

## CHAPTER III

## ADMINISTRATIVE CODE

Section 300. Administration; officers; departments.

300.01. City manager. Subdivision 1. General. The manager is the chief administrative officer of the city, and is responsible to the council for the supervision of all departments and divisions of city administration except where otherwise provided by law or charter. The manager shall prepare and distribute to department and division heads such rules and regulations as deemed necessary for the orderly and efficient conduct of city administrative affairs. The manager shall periodically review the administrative structure of the city and may recommend to the council changes in the administrative organization of the city.

Subd. 2. Specific duties. The manager has the responsibilities assigned by the charter. The manager may employ an administrative assistant and such other employees, including an administrative intern, as are necessary for the execution of the duties of the office. The manager's personal office staff is a separate department of the city administrative service known as the Executive Department.

300.03. Departmental and divisional organization. The administrative service of the city is divided into the following departments and heads thereof:

Executive Department - City Manager

Administrative Services Department - Director of Administrative Services

Fire Department - Fire Chief

Public Safety Department - Director of Public Safety

Public Works Department - Director of Public Works

Recreation Services Department - Director of Recreation Services

Community Development Department - Director of Community Development

Legal Department - City Attorney

Liquor Department - Liquor Operations Director (Amended, Bill No. 1997-5; Bill No. 2000-18)

Divisions within departments shall be established from time to time by resolution of the city council with the recommendation of the manager.

300.05. General duties of department and division heads. Subdivision 1. Administration. Department and division heads are the administrative officers of the city. They are responsible for the efficient administration of their respective departments and divisions and shall initiate, with the approval of the manager, whatever practices, programs and procedures are necessary to fulfill that responsibility.

Subd. 2. Assignment of duties. The manager may assign the same individual to head two or more departments or to head one or more divisions within a department. The manager may be a department head. The manager shall create a job description for each department head position, describing the specific duties and areas of responsibility for the position. The manager may modify any department head's job description and duties from time to time. A department head shall perform the duties identified in the job description and any additional duties assigned by the manager. (Amended, Bill No. 1996-3, Sec. 1)

300.07. Administrative services department: duties of director. The director of administrative services is responsible to the manager for the organization, planning, administration and coordination of the administrative services of the city. The director of administrative services shall perform the duties described in the job description for that position and any additional duties assigned by the manager. (Amended, Bill No. 1995-18, Sec. 1; Bill No. 1996-3, Sec. 2)

300.09. Public works department: duties of director. The director of public works is responsible to the manager for the organization, planning, administration and coordination of public works of the city. The director of public works shall perform the duties described in the job description for that position and any additional duties assigned by the manager. (Amended, Bill No. 1995-18, Sec. 2; Bill No. 1996-3, Sec. 3, Bill No. 1997-5)

300.11. Liquor department. The liquor operations director is responsible to the manager for the operation of the municipal liquor stores. The liquor operations director shall perform the duties described in the job description for that position and any additional duties assigned by the manager. (Amended, Bill No. 1996-3, Sec. 4)

300.13. Public safety department. Subdivision 1. Duties of director. The director of public safety is responsible to the manager for all activities relating to public safety. The director of public safety shall perform the duties described in the job description for that position and any additional duties assigned by the manager. (Amended, Bill No. 1996-3, Sec. 5)

Subd. 2. (Amended, Bill No. 1988-8; Repealed, Bill No. 2000-18)

300.14. Fire department. The fire department is supervised by the fire chief. There may be one or more assistant chiefs in the department. (Added, Bill No. 2000-18)

300.15. Legal department. The city attorney is the legal adviser to the council and the manager. The attorney is responsible to the manager for administrative matters affecting the legal department. The attorney shall represent the city in legal proceedings to which the city is a party and shall perform such other functions of a legal nature as the council may direct.

300.17. Community development department: duties of director. The director of community development is responsible to the manager for the organization, planning, administration and coordination of the community development functions of the city. The director of community development shall perform the duties described in the job description for that position and any additional duties assigned by the manager. (Amended, Bill No. 1996-3, Sec. 6)

300.19. Recreation services department: duties of director. The director of recreation services is responsible to the manager for the organization, planning, administration and coordination of the recreation services of the city. The director of recreation services shall perform the duties described in the job description for that position and any additional duties assigned by the manager. (Added, Bill No. 1997-5)

Section 305 - Administration; commissions; boards

305.01. Establishment of human rights commission. Subdivision 1. Scope of section. It is declared that it is the public policy of the city to fulfill its responsibilities as a partner of the state department of human rights in securing for all citizens equal opportunity in housing, employment, public accommodations, public services and education, and to fully implement those goals set forth in Minnesota Statutes, chapter 363, the Minnesota Human Rights Act.

Subd. 2. Establishment of commission. There is established and continued a human rights commission.

Subd. 3. Purpose of commission. The purpose of the commission is to secure for all citizens equal opportunity in employment, housing, public accommodations, public services and education and full participation in the affairs of this community and to take appropriate action consistent with the Minnesota Human Rights Act. The commission shall also advise the city council on long range programs to improve human relations in the city.

Subd. 4. Composition of the commission. The commission consists of thirteen members appointed by the council. Eleven members shall be appointed for terms of three years, except that (i) a person appointed to fill a vacancy occurring prior to the expiration of the term for which the predecessor in that term was appointed shall be appointed only for the remainder of such, and (ii) two persons shall be appointed as "youth" members for one year terms. The two youth members shall be given all rights, privileges and responsibilities granted to the other appointed members. Upon the expiration of the member's term of office, a member shall continue to serve until a successor is appointed and qualifies. Members serve without compensation and may be removed from office at any time by the council, but after a public hearing if a hearing is requested by the member whose removal is being considered. (Amended, Bill No. 1990-2; Bill No. 1993-1)

Subd. 5. Commission's responsibilities. The commission shall:

(a) adopt bylaws and rules for the conduct to its affairs including the election, assumption of duties and definition of responsibilities of officers and committees;

(b) engage in discussions with the state department of human rights for the purpose of delineating cooperative regulatory and enforcement procedures;

(c) enlist the cooperation of agencies, organizations and individuals in the community in an active program directed to create equal opportunity and eliminate discrimination and inequalities;

(d) formulate a human relations program for the city to provide increased effectiveness and direction to the work of all individuals and agencies addressing themselves to planning, policy making and educational programming in the area of civil and human rights;

(e) advise the city council and other agencies of the government on human relations and civil rights problems and act in an advisory capacity with respect to planning or operation of any city department on issues of civil and human rights and recommend the adoption of such specific policies or actions as are needed to provide for full equal opportunity in the community;

(f) study, investigate and assist in eliminating alleged violation of Minnesota Statutes, chapter 363 by conference, conciliation and persuasion, and when necessary, cooperate with the state department of human rights in enforcing the provisions of the state act; and

(g) develop such programs of formal and information education as will assist in the implementation of the Minnesota Human Rights Act and foster the commission's assumption of leadership in recognizing and resolving potential human rights problems in the community.

