definitions. As used in this Section, the following words and terms shall have the meanings stated:

1. "Airport" means the Barnesville Municipal Airport (hereinafter "Airport") publicly-owned but private airport as defined in Minnesota Rules 8800.1300, Subparagraph 3; that is, a restricted airport at which the persons who may use the airport are determined by the owner of the airport, namely, the City of Barnesville.

2. "Aircraft" means any vehicle designed to fly, glide, float or sail in the air while carrying one or more persons, including but not limited to: airplanes, helicopters, hot air balloons, gliders, hang gliders and powered gliders.

3. "Aircraft Parking Fees" means the fees, established (or as from time to time amended) by the Council in accordance with Minnesota Statutes 360.038, Subdivision 6, to be charged the operation of transient aircraft parking at the Airport. A copy of the applicable fee schedule is to be posted at the Airport and is to be furnished on request to the operator of transient aircraft incident to use of said facility.

4. "Transient Aircraft" means aircraft making use of the Airport for personal use limit not based at the Airport.

5. "Aerial Spray Applicator" means any person who operates an aircraft to spray fungicides, insecticides or herbicides upon crops and other plants or insects from the aircraft.

6. "Chemicals" means any substance produced by a chemical process, and used to kill or control plant growth or insects.

7. "Aviation Fuel and Petroleum Products" means any aviation fuel, aviation gasoline, jet fuel, or other petroleum products used in the fueling of aircraft.

8. "Fueling Facility" means any temporary or permanent structures, pumps and tanks for the storage and/or sale of aviation fuel and petroleum products. Fueling facility includes private tanks and pumps for personal use. Fueling facility shall also include tanker or truck deliveries directly to the aircraft at or upon the Airport.

9. "Commercial Use for Aeronautical Purposes" means the use of the Airport facilities in such a way that the Airport is indispensable to the users for profit business operations, including specifically but not exclusively: flight instructions; aircraft sales; airframe and/or power plant repair; servicing and inspection; aircraft; aircraft rental; aircraft fuel and fuel

dispensing service; air taxi service; air charters; flying clubs; air freight service; aerial spray applicator's chemical loading and unloading operations; and aerial spray applicator's fueling and refueling operations when a chemical cargo is onboard the aircraft.

10. "Other Commercial Use" means any for-profit business operation which is not a Commercial Use for Aeronautical Purposes, including specifically but not exclusively: auto body repairs; manufacturing operations; and the subletting of hanger space.

11. "Private Use for Aeronautical Purposes" means any use of Airport facilities in such way that the Airport facilities are indispensable to the activity, and which use is not for-profit or is casual or intermittent, including specifically but not exclusively: aircraft storage; personal repairs on private aircraft; practicing landings or take-offs; medical evacuations by air ambulance; and civil air patrol.

12. "Other Private Use" means any private use which is not for-profit or is casual or intermittent, and to which the Airport facilities are not indispensable, including specifically but not exclusively: storage of automobiles, boats, trailers, and recreational vehicles.

13. "Controlled Model Aircraft" means any miniature, representation or imitation of any aircraft not capable of carrying one or more persons and operated or controlled by radio signal or attached wire.

Subd. 2. Unlawful Acts. It is unlawful, while using the Airport:

A. To load or unload chemicals or fuel, or clean or wash aircraft involved in aerial spray applications.

B. To store or dispose of chemicals.

C. For pilots to fail to use standard patterns on take-off and landing.

D. For pilots, by their operations, to cause damage to Airport property and buildings. Any such damage shall be subject to restitution in addition to other penalties provided herein.

E. For pilots to fail to give right-of-way to incoming aircraft.

F. For pilots to not have in their possession a pilot's license from the Federal Aviation Administration to operate such aircraft together with a certificate of insurance evidencing liability insurance coverage for the operation of such aircraft in amounts, as a minimum, set by the Council.

G. To establish or maintain a temporary or permanent fueling facility at the Airport.

H. To directly or indirectly dispense aviation fuel or petroleum products to transient aircraft at the Airport.

Subd. 3. Airport Regulations. The following regulations shall apply to the Airport:

A. Commercial Use for Aeronautical Purposes, as defined herein, and Other Commercial Use, as defined herein, shall be prohibited.

B. Private Use for Aeronautical Purposes, as defined herein, shall be authorized and encouraged so long as said use is not in conflict with the public interest as determined by the Council.

C. Other Private Use, as defined herein, shall be prohibited, except that a person who is using the Airport for Private Uses for Aeronautical Purposes may also use the Airport facilities for Other Private Uses so long as the Other Private Uses are clearly secondary to the Aeronautical Uses.

D. Aerial operations by the Aerial Spray Applicator, as defined herein, whether into, at or from the Airport, on either a temporary or permanent basis, are prohibited except under license issued by the City.

Subd. 4. Use of the Airport by Transient Aircraft. Subject to the other provisions of this Section, the parking of transient aircraft shall be subject to rules and regulations established by the Airport Manager, publicly posted at the Airport and available for inspection at the City Administrative Offices. Such parking shall be subject to the direction and approval of the Airport Manager or City Clerk for payment of applicable parking fees as established by resolution of the Council.

Subd. 5. Prohibition of Controlled Model Aircraft. No person shall operate radio controlled or wire-guided model aircraft at the Airport.

Subd. 6. Fees. The Council may establish, and from time to time revise, the fees to be charged for the use of the Airport. Such fees shall be incorporated into, and become a part of this Section and may include the following:

A. Landing Fees. For the use of the runway, taxiway and aprons at the Airport, the operators of all aircraft, whether transient aircraft or aircraft based at the Airport, shall pay landing use fee charges for each landing of an aircraft at the Airport in accordance with a schedule of landing fees established by the Council.

B. Aircraft Parking Fees. For the use of aircraft parking or tie-down areas at the Airport, the operators of all aircraft making use of these areas shall pay, or make arrangements to pay the Airport Manager or the City Clerk the appropriate amount in accordance with a schedule of aircraft parking fees established by the Council.