(h) develop and implement programs that enhance the advancement of human rights in the community and that promote an awareness of and appreciation for cultural diversity. (Added, Bill No. 1993-1)

Subd. 6. Investigations, enforcement, penalties. The commission may receive and investigate complaints of alleged violations of this section. Investigations shall conform to the No Fault Grievance Process formulated by the State Department of Human Rights.

Subd. 7. Adoption by reference. Minnesota Statutes, chapter 363 is adopted by reference and made a part of this subsection as is fully set forth herein.

305.03. Joint police and fire civil service commission. Subdivision 1. Single commission created and continued. The police civil service commission and the fire civil service commission of the city have been combined to form a single commission.

Subd. 2. Duties. The joint commission is created and continued and serves as both police civil service commission and firemen's civil service commission.

Subd. 3. Membership. The joint commission consists of three members appointed for staggered terms in the same manner, for the same terms, and with the same qualifications as a police civil service commission under Minnesota Statutes, sections 419.01 to 419.18. Terms of commissioners are for three years commencing on February 1 of the year of appointment.

305.05. Planning agency. Subdivision 1. Establishment. Pursuant to Minnesota Statutes, section 462.354, subdivision 1, there is created and continued a city planning agency.

Subd. 2. Commission form. The planning agency shall operate as a planning commission of the city. Staff services for the commission shall be furnished by the community development department of the city. The commission serves in an advisory capacity to the council.

Subd. 3. Composition of the commission. The commission consists of seven members appointed by the council to serve for terms of three years, with terms of members to be staggered so that as nearly equal number of terms as possible shall expire each year. Terms begin on the first day of February. The city manager, the superintendent of schools for Independent School District No. 280, one council member and one other representative of the Board of Education of Independent School District No. 280 designated by the district are ex officio officers and members of the commission without voting rights. (Amend, Bill No. 2011-5)

Subd. 4. Powers and duties of the commission. The planning commission shall undertake the duties given by Minnesota Statutes, sections 462.351 to 462.354. The planning commission shall deliberate and make recommendations on:

- (a) proposed subdivisions and resubdivisions of land;
- (b) proposed amendments to the zoning ordinance code;
- (c) land development applications requiring special use permits or variances from the land development regulations of the city; and
- (d) such other matters relating to planning and development within the city, as may be referred to it by the council.

Subd. 5. General objectives of the commission. The planning commission shall endeavor to perform the following functions on behalf of the city:

- (a) subject planning decisions to citizens' examination and influence through technical advisory subcommittees which may study and recommend courses of action on special planning matters;
- (b) act as an advocate of various beneficial planning projects, as directed by the council, to stimulate interest and acceptance of planning within the city; and
- (c) act as a coordinator of planning activities within the city by working with public, quasi-public and private planning groups to coordinate the total planning efforts of the city and other governmental units.

Subd. 6. Dismissal of commission members. Commission members serve at the pleasure of the council. The council may dismiss members of the commission with or without cause.

Subd. 7. Vacancies. The office of a member is vacant upon the member's:

- (a) death;
- (b) disability or failure to serve;
- (c) removal of legal residence from the city;
- (d) resignation in writing;
- (e) removal with or without cause by the council; or
- (f) election or appointment to an elective public office.

The commission shall notify the council of a vacancy and request appropriate action to fill the vacancy.

Subd. 8. Additional powers and duties. The council may assign additional duties and responsibilities to the planning commission to assist the commission in effectively carrying out the commission's objectives, powers and duties.

305.07. Board of health. Subdivision 1. Creation of Board. Pursuant to Minnesota Statutes, section 145.01, there is created and continued a board of health.

Subd. 2. Council to constitute board. The board consists of the city council and a physician who is the health officer of the city.

Subd. 3. Powers and duties of board. The board shall:

- (a) investigate and make such reports and obey such directions concerning communicable diseases as the State Board of Health may require or give; and
- (b) cause all laws and regulations relating to the public health, including any and all health regulations contained in this code to be obeyed and enforced.

Subd. 4. Inspection and Enforcement. The board and authorized officers or employees of the board shall have the right to enter into any building, conveyance or place where contagion, infection, filth or other source or cause of preventable disease exists or is reasonably suspect.

Subd. 5. Uniform enforcement and appeals. Orders or rules and regulations adopted or issued by the board shall be enforced in the manner provided in section 320. Persons aggrieved by an order or rule or regulation of the board may appeal in accordance with the provisions of section 320.

Section 310 - Administrative; human resources  
(Amended, Bill No. 1995-10, Sec. 1)

310.01. General provisions. Subdivision 1. Purpose. It is the purpose of this section to establish a uniform and equitable system of human resources administration for city employees. (Amended, Bill No. 1995-10, Sec. 2)

Subd. 2. Scope of rules. (a) Exempt positions. Unless otherwise specifically provided, the following offices and positions are exempt from the application of this section: elected officials; members of boards and commissions; the city manager; intermittent and seasonal employees, the city attorney and the health officer. (Amended, Bill No. 1995-10, Sec. 3)

(b) Provisions superseded in certain cases. An employee included in a collective bargaining agreement entered into in accordance with the Public Employment Labor Relations Act, Minnesota Statutes, chapter 179A, is exempt from any provision of this section which is inconsistent with such agreement. Any employee under the jurisdiction of the joint police and fire civil service commission is exempt from any provision of this section which is inconsistent with such statute or rules and regulations adopted thereunder. Nothing in this section is intended to modify or supersede any provision of the Veterans' Preference Act, Minnesota Statutes, sections 197.45 to 197.481. Provisions of this section not in conflict with collective bargaining agreement or civil service rules, regulations and statutes apply to all city employees.

Subd. 3. Charter authority. Section 6.02, subsection 3, of the charter provides that the city manager shall appoint and remove, upon the basis of merit and fitness and subject to applicable civil service provisions, if any, the city clerk, all heads of departments and all subordinate officers and employees in the departments. Appointment or removal of department heads shall be made final only upon a majority vote of the council.

Subd. 4. Administration. The manager is authorized and directed to administer the rules and regulations of this section. The manager may issue administrative directives and instructions, not inconsistent with this section, as necessary to explain and clarify the provisions thereof and to facilitate their use. The manager may appoint a human resources manager and delegate to the human resources manager the administration of this section and any other human resources functions which the manager is authorized to perform. (Amended, Bill No. 1995-10, Sec. 4)

310.03. Definitions. Subdivision 1. "Allocation" means the assignment of a position to an appropriate class on the basis of the nature, difficulty and responsibility of the work performed in the position.

Subd. 2. "Benefits" means privileges granted to officers, employees, and their dependents, as part of a total compensation package, including but not limited to vacation leave, personal leave, holiday leave, military leave, or any and all insurance pay. (Amended, Bill No. 1995-10, Sec. 5)

Subd. 3. "Bi-weekly" means once every two weeks.

Subd. 4. "Class" or "class of positions" means a group of one or more positions sufficiently similar with respect to duties and responsibilities that the same descriptive title may be used with clarity to designate each position allocated to the class, that the same general qualifications are needed for performance of duties of the class, that the same tests of fitness may be used to recruit employees, and that the same schedule of pay can be applied fairly to all positions in the class.

Subd. 5. "Class specification" means a formal written statement which is descriptive, but not restrictive, of a class consisting of a title, a definition, illustrative example of work performed, and the qualifications, knowledge, skills and abilities that are necessary or desirable for the satisfactory performance of duties within the class.

Subd. 6. "Classification plan" means an orderly plan under which positions, on the basis of duties and responsibilities, are grouped into classes, each class designated by a description title and defined by a class specification.

Subd. 7. "Continuous service" means the total amount of uninterrupted full-time regular employment with the city, including any unpaid leaves of absence of less than 30 days duration. Continuous service begins the first day of full-time probationary employment if the employee will be eligible for a full-time regular appointment upon satisfactory completion of the probationary period. (Amended, Bill No. 1995-10, Sec. 6)

Subd. 8. "Day" means calendar day, except where otherwise specified.

Subd. 9. "Demotion" means the change of an employee's status to either a class having a lower maximum salary range or to a lower step or position within that employee's current class salary range.

Subd. 10. "Department" means a department established by section 300.

Subd. 11. "Department head" means a department head appointed pursuant to section 300.

Subd. 12. "Division" means an administrative or operating unit contained within a department established pursuant to section 300.

Subd. 13. "Division head" means an individual responsible for the operation of a division.

Subd. 14. "Employee" means a person holding a position in the city service.

Subd. 15. "Full-time employee" means an employee who is regularly scheduled to work eighty hours per bi-weekly payroll period.

Subd. 16. "Human resources manager" means a person appointed by the manager and charged with the administration of this section. The human resources manager shall perform the functions of the personnel manager. (Amended, Bill No. 1995-10, Sec. 15)

Subd. 17. "Intermittent employee" means a person who works 39 hours or less in a bi-weekly period, or for less than 127 working days per calendar year, whose employment has no specific termination date. (Amended, Bill No. 1995-10, Sec. 7; Bill No. 2002-14)

Subd. 18. "Managerial employee" means an employee as defined in subsection 310.21, subdivision 2. (Amended, Bill No. 1995-10, Sec. 8)

Subd. 19. "Original appointment" means the initial entry into probationary status in the city service. (Amended, Bill No. 1995-10, Sec. 9)

Subd. 20. "Outside employment" means employment of any kind engaged in by a city employee for which compensation is received from a source other than the city. (Amended, Bill No. 1995-10, Sec. 10)

Subd. 21. "Part-time employee" means an employee who is scheduled to work on a regular and recurring schedule of at least forty and less than eighty hours in a bi-weekly payroll period. (Amended, Bill No. 1995-10, Sec. 11)

Subd. 22. "Part-time regular employee" means an employee scheduled to work at least forty and less than eighty hours per bi-weekly pay period, on a regularly scheduled basis throughout the year. Part-time regular employees have no specified end of employment date and are eligible for selected prorated city benefits, including vacation leave, personal leave and holiday leave. (Amended, Bill No. 1995-10, Sec. 12)

Subd. 23. "Pay plan" or "compensation plan" means a schedule of pay grades in bi-weekly rates for all position classes within the city service. (Amended, Bill No. 1995-10, Sec. 13)

Subd. 24. "Position" means a group of duties and responsibilities assigned or delegated by competent authority and requiring the employment of one person. (Amended, Bill No. 1995-10, Sec. 16)

Subd. 25. "Probationary employee" means an employee who has not completed a designated probationary period for the currently occupied position, whether it is an original appointment or one obtained by promotion or transfer. During the probationary period an employee may be separated from that position without appeal. (Amended, Bill No. 1995-10, Sec. 17)

Subd. 26. "Probationary period" means a trial period, obtained by original appointment, by promotion, or by transfer, which is considered as an integral part of the selection process, during which an employee is required to demonstrate fitness for the position prior to receiving a regular appointment. (Amended, Bill No. 1995-10, Sec. 18)

Subd. 27. "Project employee" means a full-time or part-time employee whose duties are directly related to the operation of a specific program or project and whose compensation is specifically allocated for such program or project from designated funds. The term of initial appointment may be for a period of up to one year and may be extended annually thereafter. With respect to group insurance, holidays, vacation leave and personal leave/short-term disability benefits only, such employees shall be treated as regular employees working a similar number of hours. (Amended, Bill No. 1995-10, Sec. 19; Bill No. 1999-10, Sec. 1)

Subd. 28. "Promotion" means movement of an employee from a position in one class to a position in another class having a higher maximum salary rate. (Amended, Bill No. 1995-10, Sec. 20)

Subd. 29. "Provisional appointment" means an appointment made for a limited period of time in a class for which examinations are ordinarily given and for which appropriate employment lists are not currently available. (Amended, Bill No. 1995-10, Sec. 21)

Subd. 30. "Reallocation" means a reassignment or change in allocation of a position by raising it to a higher class, reducing it to a lower class, or moving it to another class at the same level, on the basis of significant changes in the nature, difficulty, or responsibility of the work performed in such position. (Amended, Bill No. 1995-10, Sec. 22)

Subd. 31. "Regular employee" means a full-time employee or a part-time employee who works a minimum of forty hours per bi-weekly payroll period on a regular basis throughout the year and who has completed a designated probationary period. The term "regular" shall not be used to define duration of employment with the city, nor is it meant to convey to the employee any rights or implication of tenured employment. (Amended, Bill No. 1995-10, Sec. 14)

Subd. 32. "Reinstatement" means the reappointment without utilization of a probationary period for a former employee who resigned in good standing from the city service.