(SEE SEC. 1-0904, FEES, RATES AND CHARGES SCHEDULE)

SEC. 1-0402. AERIAL CROP CHEMICAL APPLICATOR.

Subd. 1. Purpose. It is unlawful for any person, firm, corporation, or any other business entity who engages in the business of crop spraying or aerial application of crop chemicals of any kind, to operate such business from the Airport without first securing a license therefor from the City.

Subd. 2. Number of Licenses. There shall be one license authorized pursuant to this Section.

Subd. 3. Application/Fee. Application shall be on a form prepared by the City Clerk and approved by the Council. Application for a license shall be made to the City Clerk on or before April 1 of each year and shall be accompanied by an annual license fee as set by consolidated ordinance of the Council. If there is more than one application to the City Clerk

then, in that event, the Council shall, by ordinance, establish reasonable criteria to determine which applicant should be granted the license.

(SEE SEC. 1-0904, FEES, RATES AND CHARGES SCHEDULE)

Subd. 4. Granting of License. The Council shall review all facts set out on the application. Opportunity shall be given to any person to be heard for or against the granting of the license. After such investigation and hearing, the Council shall grant or refuse the application in its discretion.

Subd. 5. Performance Standards. Prior to conducting any crop spraying or aerial application operation from the Airport, any license holder must provide the City with the following information. Failure to provide the following information shall be grounds for revoking the license.

- A. FAA medical certificate;
- B. FAA pilot certificate;
- C. Minnesota Department of Agriculture Commercial Pesticide Application License;
- D. FAA Part 137 certificate; and
- E. Material safety data sheets for all commonly used chemicals and pesticides.

Subd. 6. Refunds. No part of the fee paid for any license issued under this Section shall be refunded except in the following instances upon application of the Council within thirty (30) days from the happening of the event. There shall be refunded a pro rata portion of the fee for the unexpired term of the license, computed on a monthly basis, if:

- A. The business ceases to operate because of destruction or damage;
- B. The license holder dies or is fully disabled;
- C. The business ceases to be lawful for any reason other than license revocation; or,
- D. The license holder ceases to conduct the crop spraying business under the license.

Subd. 7. Transfers. The license shall be issued to the applicant only and shall not be transferable.

CHAPTER 1-05.

MUNICIPAL FINANCES.

SECTIONS:

- 1-0501. Permanent Improvement Fund.
- 1-0502. Sinking Fund.
- 1-0503. Sewer, Storm Sewer and Water and Street Capital Replacement and Maintenance Fund.
- 1-0504. Ambulance Fund.
- 1-0505. Golf Fund.

SEC. 1-0501. PERMANENT IMPROVEMENT FUND. Permanent Improvement Funds shall be maintained for the purpose of paying the costs of all real property and all rights therein and all improvements thereon which the City may own or acquire for its various purposes, payment for which is not otherwise provided for by use of other funds, and also for the purpose of paying such portions of the expense of local improvements as shall devolve upon the City.

SEC. 1-0502. SINKING FUND. Separate sinking funds shall be maintained in connection with each issue of bonds as provided by law, or act of the Council.

SEC. 1-0503. SEWER, STORM SEWER AND WATER AND STREET CAPITAL REPLACEMENT AND MAINTENANCE FUND.

Subd. 1. Fund Established; Purpose. There is hereby established a capital replacement fund to be known as the "Sewer, Storm Sewer and Water and Street Capital Replacement and Maintenance Fund" for the purpose of assembling funds to be used, when adequately accumulated, for reconstruction, maintenance, and repair of sewer and storm sewer and water capital improvements projects, including replacement of streets where water and storm sewer and sewer mains to be repaired are located.

(SEE SEC. 1-0904, FEES, RATES AND CHARGES SCHEDULE)

Subd. 2. Sources. Said funds shall be derived from charges to customers for the use and for the availability of the facilities and for connections with them, as allowed by Minnesota Statutes. The charges to customers which will serve as the source for the funds in this capital improvement fund shall be established by ordinance by the Council, at such times and in such amounts as the Council deems just and equitable.

Subd. 3. Nature of Fund. The capital replacement fund shall be a permanent fund to be used for the purposes herein set forth and for no other, and shall continue from year to year, its surplus not reverting to the general fund at the end of any fiscal year. Earnings from investments of such funds shall accumulate and accrue to the credit of the fund.

Subd. 4. Non-Exclusive Clause. By establishing this capital replacement fund, the City does not exclude or disallow any other means or methods of financing water and sewer replacements or repairs. It is the policy objective of the City that this fund shall be used primarily to provide a financing mechanism for the repair, restoration and rehabilitation of

existing public facilities. The City realizes that this fund may not always be sufficient, and other sources may be necessary.

SEC. 1-0504. AMBULANCE FUND. An Enterprise Fund known as the Ambulance Fund is hereby established.

SEC. 1-0505. GOLF FUND. An Enterprise Fund known as the Golf Fund is hereby established.

CHAPTER 1-06

BOARDS AND COMMISSIONS

SECTIONS:

- 1-0601. Boards and Commissions Generally.
- 1-0602. Board of Adjustment.
- 1-0603. Planning Commission.
- 1-0604. Parks, Recreation and Forestry Advisory Board.
- 1-0605. Economic Development Authority Board.
- 1-0606. Telephone/Electric/Cable TV (T.E.C.) Advisory Board.

SEC. 1-0601. BOARDS AND COMMISSIONS GENERALLY. Unless otherwise provided by other provisions of the City Code, all Board and Commission appointments authorized by ordinance or resolution shall be made by the Mayor or the Council, as the case may be, prior to the expiration of an existing term.

Subd. 1. The term of each appointee shall be established and stated at the time of his/her appointment, and terms of present Board and Commission members may be reestablished and changed so as to give effect to this Section.

Subd. 2. 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 Board 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 only for the unexpired term.

Subd. 3. 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 unless such has been authorized by the Council, and may be reimbursed for out-of-pocket expenses incurred in the performance of their duties when such expenses have been authorized by the Council before they were incurred.