Subd. 33. "Restoration" means the return of a promoted probationary employee to the employee's former position either during or at the completion of the employee's promotional probationary period. (Amended, Bill No. 1995-10, Sec. 23)

Subd. 34. "Salary range" means the minimum and maximum pay assigned to a position. Progression through the salary range of a position is based upon length of service and satisfactory performance of the duties and responsibilities of the position.

Subd. 35. "Seasonal employee" means either a full-time or a part-time employee who works for a period not to exceed ten months during any consecutive twelve-month period. Seasonal employees have a definite end of employment date insofar as the duration of employment is determined by the end of a specific program or season. Seasonal employees are not eligible for city benefits.

Subd. 36. "Shift employee" means an employee who occupies a regular full-time position which requires work on a regular schedule at any period during the 24 hours of a day and on any day during the week. (Amended, Bill No. 1995-10, Sec. 24)

Subd. 37. "Supervisor" means an individual whose position includes a significant amount of time spent directing the work of other employees.

Subd. 38. "Suspension" means the temporary removal with or without pay of an employee from a designated position.

Subd. 39. "Temporary employee" means either a full-time or a part-time employee who has been appointed to a position having a definite end of employment date.

Subd. 40. "Termination" means a complete separation from municipal employment resulting from discharge, resignation, retirement or death.

Subd. 41. "Transfer" means the horizontal movement of an employee from one city position to another within the same pay grade, but not necessarily the same class.

Subd. 42. "Work group" means two or more employees assigned to a division within the city service who normally share common work sites, duties, responsibilities and supervision on an ongoing basis.

310.05. Position classification plan. Subdivision 1. Establishment of plan. The manager shall establish and maintain a position classification plan consisting of class titles and class specifications.

Subd. 2. Administration. The classification plan shall be administered and maintained by the manager. Employees shall be allocated or reallocated by the manager to classes which best describe their duties on the basis of criteria established in the class specifications.

Subd. 3. Filing of classification plan. The manager shall file a current copy of the classification plan with the city clerk.

310.07. Selection policies. Subdivision 1. Selection. The basic recruitment and selection policies of the city are to take whatever measures as are necessary to seek out and to encourage properly qualified individuals to apply for positions at all levels of the city service.

Subd. 2. Examination methods. In making a selection from among candidates to fill city vacancies, the manager shall use selection processes relating to those matters which fairly test the capacity and fitness of the candidate to discharge effectively the duties and responsibilities of the position for which the selection processes are held.

Subd. 3. Vacancies. Application to compete for a position vacancy must be filed in the manner prescribed by the city manager. Vacancies for regular positions will be posted for at least five working days. For the positions of Community Service Officer (CSO) and Dispatcher, the City Manager may prescribe a process which provides for the establishment of a hiring list that would extend for a period of no longer than twelve (12) months from the date of the recruitment process. (Amended, Bill No. 1995-10, Sec. 25; Bill No. 2008-20)

Subd. 4. Eligibility to compete. The manager shall determine the appropriate selection process to use for each position vacancy, whether it be open competitive or promotional in nature. Open competitive processes are open to all applicants who meet the job-related criteria determined to be predictive of success in discharging the duties and responsibilities of the vacant position. Promotional selection processes are open to current city employees who meet the job-related selection criteria described in the job announcement.

Subd. 5. Background investigations. A final applicant for a city position will be subject to a criminal history investigation. The Richfield Public Safety Department is authorized to conduct a criminal history background investigation on applicants who are finalists for city employment, all volunteers who work in conjunction with children and/or vulnerable adults and independent contractors. Before the investigation is undertaken the finalist, volunteer or contractor must give authorization to the Public Safety Department in writing to undertake the investigation and to release the information to the Human Resources Manager and other appropriate city staff. Upon the request of the manager or designee, the Public Safety Department must obtain and provide additional background information about certain employment, volunteer or independent contractor candidates, such as: (Amended, Bill No. 2000-10)

(a) status and history of drivers' licenses for candidates who may be responsible for operating city vehicles or receiving city reimbursement for operating their own vehicles,

(b) background check and criminal history check through fingerprints to determine whether a candidate who may have substantial contact with juveniles is the subject of any reported conviction of Child Protection Background Check Act crimes,

(c) thorough background screening, investigation, state and national arrest and fugitive record checks, and state and national III record checks by fingerprints from candidates who would have access to operate, program, effectuate access to a National Crime Information Center (NCIC) terminal or initiate transmission of NCIC information. (Added, Bill No. 1995-10, Sec. 26; Amended, Bill No. 2000-10)

Subd. 6. Disqualification of applicant due to background investigation. No person shall be disqualified from employment with the city solely or in part because of prior conviction of a crime or crimes – unless the crime or crimes for which convicted directly relate to the position of employment sought. In determining if a conviction directly related to the position of public employment sought, the hiring authority shall consider the requirements of Minnesota Statutes Chapter 364. Should the City reject the finalist's request for employment due, partially or solely, to the applicant's prior conviction of a crime, the Human Resources Manager shall notify the finalist in writing of the following:

(a) the grounds and reasons for the denial;

(b) the applicable complaint and grievance procedure set forth in Minnesota Statutes Section 364.06;

- (c) the earliest date the applicant may reapply for employment, and;
  - (d) that all competent evidence of rehabilitation will be considered upon reapplication.
- (Added, Bill No. 2000-10)

310.09. Appointments. Subdivision 1. General. Appointments to the municipal service shall be made by the manager. Appointments shall be made on the basis of merit and fitness for the position. Department heads shall be appointed by the city manager, subject to council approval in accordance with section 6.02, subsection 3 of the charter: other appointments to positions in the municipal service shall be made by the city manager after receiving the recommendation of the appropriate department head and shall be in accordance with the rules of the joint fire and police civil service commission where applicable.

Subd. 2. Original appointment. An original appointment shall be made by the city manager from among the qualified eligible applicants who indicate a willingness to accept the position.

Subd. 3. Transfer. The manager may transfer any employee from one position to another position in the same class or from a position in one class to a position in another related class in the same salary range.

Subd. 4. Demotion. The manager may demote an employee who becomes physically or mentally incapacitated or for any other reason cannot perform the duties and responsibilities of the currently occupied position, or who wishes to be demoted for other personal reasons. The demotion may be to a position in a lower class if the employee is qualified to perform the duties of such position. (Amended, Bill No. 1995-10, Sec. 27)

Subd. 5. Promotion. Whenever reasonably possible, the manager may fill vacancies in the municipal service by promotion of regular employees. Notice of vacancies shall be posted for at least five days at locations where employees may become aware of promotional opportunities. Where candidates for promotion are equally qualified, the manager shall give consideration to the candidates' length of service. (Amended, Bill No. 1995-10, Sec. 28)

Subd. 6. Provisional appointment. Provisional appointments may be made by the manager only to prevent the stoppage of public business or inconvenience to the public. A provisional appointment shall terminate by (i) action of the manager, (ii) by expiration of the period during which any such appointment is limited by civil service or any other law, or, (iii) by the effective date of a regular appointment to the position.

Subd. 7. Reinstatement. The manager may reinstate any employee who has left city employment in good standing if such action is in the best interests of the municipal service. Upon petition of the reinstated employee the manager may restore to such employee all or any portion of any unused leave benefit accrued during previous employment in the municipal service for which the employee has not been compensated. Reinstatement of employees who have been on military leave is regulated by Minnesota Statutes, section 192.26.

310.11. Residency requirement. Police and fire protection personnel employed by the city shall be required to meet such residency requirements as shall be established by joint police and fire civil service commission. There are no residency requirements for other city employees.

310.13. Appointment and placement of relatives. The city will not employ relatives under any of the following circumstances (for purposes of this subsection a "relative" shall be defined as an employee's mother, father, grandmother, grandfather, sister, brother, son, daughter, spouse, mother-in-law, father-in-law, sister-in-law, brother-in-law, stepmother, stepfather, stepchild, aunt, uncle, niece or nephew): (Amended, Bill No. 2008-9)

1. Where one employee will supervise a relative.
2. Where one employee will be responsible for auditing the work of a relative.
3. Where confidentiality of the city would be compromised.
4. Where a conflict of interest would arise from such employment.

Where as possible violation of these provisions relating to the employment of relative exists, the city manager must consult with the city attorney to determine whether the implementation of this policy is consistent with applicable federal and state laws and regulations. (Amended, Bill No. 1996-24; Bill No. 2000-17)

310.15. Probationary periods. Subdivision 1. General rule. All original, promotional and transfer appointments in the municipal service shall be subject to the serving of a probationary period. The probationary period shall be regarded as an integral part of the examination process and shall be utilized for observing the employee's work, for assisting in the adjustment of the employee to the position and for rejecting any employee whose performance does not meet the required performance standards. (Amended, Bill No. 1995-10, Sec. 29)

Subd. 2. Length of probationary period. Employees shall be subject to a probationary period of one year, except as otherwise established by collective bargaining agreements or seasonal employees whose probationary period shall be concurrent with their first full seasonal appointment. The probationary period may be extended once with the approval of the manager for a period not to exceed an additional six months, provided the extension is not in conflict with provisions of applicable civil service rules and regulations or collective bargaining agreements. (Amended Bill No. 1987-29)

Subd. 3. Removal of probationary employees. A probationary employee may be removed by the city manager at any time during the probationary period after receiving the recommendation of the department head. A probationary employee who has been removed shall be notified of the reasons for the action and the decision of the manager is final.

Subd. 4. Status during promotional and transfer probationary period. During a promotional or transfer probationary period, a promoted or transferred probationary employee shall retain status as a regular employee and may be restored to the employee's former or a similar position if performance is unsatisfactory in the new position or the employee requests to be restored to a former or a similar position and such vacancy exists. This may be done either during or at the completion of the promotional or transfer probationary period. After a regular appointment is received in a new position, the promoted or transferred employee loses all rights to the former position. If an employee is restored to a former or a similar position because of unsatisfactory performance, the employee shall be provided with the reasons for the action and shall have the right to appeal in accordance with section 310.47. (Amended, Bill No. 1995-10, Sec. 30)

Subd. 5. Conditions of regular appointment. An originally appointed, promoted or transferred employee will receive a regular appointment to a new position upon the successful completion of the probationary period, the favorable written recommendation of the department head, and the approval of the manager. (Amended, Bill No. 1995-10, Sec. 31)

310.17. Compensation Plan. Subdivision 1. Establishment of plan. The classification plan shall contain a compensation plan for all classes of positions in the classification plan. The compensation plan shall be established and amended from time to time by city council resolution upon recommendations from the manager. The compensation plan resolution shall contain the pay grades, the number of steps or range of each pay grade, the compensation rates in each pay grade, the method of normal progression through the pay grade, and may include a management pay plan and a general services pay plan. In making such recommendations the manager shall given consideration to the following factors:

- (a) maintenance of equitable relationship between classes, based on relative duties and responsibilities;
- (b) the general level of rates in the appropriate labor markets for comparable work under similar conditions; and
- (c) current recruitment and retention experience.

Subd. 2. Total compensation. The rates of pay in the pay plan are for full-time employment and represent the total salary compensation in every form except as otherwise provided in this section. The pay rate in the basic schedule of salary grades does not include allowances for authorized travel or other expenses incurred in city business or allowances made to employees for the official use of personally-owned automobiles.

Subd. 3. Special fees. Total compensation and other authorized pay increments are in lieu of any special fees or form of compensation which an employee or officer may receive or be authorized by law to collect. Such fees or other compensation shall be paid to the city in full. A city officer or employee who fails to pay over to the city any such fees or other compensation as described herein is guilty of a misdemeanor.

Subd. 4. Deductions. The city shall make deductions from employees' pay as required by law. In addition, any employee may designate additional pay deductions for any purposes authorized by the city. (Amended, Bill No. 1995-10, Sec. 32)

Subd. 5. Compensation period. Employees in the municipal service are paid bi-weekly. If pay day falls on a holiday, the pay day will be on the preceding work day. Pay checks may not be issued other than on regular pay days.