Subd. 4. The Chairman and the Secretary shall be chosen from and by the Board or Commission membership annually to serve for one year. Provided, however, that no Chairman shall be elected who has not completed at least one year as a member of the Board or Commission. Any Board or Commission member may be removed by the Council for misfeasance, malfeasance or non-feasance in office and his/her position filled as any other vacancy.

Subd. 5. Each Board and Commission shall hold its regular meeting at a time established and approved by the Council. All members shall be residents of the City, except that one member of each Board or Commission may be a resident of Clay County and non-resident of the City if the Council deems such arrangement more representative. The City Administrator shall be an ex-officio member of all Boards and Commissions; provided, that if he/she is unable to attend a meeting or act in the capacity of such membership, he/she may be represented by his/her assistant or some person duly authorized by him/her. One of the members shall be a Council member or the Mayor appointed for a term established by the Council at the time of the

appointment, but not to extend beyond the end of the then current term being served by such Council member or the Mayor.

Subd. 6. Except as otherwise provided, this Section shall apply to all Boards and Commissions.

SEC. 1-0602. BOARD OF ADJUSTMENT.

Subd. 1. General. In accordance with law, the City Council shall appoint and organize a Board of Adjustment, whose membership shall be the same as the Planning Commission, which Board may adopt rules to govern its procedures. The Board shall hold meetings, keep minutes, and pursuant to notice, shall conduct hearings, take testimony under oath, and render decisions in writing within forty-five (45) days after hearing or continued hearing. A fee of \$25.00 shall be charged for any appeal or proceeding filed with the Board.

Subd. 2. Appeals. The Board shall have the power to hear and decide appeals from any order, requirement, decision, grant or refusal made by the Planning Commission or Zoning Officer in the administration of this Chapter.

Subd. 3. Variances. The Board, upon appeal, shall have the power to authorize variances from the requirements of this Chapter, and to attach such conditions to the variances as it deems necessary to assure compliance with the purpose of this Chapter. A variance may be permitted if all of the following requirements are met:

A. Literal enforcement of the Chapter would result in undue hardship with respect to the property.

B. Such unnecessary hardship results because of circumstances unique to the property.

C. The variance observes the spirit and intent of this Chapter, produces substantial justice, and is not contrary to the public interest.

Subd. 4. Conditional Uses. The Board shall have the power to authorize conditional uses if the following requirements are met:

A. The conditional uses shall be in accordance with the standards specified for such class of conditional uses as specified in the district regulations provisions of this Chapter.

B. The conditional use shall not involve any element or cause any condition that may be dangerous, injurious, or noxious to any other property or persons, and shall comply with the performance standards of the fencing and screening provisions of this Chapter.

C. The conditional uses shall be sited, oriented and landscaped to produce a harmonious relationship of buildings and grounds, adjacent buildings and property.

D. The conditional use shall produce a total visual impression and environment which is consistent with the environment of the neighborhood.

Subd. 5. Interim Uses. The Board shall have the power to authorize interim uses if the following requirements are met:

A. The use conforms to the zoning regulations.

B. The date or event that will terminate the use can be identified with certainty;

C. Permission of the use will not impose additional costs on the public if it is necessary for the public to take the property in the future; and

D. The user agrees to any conditions that the governing body deems appropriate for permission of the use.

E. Public hearings on the granting of interim use permits shall be held in the same manner as required for variances and conditional use permits.

F. Unless otherwise specified by the Board of Directors at the time it is authorized, an interim use permit shall expire if the applicant fails to utilize such interim use permit and fulfill each and every provision attached thereto within one year from the date of its authorization.

G. Applicants will be required to pay a \$150 fee when filing for an Interim Use Permit.

SEC. 1-0603. PLANNING COMMISSION.

Subd. 1. Establishment and Composition. A Planning Commission is hereby established. The Commission shall be composed of seven (7) members who shall be appointed for terms of four years. At least one member shall be appointed from each ward. Appointees shall hold their offices until their successors are appointed and qualified. The terms of ex-officio members shall correspond to their respective official terms. Vacancies during the term shall be filled by the Council for the unexpired portion of the term.

Subd. 2. 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 regulation and shall act in an advisory capacity to the Council in all of such areas.

Subd. 3. Compensation. All members shall receive the compensation of \$25.00 per meeting per month for attending regular Planning Commission meetings, and \$15.00 per meeting when attending special meetings, or public hearings on a date other than the regular meeting date.

SEC. 1-0604. PARKS, RECREATION AND FORESTRY ADVISORY BOARD.

Subd. 1. Establishment and Composition. A Parks, Recreation and Forestry Advisory Board is hereby established. The Board shall be composed of six (6) members from the resident population of the City's three wards who shall serve staggered three-year terms. One member of the Council shall be appointed by the Mayor with the approval of the Council. Absence from any three meetings in one year unless excused in advance by the Chairperson, constitutes a vacancy. The term of the Council member appointed shall be a one-year term to expire on December 31 of each year. Each Board member shall have equal voting privileges. Any member may be removed for cause by a two-thirds vote of the Council. The Parks and Recreation Department Head shall serve as an ex-officio member. Other persons may serve in an ex-officio capacity as the Council deems appropriate.

Subd. 2. Powers and Duties. The Board shall hold a meeting each month at such time and place as it may fix by resolution. Special meetings may be called at any time by the Chairperson, or in the case of the Chairperson's absence, by the Vice-Chairperson. Written minutes of meetings shall be kept and filed with the City Clerk-Treasurer prior to the next regularly scheduled Council meeting, but shall be subject to approval at the next Board meeting. No expenditures shall be made unless authorized by the Council either directly or by means of an approved budget. The Board shall advise the Council as to the control, development, management, operation and maintenance of a system of parks and recreation areas now in existence or that may hereafter be acquired by the City. The Board shall also make property acquisition recommendations to the Council. The Board will make recommendations for and assist with the planning of City beautification and forestation.

SEC. 1-0605. ECONOMIC DEVELOPMENT AUTHORITY BOARD.

Subd. 1. Establishment and Composition. An Economic Development Authority is hereby established. The Authority shall be composed of seven (7) members, two of whom shall be members of the Council, who shall serve staggered six-year terms.

Subd. 2. Powers and Duties. It shall be the responsibility of the Economic Development Authority to oversee compliance with the Main Street Program and to carry out economic and industrial development and redevelopment within the City in accordance with such general policies as may from time to time be established by the Council and pursuant to such by-laws as may be adopted by the Authority with approval of the Council. The Authority shall have such powers as may be permitted by Minnesota Statutes.

SEC. 1-0606. TELEPHONE/ELECTRIC/CABLE TV (T.E.C.) ADVISORY BOARD. The Telephone/Electric/Cable TV (T.E.C.) Advisory Board is hereby established. The purpose of this Board is to advise the Council as to the rates and charges for telephone, electric, cable TV and DSL services provided by the City. The Board shall be composed of five (5) voting members, two (2) of whom shall be members of the City Council and whom shall be appointed by the Mayor with the advice and consent of the City Council. The two (2) City Council members shall be appointed each and every year at the first regular City Council Meeting held in January of each even-numbered year, and shall serve a two-year term. The Mayor, with the advice and consent of the City Council, shall appoint three (3) reputable residents of the City as members of the Board, whom shall be referred to as the "at large" members. The at large members appointed to the first Board after the effective date of this ordinance shall hold office respectively, for the terms designated by the Mayor when the appointments are made as follows:

- (1) One member shall hold office until the first meeting of the City Council in January of the first odd-numbered year following that member's appointment.
- (2) One member shall hold office until the first meeting of the City Council in January in the first even year following that member's appointment.
- (3) One member shall hold office until the first meeting of the City Council in January of the second odd-numbered year following that member's appointment.

At the first regular meeting of the City Council held in January of each year, or as soon thereafter as practicable, the Mayor, with the advice and consent of the City Council, shall appoint one (1) at large member of the Board in addition to the two (2) City Council members. After the

members of the first Board created by this ordinance have been appointed as provided in this section, each at large appointment shall be made for a term of three years. The Mayor shall appoint a non-voting youth representative to the board. Each and every February the Board shall select from its membership a person to act as chairperson.

CHAPTER 1-07
CITY PROPERTY

SECTIONS:

- 1-0701. Disposal of Abandoned Motor Vehicles, Unclaimed Property and Excess Property.
- 1-0702. Conveyances by Contract for Deed.

SEC. 1-0701. DISPOSAL OF ABANDONED MOTOR VEHICLES, UNCLAIMED PROPERTY AND EXCESS PROPERTY.

Subd. 1. Disposal of Abandoned Motor Vehicles.

A. Definitions.

1. The term "abandoned motor vehicle" means a motor vehicle as defined in Minnesota Statutes, Chapter 169, that has remained for a period of more than forty-eight hours on public property illegally or lacking vital component parts, or has remained for a period of more than forty-eight hours on private property without the consent of the person in control of such 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 Minnesota Statutes, Chapter 168, 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.

2. The term "junk vehicle" means a vehicle that is three years old or older; is extensively damaged, with the damage including such things as broken or missing wheels, motor, drive train, or transmission, is apparently inoperable; does not have a valid, current registration plate; and has an approximate fair market value equal only to the approximate value of the scrap in it.

3. The term "unauthorized vehicle" means a vehicle that is subject to removal and impoundment pursuant to Minnesota Statutes but is not a junk vehicle or abandoned vehicle.

4. The term "vital component parts" means 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 or junk motor vehicle, or any unauthorized vehicle as provided by statute.

C. Sale; Waiting Periods.

1. An impounded vehicle is eligible for disposal or sale 15 days after notice to the owner if the vehicle is determined to be a junk vehicle, except that it may have a valid, current registration plate and still be eligible for disposal or sale; or an abandoned motor vehicle.

2. An impounded vehicle is eligible for disposal or sale 45 days after notice to the owner if the vehicle is determined to be an unauthorized vehicle.

D. Notice.

1. When an impounded vehicle is taken into custody, the City or impound lot operator shall give notice of the taking within 10 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 such 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 Subparagraph E of this Subdivision, and shall state that failure of the owner or lien holder to exercise their right to reclaim the vehicle and contents within the appropriate time allowed under statute shall be deemed a waiver by them of all rights, title and interest in the vehicle and a consent to the transfer of title to and disposal or sale of the vehicle and contents pursuant to Subparagraph F of this Subdivision.

2. The notice shall be sent by mail to the registered owner, if any, of the impounded motor vehicle and to all readily identifiable lien holders of record. This information shall be made available to impound lot operators for notification purposes. 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 where the motor vehicle was towed from or abandoned. Published notices may be grouped together for convenience and economy. If an unauthorized vehicle remains unclaimed after 30 days from the date the notice was sent, a second notice shall be sent by certified mail, return receipt requested, to the registered owner, if any, of the unauthorized vehicle and to all readily identifiable lien holders of record.

E. Right to Reclaim.

1. The owner or any lien holder of an impounded motor vehicle shall have the right to reclaim such vehicle from the City or impound lot upon payment of all towing and storage charges resulting from taking the vehicle into custody within 15 or 45 days as applicable under this Section after the date of the notice required by this Section.

2. Nothing in this Subdivision 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 Subparagraph E "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.

F. Auction or Sale.

1. An abandoned or unauthorized motor vehicle and contents taken into custody by the City or any impound lot and not reclaimed under Subparagraph E of this Subdivision may be disposed of or sold at auction or sale when eligible pursuant to Subparagraph E. 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 or unauthorized motor vehicle by the City or public impound lot, 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 Subdivision. 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 General Fund of the City.

3. The operator of a nonpublic impound lot may retain any proceeds from a sale derived from a sale conducted under the authority of this Section. The operator may retain all proceeds from the sale of any personal belongings and contents in the vehicle that were not claimed by the owner or the owner's agent before the sale; except that any suspected contraband or other items that likely would be subject to forfeiture in a criminal trial must be turned over to the appropriate law enforcement agency.