Subd. 6. Part-time employment. An employee who works a fixed proportion of the established work week shall be paid the hourly equivalent of the bi-weekly rate for each hour worked (1/80th in the case of a forty hour week).

310.19. Compensation plan. Subdivision 1. Administration. The manager shall administer the compensation plan according to the provisions of subsections 310.19 to 310.37.

Subd. 2. Beginning salary rate. The beginning rate for a new employee normally will be the minimum rate in the established grade for the classification. In unusual situations, a pay rate above the minimum may be authorized to meet difficult recruiting problems, to obtain an employee with markedly superior qualifications, to correct salary inequities, to give credit for prior service, or to recognize outstanding performance.

Subd. 3. Method for within range salary increases. After appointment or promotion an employee shall be eligible for advancement through the respective pay grade based on the method of normal progression through the pay grade, as specified in the pay plan resolution. Temporary and part-time employees may accumulate time toward regular pay increase eligibility, provided that in any case of interim separation not more than six months shall have lapsed.

Subd. 4. Requirements for pay increases. For an employee to become eligible for an increase in pay, the department head shall file a written statement with the manager at least twenty days prior to the increase date stating an opinion as to the manner in which the employee has performed assigned duties since the original appointment or last increase in pay and a recommendation as to whether the employee should be granted or denied an increase in pay. If the employee's work has been properly and diligently performed, has been satisfactory in light of the length of service in the position and has shown the improvement normally to be expected with increasing periods of service and other factors considered relevant to employment, the department head shall recommend that the employee be granted the next regular increase in pay. If, in the judgment of the department head, the employee's work has been below the standards that are expected, the department head shall recommend that no increase be granted. The manager shall authorize or deny pay increases for municipal employees as recommended by department heads, unless in the manager's opinion and based on supporting information, the recommendation is unsound. In those cases where a department head recommends that an employee be denied an increase in pay, the department head shall notify the employee in writing of the recommended action, including the reasons therefor, at the same time the manager is notified. (Amended, Bill No. 1995-10, Sec. 33)

Subd. 5. Date for salary increase. Scheduled pay increases shall be made effective at the beginning of the pay period during which the required qualifying service and compliance with the other conditions of eligibility set forth in this subsection are completed.

Subd. 6. Merit pay adjustments. The manager may grant a merit pay increase in unusual situations and upon written recommendation of a department head that an employee has performed exceptionally outstanding service.

Subd. 7. Demotion pay. Upon demotion, an employee normally shall receive a one-step decrease in pay. The manager shall determine the amount of pay decrease, if any, upon demotion of an employee.

Subd. 8. Transfer pay. When an employee is transferred to a position in another class, which class is assigned to the same pay grade as the employee's former class, the employee shall be entitled to the corresponding step in the grade of the class in which the employee is transferred.

Subd. 9. Promotion pay. Upon promotion, an employee normally shall be placed in the first step on the new pay grade. In situations involving the management pay plans or in the event the manager determines that the employee's current rate of pay or other compensation makes such placement disadvantageous to the promoted employee, the manager may determine a rate of pay within the appropriate pay grade.

Subd. 10. Reclassification pay. Upon reclassification to a class having a higher pay grade, an employee normally shall receive a one-step pay increase. However, the manager may determine appropriate salary increases in all situations.

Subd. 11. Change of class in pay grade. Upon the movement of a class to a higher pay grade, all employees in the class at the time of the change shall be placed in the same step in the new grade as they occupied in the former grade. Upon the movement of a class to a lower pay grade, the employees in the class at the time of the change will not be reduced in pay unless such action is specifically called for by the resolution moving the class to a lower pay grade.

Subd. 12. Special compensation provisions. The manager may make an appropriate salary adjustment for employees who assume the duties and responsibilities of an additional position in the municipal service for an extended period of time.

Subd. 13. Reporting pay. A regular employee who reports for work at a regularly scheduled time on a regular work day and is sent home by a supervisor because the work cannot be performed shall receive a minimum of two hours pay. (Amended, Bill No. 1995-10, Sec. 34)

Subd. 14. Recall pay. A regular employee who is recalled to work after the completion of a regular work day by a supervisor shall receive a minimum of two hours pay for each call. (Amended, Bill No. 1995-10, Sec. 35)

Subd. 15. Training pay. Employees, non-exempt from the provisions of the Fair Labor Standards Act, who are required to participate in authorized training programs which take place outside their regular work schedule, shall be paid overtime for all hours worked, to include training time, over forty hours per work period, or may agree to the use of compensatory time in lieu of paid overtime.

Subd. 16. Longevity pay. (a) Regular full-time employees hired before October 1, 1991 who have performed satisfactory continuous service for the required number of years shall be eligible to begin accruing longevity pay at the beginning of the payroll period in which the required number of years has been completed. Eligible employees shall receive a longevity payment of 1% based on current biweekly base salary upon completion of five years of full-time service and 2% based on current biweekly base salary upon completion of ten years of full-time service. Longevity increments shall be paid in addition to regular compensation and may be incorporated with regular pay checks. (Revised, Bill No. 1991-10; Amended, Bill No. 1995-10, Sec. 36)

(b) Continuous service. Continuous service shall be terminated by resignation, dismissal or retirement. If an employee so terminated receives a subsequent reappointment, he shall not be given longevity pay for service prior to the termination. Continuous service shall not be considered broken if an employee (i) is on military leave or absence and returns to city employment in accordance with federal and state law, or (ii) is on authorized leave of absence or on a temporary suspension without pay. No credit shall be allowed for time toward the accumulations of a five-year period by employees suspended or on leave without pay for over thirty consecutive calendar days except when leave without pay results from an on the job injury, and additional time equal to the loss of service must be served to qualify for longevity.

310.21. Overtime pay and compensatory time off. Subdivision 1. Overtime. Overtime is all time ordered and worked (in units of 15 minutes or more) by employees who are non-exempt from the provisions of the Fair Labor Standards Act, which is in excess of 40 hours per work period. Authorized overtime for eligible employees shall be compensated at the rate of one and one-half times the employee's regular rate of pay, or in compensatory time, in lieu of paid overtime, at the rate of one and one-half hours for each hour of overtime ordered and worked. The city manager shall adopt policies regarding overtime and the limits, accrual and use of compensatory time to the extent permitted by law.

Subd. 2. Exempt employees. Employees classified as exempt under the provisions of the Fair Labor Standards Act shall not receive overtime compensation either in the form of pay or time off, as provided for herein for nonexempt employees. The city manager may, however, grant reasonable periods of time off to exempt employees when the city manager determines that such time off is warranted. (Amended, Bill No. 1995-10, Sec. 37)

Subd. 3. Administration of overtime compensation. (a) All compensable overtime must be performed at the direction of the department head. Overtime credit may be accrued for no other purpose. Overtime assignments will be made in such a way that the functions of the municipal service will be most effective.

(b) Employees requesting to use accrued compensatory time shall be permitted to use such time off within a reasonable period after making the request, if such use does not unduly disrupt the operations of the employee's department. Use of compensatory time shall be approved in advance by the department head.

Subd. 4. Special provisions. Where this section does not specifically prescribe an overtime policy for certain groups of employees, the manager may authorize either overtime pay or compensatory time off in cases which in the judgment of the manager such payment or time off is warranted.

310.23. Group insurance provisions. Subdivision 1. Eligibility. Group insurance for the purposes authorized in Minnesota Statutes, section 471.61 and under conditions therein set forth may be provided to regular full-time and regular probationary full-time employees of the city by resolution of the city council. (Amended, Bill No. 1995-10, Sec. 38)

Subd. 2. Coverage. Effective dates for commencement and discontinuance of group insurance coverage for eligible employees shall be in accordance with the respective group insurance plan specifications. The city shall notify an employee upon termination of eligibility to continue group insurance coverage in accordance with Minnesota Statutes, section 62A.17. (Amended, Bill No. 1995-10, Sec. 39)

Subd. 3. Administration. The manager is authorized to negotiate, approve, execute and renew group insurance contracts in the forms and for the purposes authorized in Minnesota Statutes, section 471.61. The city council may by resolution set the amount of city participation in the payment of any premiums authorized by law for such contracts.

Subd. 4. Coverage on leave of absence without pay. An employee may elect to continue group insurance coverage while on leave of absence without pay. However, during this period the city's contribution to such coverage shall cease.

310.25. Employee training. Subdivision 1. Responsibility for training. Each department and division head shall provide on the job orientation and training and be responsible for the continuing development of each employee in the department or division. The human resources manager shall assist department and division heads in carrying out these responsibilities and in meeting any special training needs. (Amended, Bill No. 1995-10, Sec. 40)

Subd. 2. Time for training. Training to improve the quality of an employee's work in the employee's present position may be considered city business and may be conducted before or after working hours. Training to prepare the employee for promotion shall be on the employee's own time unless, because of shortage of staffing or other circumstances, it is in the city's interest to use work time. (Amended, Bill No. 1995-10, Sec. 41)

310.27. Performance evaluation. The manager shall provide a formal performance evaluation for all city employees and shall determine the specific method and appropriate timing of such evaluations. The department heads shall be responsible to ensure that such evaluations are consistently performed according to policy established by the manager for all employees within their respective departments.

310.29 Attendance and leaves. Subdivision 1. Work period. Except where otherwise specified, the regular work period for city employees shall be forty hours. The normal work day shall be eight hours; however, various departments and divisions may establish a different work day with the approval of the city manager.

Subd. 2. Period of work week. Inasmuch as certain departments must regularly operate seven days per week, employees of these departments may be required to work during any day of the week on a regular schedule.

Subd. 3. Rest periods. City employees, when working under conditions where the use of a rest break period is practicable, shall be granted a 15 minute break period on two separate occasions during each work shift.

Subd. 4. Lunch periods. City employees whose work day exceeds five consecutive hours shall be granted 30 minutes without pay for a lunch period. Scheduling lunch periods shall be at the discretion of the employer. (Amended, Bill No. 1995-10, Sec. 42)

Subd. 5. Administration. The specific arrangement and adjustment of the hours of the work week shall be the function of the department head and manager. Unless otherwise designated by the manager, rest and lunch periods shall not be scheduled to change the normally scheduled hours of work. (Amended, Bill No. 1995-10, Sec. 43)

310.31. Holidays. Subdivision 1. Granted. Eligible full-time employees will be granted eight hours of paid holiday leave for each of the following holidays observed by the city: New Year's Day on January 1; Martin Luther King's birthday on the third Monday of January; Washington's and Lincoln's birthdays on the third Monday in February; Memorial Day on the last Monday in May; Independence Day on July 4; Labor Day on the first Monday in September; Veteran's Day on November 11; Thanksgiving Day on the fourth Thursday of November; the Friday after Thanksgiving; Christmas Day; and two holidays, each of which the city manager annually may designate as a specified date or as a floating holiday. (Amended, Bill 2003-3)

Subd. 2. Eligibility for paid holidays. Regular employees and full-time probationary employees are eligible for the paid holidays listed above. Employees must be on pay status the work day immediately preceding and the work day immediately following a holiday to be eligible for such holiday. Employees who are required to be on duty and are unable to observe a holiday will be permitted to take their allowed number of holiday hours of leave with pay within twelve months of the holiday worked. (Amended, Bill No. 1995-10, Sec. 44; Amended, Bill No. 2000-12)

Subd. 3. Administration of holiday leave and floating holidays. In instances where holiday leave is taken at a time other than an observed holiday, such leave must be approved by the department head and shall not be charged in amounts of less than four hours.

Subd. 4. Holidays falling on week ends. Eligible holidays which fall on Saturday will be observed on the preceding Friday; eligible holidays which fall on Sunday will be observed on the following Monday.

Subd. 5. Holidays occurring during leaves of absence. When a holiday comes during an authorized leave of absence for which an employee receives compensation, the holiday will be counted, but not as part of the leave of absence.