G. Operator's Deficiency Claim. The nonpublic impound lot operator has a deficiency claim against the registered owner of the vehicle for the reasonable costs of services provided in the towing, storage and inspection of the vehicle minus the proceeds of the sale or auction. The claim for storage costs may not exceed the cost of 25 days' storage for an abandoned or junk vehicle and 55 days' storage for a vehicle determined to be an unauthorized vehicle.

H. Disposal of Vehicles. Where no bid has been received for an abandoned or junk motor vehicle, the City may dispose of it in accordance with this Subdivision.

I. 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.

Subd. 2. 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 sixty days and has been declared such by a resolution of the Council.

B. Preliminary Notice. If the City Administrator knows the identity and whereabouts of the owner, he/she shall serve written notice upon him/her at least thirty 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/her. Such 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 thirty days from the date of such notice.

C. 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 such property. The text of such notice shall also state the time, place and manner of sale of all such property, except cash and negotiables. Such notice shall be published once in a legal newspaper at least 10 days prior to the sale. Sale shall be made to the highest bidder at public auction or sale or by a nonprofit organization with a significant mission of community service in a private sale in the manner authorized by statute.

D. Funds and Claims Thereon. Expenses shall be paid from the proceeds of the sale; the balance of the proceeds shall be paid into the General Fund of the City if the property was disposed of by a public auction or sale; or in the case of a private sale, to the nonprofit organization authorized to conduct said sale. The former owner, if he/she makes claim within six 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.

Subd. 3. Disposal of Excess Property.

Source: Ord. 2013-06, Sec. 1 (2013)

A. Declaration of Surplus and Authorizing Sale of Property. The City Administrator may, from time to time, determine that certain personal property owned by the City with an estimated value of less than \$25,000 is no longer needed for a municipal purpose and is authorized to dispose of this property in accordance with State Statute provided the property is advertised for sale in the official newspaper. The City Administrator may, from time to time, determine that certain personal property is estimated to be valued in excess of \$25,000 and shall 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, said property valued in excess of \$25,000 shall be declared surplus, the value estimated and the City Administrator authorized to dispose of said property in the manner stated herein. Any trade-in of equipment done as a part of a purchase will be evaluated and approved as part of that purchase.

B. Surplus Property With a Total Estimated Value of Less than \$25,000. The City Administrator may sell surplus property with a total value of less than \$25,000 through negotiated sale.

C. Surplus Property With a Total Estimated Value Between \$25,000 and \$100,000. The City Administrator shall utilize direct negotiation and receive at least two quotes on surplus property with a total estimated value from \$25,000 to \$100,000 and shall present those quotes to the Council for approval prior to disposing of said property.

D. Surplus Property With a Total Estimated Value Over \$100,000.

For property with an estimated total value over \$100,000, the City Administrator shall use the competitive bidding process required by State Statutes.

E. Receipts From Sales of Surplus Property.

All receipts from sales of surplus property under this Section shall be placed in the fund where the property has been allocated.

Subd. 4. 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 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.

B. It is unlawful for any person to be a purchaser of property under this Section if such purchase is prohibited by the terms of this Section.

SEC. 1-0702. CONVEYANCES BY CONTRACT FOR DEED. The City may commence an action to require the recording of all contracts for deed and assignments. Written notice to record shall be sufficient if it is given either to the vendor or the vendee named in the contract for deed or assignment. Such notice shall be given at least ten (10) days before the date by which recording is required.

CHAPTER 1-08

SPECIAL ASSESSMENTS

SECTIONS:

- 1-0801. Special Assessment Deferment Policy; Housing Developments.
- 1-0802. Deferment of Special Assessments; Elderly and Disabled.
- 1-0803. Partial Prepayment of Special Assessments.
- 1-0804. Special Assessment Policy.

SEC. 1-0801. SPECIAL ASSESSMENT DEFERMENT POLICY; HOUSING DEVELOPMENTS.

Subd. 1. The City hereby establishes the policy to defer special assessments upon all surface and subsurface improvements for single-family residential developments as follows:

- A. 1 to 9 housing units in one subdivision plat: No deferral;
- B. 10 to 20 housing units in one subdivision plat: 2-year deferral;
- C. Over 20 housing units in one subdivision plat: 5-year deferral.

Subd. 2. Subdivision plats may not be combined or added together to increase the deferral period and there will be no deferrals allowed in connection with Tax Increment Housing Districts.

Subd. 3. For any lot which has been granted a 5-year deferral as specified above, the deferral for said lot shall end when the lot is sold or a building permit is issued for construction on said lot, whichever occurs first. At that time the City Clerk-Treasurer shall certify the special assessments to the County Auditor for collection.

Subd. 4. Any special assessments not certified to the County Auditor shall be deferred one year when a licensed contractor obtains a building permit for a single family house to be built on the basis of speculation and certifies the same. Assessments will be certified to the County Auditor the year following the issuance of the building permit.

Subd. 5. A 15-year amortization period will be allowed on special assessments deferred pursuant to this Section. The first year of payment shall be the first year of said 15-year amortization period. Interest, at a rate set when the deferral is granted, shall accrue during the accrual period and continue during the repayment period.

Subd. 6. The owner(s) of any parcel that has a deferred special assessment may request that the special assessment payments commence at an earlier date by notifying the City Clerk-Treasurer, in writing, by November 15th that they wish to have payments commence the following year.

Subd. 7 In the event the application of this Section would cause a financial hardship to the City, the Council, in its sole discretion, reserves the right to deny deferment.

SEC. 1-0802. DEFERMENT OF SPECIAL ASSESSMENTS; ELDERLY AND DISABLED.

Subd. 1. The Council may defer the payment of any special assessment on homestead property owned by a person who is 65 years of age or older, or who is retired by virtue of permanent and total disability, and the City Clerk-Treasurer is hereby authorized to record the deferment of special assessments where the following conditions are met:

A. The applicant must apply for the deferment not later than ninety days after the assessment is adopted by the Council.

B. The applicant must be 65 years of age, or older, or retired by virtue of permanent and total disability.

C. The applicant must be the owner of the property.

D. The applicant must occupy the property as his/her principal place of residence.

E. The applicant's income from all sources shall not exceed the low income limit as established by the Department of Housing and Urban Development as used in determining the eligibility for Section VIII housing.

Subd. 2. The deferment shall be granted for as long a period of time as the hardship exists and the conditions as aforementioned have been met. However, it shall be the duty of the applicant to notify the City Clerk-Treasurer of any change in his/her status that would affect eligibility for deferment.

Subd. 3. The entire amount of deferred special assessments shall be due within sixty days after loss of eligibility by the applicant. If the special assessment is not paid within sixty days, the City Clerk-Treasurer shall add thereto interest at 8% per annum from the due date through December 31 of the following year and the total amount of principal and interest shall be certified to the County Auditor for collection with taxes the following year. Should the applicant plead and prove, to the satisfaction of the Council, that full repayment of the deferred special assessment would cause the applicant particular undue financial hardship, the Council may order that the applicant pay within sixty days a sum equal to the number of installments of deferred special assessments outstanding and unpaid to date (including principal and interest) with the balance thereafter paid according to the terms and conditions of the original special assessment.

Subd. 4. The option to defer the payment of special assessments shall terminate and all amounts accumulated plus applicable interest shall become due upon the occurrence of any one of the following:

A. The death of the owner when there is no spouse who is eligible for deferment.

B. The sale, transfer or subdivision of all or any part of the property.

C. Loss of homestead status on the property.

D. Determination by the Council for any reason that there would be no hardship to require immediate or partial payment.

SEC. 1-0803. PARTIAL PREPAYMENT OF SPECIAL ASSESSMENTS.

Subd. 1. Partial Prepayment of Assessments Permitted. After the adoption of an assessment roll pursuant to Minnesota Statutes, Chapter 429, as amended, and before certification of said assessment roll to the County Auditor, the City Clerk-Treasurer, or other authorized official, is authorized and directed to accept partial prepayment of said assessment, and reduce the amount certified to the County Auditor accordingly. As provided by law, such partial prepayment may be accepted only during the thirty-day period following approval of the assessment roll.

Subd. 2. Scope. 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.

SEC. 1-0804. SPECIAL ASSESSMENT POLICY. The Council may, by resolution, adopt, from time-to-time amend, or repeal a special assessment policy.

CHAPTER 1-09
RATES AND FINES

SECTIONS:

- 1-0901. Filing of Certain Documents Required.
- 1-0902. Trust or Escrow Account for Fire or Explosion Losses.
- 1-0903. Fixing Rates and Fees by Consolidated Ordinance.
- 1-0904. Summary of Schedule of Fees, Rates and Charges Set by Consolidated Ordinance.
- 1-0905. Violation a Misdemeanor.

SEC. 1-0901. FILING OF CERTAIN DOCUMENTS REQUIRED.

Subd. 1. A certified copy of every ordinance, resolution, map, or regulation which relates to subdivision regulations, land needed for future street purposes and as sites for other necessary public facilities and services, and conditional use permits shall be filed with the County Recorder.

Subd. 2. A certified copy of every variance to subdivision regulations shall be filed with the County Recorder. Provided, that this requirement is satisfied if a resolution citing the existence of the variance is filed identifying the location where the variance documents are available for inspection.

Subd. 3. A copy of a comprehensive plan shall be filed with all contiguous municipalities.

Subd. 4. Copies of resolutions approving subdivision plats of land shall be filed with all contiguous municipalities.

SEC. 1-0902. TRUST OR ESCROW ACCOUNT FOR FIRE OR EXPLOSION LOSSES. The City may establish a trust or escrow account to hold proceeds from losses arising from fire or explosion of insured real property located within the City. The City may utilize these funds 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 Minnesota Statutes, 65A.50, Trust or Escrow Accounts; Insured Real Property Fire or Explosion Loss Proceeds are hereby incorporated herein and adopted by reference, including the penalty provision thereof.

SEC. 1-0903. FIXING RATES AND FEES BY CONSOLIDATED ORDINANCE.

Subd. 1. Fixing Fees and Rates. Except as otherwise specifically provided, all fees for licenses provided for in this Code, including, but not by way of limitation, license fees, investigation and administration fees, shall be fixed and determined by the Council, adopted by consolidated ordinance, and uniformly enforced. Such fees may, from time-to-time, be amended by the Council. Provided, however, that before any such license fee shall be adopted, a 30-day notice shall be mailed to all affected licensees. A copy of the consolidated ordinance shall be made a part of the City Code as Title VIII, and kept on file in the office of the City Administrator and open to inspection during regular business hours. For the purpose of fixing such fees, the

Council may categorize and classify, provided, that such categorization and classification shall be included in the ordinance authorized by this Section.

Subd. 2. Refundment. A pro-rata share of an annual license fee shall be refunded to the licensee, or to his estate, if: (1) the business ceases to operate because of destruction or damage; (2) the licensee dies; or, (3) the business ceases to be lawful for a reason other than a license revocation or suspension. This provision shall apply where the refund exceeds \$100.00.

SEC. 1-0904. SUMMARY SCHEDULE OF FEES, RATES AND CHARGES SET BY CONSOLIDATED ORDINANCE.

<u>CHAPTER</u>	<u>SECTION/ SUBDIVISION</u>	<u>DESCRIPTION</u>
	1-0401	Airport Landing and Parking Fees
	1-0402, Subd 3	Aerial Crop Applicator License Fees
	1-0503	Sewer, Storm Sewer and Water and Street Capital Replacement and Maintenance Fund Board of Adjustment Appeal or Proceeding
Fee	1-0602, Subd. 1	
	1-0903	Rates and Charges for Municipal Utilities
	2-0104, Subd. 5	Mosquito Control Fee
	2-0106	Refuse Collection Fee
	2-0107	Water Service Increase Permit and Fees
	2-0108, Subd. 4	Private Wastewater Disposal Permit and Fees
	2-0109, Subd. 3	Sewer Service Rates
	2-0113	Telephone Service Rates
	3-0102	Permits and Fees
	3-0103	Building Permits and Fees
	3-0104	Demolition Permits and Fees
	3-0105, Subd. 3	Moving Building Permits and Fees
	3-0501, Subd. 8	Rental Unit Registration Fees
	3-0501, Subd. 11,E	Rental Unit Registration Inspection Fees
	4-0102, Subd. 3	Application and Investigation Fees
	4-0102, Subd. 5	Duplicate License Fees
	4-0111	Fixing Rates and Fees
	4-0203, Subd. 2	Application/License Fees
	4-0203, Subd. 7	Duplicate Licenses
	4-0204	Fixing License Fees
	4-0213	Tobacco License Fees
	4-0213, Subd. 12	Tobacco Penalties
	4-0214, Subd. 2	Gambling Permit
	4-0215, Subd. 5, B	Solicitors License Fees
	4-0301, Subd. 3	Sauna and Massage Parlor License Fees
	4-0302, Subd. 3, A	Massage Therapist Investigation Fee
	5-0106, Subd. 2	Construction of Roadway Surfaces, Permit and Fees
	5-0107, Subd. 1	Obstructions in Streets Permit and Fees
	5-0107, Subd. 4	Signs and Structures in Streets Permit and Fees

5-01	5-0108, Subd. 2,5	Street Openings/Excavations Permit and Fees
5-01	5-0110, Subd. 6	Trees in Streets
5-02	5-0212, Subd. 1	Motorized Golf Cart/All-Terrain Vehicle Permit and Fees
5-03	5-0311, Subd. 4	Snow Removal; Removal of Vehicles Fees
5-03	5-0314	Impounding and Removing Vehicles Charge
6-02	6-0201, Subd. 3, B	Dog and Cat License Fees
6-02	6-0201, Subd. 4	Impoundment Fees
6-02	6-0202, Subd. 5	Wild Animal Permit Fees
6-04	6-0401, Subd. 5	Open Burning Permit and Fees
6-04	6-0401, Subd. 2	Storage of Flammable Liquid Permit and Fees
6-05	6-0501, Subd. 1	Obstructions on Public Property Permit and Fees
6-05	6-0501, Subd. 4	Signs/Structures on Public Property Permit and Fees
6-06	6-0602, Subd. 2, D	Hunting in Agricultural District Permit and Fees
6-07	6-0701, Subd. 4	Curfew Violation
6-07	6-0702, Subd. 7	Tobacco Violation
7-12	7-1201, Subd. 2	Zoning Certificate Filing Fee
7-12	7-1203, Subd. 2	Petition Filing Fee
7-13	7-1309, Subd. 1,B	Development Permit Fee
7-13	7-1309, Subd. 2	Preliminary Plat Fee
7-13	7-1309, Subd. 3	Final Plat Fee
7-13	7-1313, Subd. 6	Building Permit Fee

SEC. 1-0905. VIOLATION A MISDEMEANOR. Every person violates a section, subdivision, paragraph or provision of this Chapter when he/she performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.

CHAPTER 1-10

ADMINISTRATIVE CITATIONS AND CIVIL PENALTIES

SECTIONS:

- 1-1001. Municipal Jurisdiction.
- 1-1002. General Penalty.
- 1-1003. Responsibility for Acts.
- 1-1004. Administrative Citations and Penalties.

SEC. 1-1001. MUNICIPAL JURISDICTION. Unless otherwise provided in this Code, this Code applies to acts performed within the corporate limits of the City. Provisions of this Code also apply to acts performed outside the corporate limits and up to the limits prescribed by law, where the law or charter confers power on the City to regulate such particular acts outside the corporate limits.

SEC. 1-1002. GENERAL PENALTY.

Subd. 1. Standard Penalty. Unless another penalty is expressly provided by this Code for any particular provision, section or chapter, any person violating any provisions of this Code, or any rule or regulation adopted or issued in pursuant thereof, or any provision of any Code adopted herein by reference, shall, upon conviction, be subject in accordance with the provisions of Minnesota Statutes, Section 412.231 and Section 609.034 to a penalty of either a fine not to exceed seven hundred dollars (\$700.00) or imprisonment not to exceed more than ninety (90) days, or both, but in either case the costs of prosecution may be added. Said penalty and imprisonment provisions shall be automatically amended, supplemented, or replaced by any amendment, supplement, or replacement to the penalty and imprisonment provisions of Minnesota Statutes, Section 412.231 and Section 609.034.

Subd. 2. Violation. Any violation of this Code is a penal offense and a misdemeanor unless otherwise provided in this Code.

Subd. 3. Each Day a Violation. Each act of violation and every day upon which a violation occurs or continues constitutes the basis of a separate offense.

Subd. 4. Applicability. The penalty provided by this section or any section of this Code applies to the amendment of any section of this Code or any Code adopted herein by reference to which the penalty relates whether or not such penalty is reenacted in the amendatory ordinances, unless otherwise provided in the amendment.

Subd. 5. Reference to Sections. Reference to any section of this Code shall be understood to also refer to and include the penalty section relating thereto, unless otherwise expressly provided.

Subd. 6. Failure of Officers to Perform Duties. The failure of any officer or employee of the city to perform any official duty imposed by this Code shall not subject such officer or employee to the penalty imposed for violation of this Code, unless a penalty is specifically provided.

SEC. 1-1003. RESPONSIBILITY FOR ACTS. Any persons concerned in the commission of any act prohibited by this Code, whether they directly commit the act or prosecute, counsel, aid or abet in its commission, may be prosecuted and on conviction are punishable as if they had directly committed such act. No persons shall attempt to conspire to violate any provision of this Code, or obstruct or interfere with the enforcement of this Code, or conceal or aid in the concealment of any violation of this Code.

SEC. 1-1004. ADMINISTRATIVE CITATIONS AND CIVIL PENALTIES.

Subd. 1. Purpose. The City Council finds that there is a need for alternative methods of enforcing the City Code. While criminal fines and penalties have been the most frequent enforcement mechanism, there are certain negative consequences for both the City and the accused. The delay inherent in that system does not ensure prompt resolution. Citizens resent being labeled as criminals for violations of administrative regulations. The higher burden of proof and the potential of incarceration do not appear appropriate for most administrative violations. The criminal process does not always regard City Code violations as being important. Accordingly, the City Council finds that the use of administrative citations and the imposition of civil penalties is a legitimate and necessary alternative method of enforcement. This method of enforcement is in addition to any other legal remedy that may be pursued for City Code violations.

Subd. 2. General Provisions.

A. A violation of the provisions of Sections 3-0101 through 3-0105, 3.0201, 3-0301, 3-0302, 3-0401, 3-0402, 3-0501, 3-601 through 3-0610, 5-0105, 5-0106, 6-0101, 6-0102, 6-0103, 6-0502, and Title VII of the City Code, in addition to being a possible criminal violation, is an administrative offense that may be subject to an administrative citation and civil penalties. Each day a violation exists constitutes a separate offense. The City may elect to pursue either the administrative offense or the applicable criminal offense, but not both for the same offense.

B. An administrative offense may be subject to a civil penalty not exceeding \$2,000.00.

C. The City Council must adopt by resolution a schedule of fines for offenses initiated by administrative citation. The City Council may adopt a schedule of fees to be paid to administrative hearing officers.

D. The City Clerk must adopt procedures for administering the administrative citation program.

E. The Barnesville City Administrator is hereby appointed as the Code Official to administer all sections listed above. The Barnesville City Administrator shall have the authority to appoint designees to carry out the inspections and to enforce the provisions of this Chapter, along with Sections 3-0101 through 3-0105, 3.0201, 3-0301, 3-0302, 3-0401, 3-0402, 3-0501, 3-601 through 3-0610, 5-0105, 5-0106, 6-0101, 6-0102, 6-0103, 6-0502 and Title VII of the City Code. Whenever "Code Official" is stated in this Chapter, or any other Chapter, it shall include all designees of Code Official.6.

Subd. 3. Administrative Citation.

A. A person authorized to enforce provision of Sections 3-0101 through 3-0105, 3.0201, 3-0301, 3-0302, 3-0401, 3-0402, 3-0501, 3-601 through 3-0610, 5-0105, 5-0106, 6-0101, 6-0102, 6-0103, 6-0502 and Title VII of the City Code may issue an administrative citation upon belief that a code violation has occurred. The citation must be issued in person or by mail to the person responsible for the violation or attached to the motor vehicle in the case of a vehicular offense. The citation must state the date, time, and nature of the offense, the name of the issuing officer, the amount of the scheduled fine, and the manner for paying the fine or appealing the citation.

B. The person responsible for the violation must either pay the scheduled fine or request a hearing within seven (7) days after issuance. Payment of the fine constitutes admission of the violation. A late fee of one (1) percent shall be imposed for each day that the requested penalty remains unpaid after the due date, except that said late charge shall be suspended in the event an administrative hearing is requested on or before the due date.

Subd. 4. Administrative Hearing.

A. Any person contesting an administrative offense pursuant to this Chapter may within seven (7) days of the time of issuance of the notice request a hearing by the hearing board who shall forthwith conduct an informal hearing to determine if a violation has occurred.

B. Notice of the hearing must be served in person or by mail on the person responsible for the violation at least ten (10) days in advance, unless a shorter time is accepted by all parties.

C. The hearing board has the authority to determine that a violation occurred, to dismiss a citation, to impose the scheduled fine, and to reduce, stay or waive scheduled fine either unconditionally or upon compliance with appropriate conditions. When imposing a penalty for violation, the hearing office may consider any or all of the following factors.

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1. the duration of the violation;
 2. the frequency or reoccurrence of the violation;
 3. the seriousness of the violation;
 4. the history of the violation;
 5. the violators conduct after issuance of the notice of hearing;
 6. the good faith effort by the violator to comply;
 7. the economic impact of the penalty on the violator;
 8. the impact of the violation upon the community; and
 9. any other factors appropriate to a just result.

The hearing board may exercise discretion to impose a fine for more than one day of continuing violation, but only upon a finding that (1) the violation caused a serious threat of harm to the public health, safety, or welfare or that (2) the accused intentionally and unreasonably refused to

comply with the Code requirement. The hearing board's decision and supporting reasons must be in writing.

E. The failure to attend the hearing constitutes a waiver of the violator's rights to an administrative hearing and an admission of the violation. A hearing board may waive this result upon good cause shown. Examples of "good cause" are: death or incapacitating illness of the accused; a court order requiring the accused to appear for another hearing at the same time; and lack of proper service of the citation or notice of the hearing. "Good cause" does not include: forgetfulness and intentional delay.

Subd. 5. Administrative Hearing Board. The Hearing Board will consist of three individuals. Two individuals will be selected by the City Council at their January meeting and serve for that calendar year. The third individual will be one of the two City Council representatives of the ward in which the violation has occurred. The City Clerk will schedule the hearing.

Subd. 6. Recovery of Civil Penalties.

A. If a civil penalty is not paid within the time specified, it will constitute:

1. A lien on the real property upon which the violation occurred if the property or improvements on the property was the subject of the violation and the property owner was found responsible for that violation; or

2. A personal obligation of the violator in all other situations.

B. A lien may be assessed against the property and collected in the same manner as taxes.

C. A personal obligation may be collected by appropriate legal means.

D. Any penalty imposed after the hearing shall become payable within seven days after notice is mailed or personally served, and a late fee of one (1) percent shall be imposed for each day that the requested penalty remains unpaid after the due date.

E. Failure to pay a fine is grounds for suspending or revoking a license related to the violation.

F. The City may request the District Court, after a hearing, to hold the violator in contempt of court for not paying the fine, and the Court may impose any such penalties that the Court could impose for not paying a fine for a criminal sentence imposed by the District Court.

G. If the final adjudication in the administrative penalty procedure is a finding of no violation, then the City may not prosecute a criminal violation in district court based on the same set of facts. This does not preclude the City from pursuing a criminal conviction for a violation of the same provision based on a different set of facts.

H. For as long as the administrative penalty (and any late charges) remain unpaid, the City reserves the right to charge and prosecute the violator for a petty misdemeanor or misdemeanor consistent with applicable statutes and ordinances, in which case the administrative penalty will be dropped.