Subd. 6. Holidays for specialized pay plan employees. Employees engaged in seasonal and intermittent work who are unable to observe the following holidays will be compensated at time and one half (1 ½ of the employee's regular base rate of pay. Eligible holidays: New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day and Christmas Day. (Amended, Bill No. 1990-14; Amended, Bill No. 1995-10, Sec. 45; Amended, Bill No. 2000-12)

Subd. 7. Regular part-time employees. Holiday leave shall be accrued by regular part-time employees at the rate prescribed for regular employees but prorated to the hours worked per week by the regular part-time employees. (Amended, Bill No. 1995-10, Sec. 46)

310.33. Vacation leave. Subdivision 1. Eligibility. Regular employees and full-time probationary employees shall be eligible for vacation leave upon accrual. (Amended, Bill No. 1995-10; Bill No. 2007-17)

Subd. 2. Full-time employees. Full-time regular and full-time probationary employees shall accrue vacation leave according to the following schedule effective on the first full pay period of September 2005: (Amended, Bill No. 1995-10; Bill No. 2005-10)

(a) from the beginning of continuous employment through the fifth year of continuous employment, each employee shall earn vacation at the rate of 3.70 hours per bi-weekly pay period (12 days per year);

(b) from the beginning of the sixth year and through the tenth year of continuous employment, each employee shall earn vacation at the rate of 4.62 hours per bi-weekly pay period (15 days per year);

(c) from the beginning of the eleventh year and through the fifteenth year of continuous employment, each employee shall earn vacation at the rate of 5.54 hours per bi-weekly pay period (18 days per year);

(d) from the beginning of the sixteenth year and through the nineteenth year of continuous employment, each employee shall earn vacation at the rate of 6.16 hours per bi-weekly pay period (20 days per year); (Amended, Bill No. 1995-10, Sec. 48)

(e) from the beginning of the twentieth year and through the twenty-fifth year of continuous employment, each employee shall earn vacation at the rate of 6.77 hours per biweekly pay period (22 days per year). (Added, Bill No. 1995-10, Sec. 48; Amended, Bill No. 2000-10; Bill No. 2005-10)

(f) from the beginning of the twenty-sixth year and through the twenty-ninth year of continuous employment each employee shall earn vacation at the rate of 7.08 hours per biweekly pay period (23 days per year). (Added, Bill No. 2005-10; Amended, Bill No. 2011-10)

(g) from the beginning of the thirtieth year of continuous employment, throughout the duration of employment, each employee shall earn vacation at the rate of 7.38 hours per biweekly pay period (24 days per year). (Added, Bill No. 2011-10)

Subd. 3. Regular part-time employees. Vacation leave shall be accrued by regular part-time employees for each twelve months of continuous and active city service at the rate prescribed for regular employees in proportion to the hours worked per week as measured against the hours worked per week by a regular full-time employee. A regular part-time employee shall be eligible to accrue a proportional share of vacation leave as scheduled in this subsection, provided, however, that increases in vacation leave accrual rates shall be based on total hours worked and not on years of employment. For purposes of determining increases in vacation accrual rates, 2,080 hours shall equal one year of employment. (Amended, Bill No. 1995-10, Sec. 49)

Subd. 4. Accrual of vacation while on leave. An employee shall continue to accrue vacation while on any other compensated leave.

Subd. 5. Use of vacation. Vacation leave may be used as earned, provided that such leave shall be filed in the manner prescribed by the human resources office and that the department head shall approve the time and duration of the leave to be taken. (Amended, Bill No. 1995-10, Sec. 50)

Subd. 6. Holiday occurring during vacation period. When a holiday occurs during an employee's assigned vacation and the employee is regularly entitled to the holiday, the holiday will not be counted as part of the vacation time.

Subd. 7. Vacation accumulation. Effective September 15, 2005, vacation leave may be accrued to a maximum of 248 hours unless written authorization extending this maximum is obtained from the department head and the city manager. Hours in excess of 248 hours, if not approved, shall be forfeited by the employee. (Amended, Bill No. 2005-10)

Subd. 8. Sell-back of vacation. Effective January 1, 2006, employees may sell-back up to 40 hours of vacation time each year if they have an accumulated bank of vacation leave in excess of 64 hours. Employees eligible to sell-back vacation authorized under this subdivision, may do so only once per calendar year between February 15 and November 15. (Added, Bill No. 2001-1; Amended, Bill No. 2001-16; Bill No. 2005-10)

Subd. 9. Separation vacation pay. Accrued but unused vacation will be paid upon separation from City service. (Amended, Bill No. 2001-1; Bill No. 2006-17)

310.35. Sick leave. Subdivision 1. Eligibility and accrual. Regular employees and full-time probationary employees, except as otherwise provided, are eligible to accrue and use sick leave. (Amended, Bill No. 1995-10, Sec. 51)

Subd. 2. Regular employees. Sick leave shall be accrued for all regular full-time employees and regular full-time probationary employees at the rate of 3.70 hours per biweekly pay period until 960 hours of sick leave have been accumulated and then at the rate of .93 hours per biweekly pay period of service or major fraction thereof with no maximum accumulation. (Amended, Bill No. 1995-10, Sec. 52)

Subd. 3. Regular part-time employees. Sick leave shall be accrued for regular part-time employees at the rate prescribed for regular full-time employees, but such accrual shall be in proportion to the hours worked per week by regular full-time employees. (Amended, Bill No. 1995-10, Sec. 53)

Subd. 4. Sick leave accrual while on leave. An employee shall continue to accrue sick leave while on any other compensated leave.

Subd. 5. Usage. Sick leave shall not be considered as a vested right which an employee may use at the employee's discretion, but shall be considered as a type of insurance which may be granted only for the following reasons: (Amended, Bill No. 1995-10, Sec. 54)

- (a) physical incapacity incurred on or off duty;

(b) personal illness, including medical or dental treatment for the employee or medical or dental treatment for the employee's spouse or children residing within the employee's household;

(c) enforced quarantine of the employee in accordance with community health regulations;

(d) serious illness or injury in the immediate family; immediate family means spouse, parents, children, siblings, grandparents, grandchildren, mother-in-law and father-in-law. Not more than 24 work hours of sick leave is permitted for any single occurrence; the term "occurrence" means all events which are related to any one illness or injury of an eligible family member;

(e) death in the immediate family; leave for this purpose shall be charged against the employee's accrued sick leave where applicable.

Subd. 6. Application procedure. To be eligible for paid sick leave an employee must:

(a) notify the employee's supervisor within one-half hour of the time set for the beginning of the employee's work day;

(b) give the employee's supervisor an anticipated return date and notify the supervisor as soon as possible if that date should change; and (Amended, Bill No. 1995-10, Sec. 55)

(c) submit, if required by the manager, a medical certificate from a licensed physician stating the nature of the illness or injury and whether the employee has been incapacitated for work for the period of absence.

Subd. 7. Sick leave charges. Sick leave is chargeable only when used on regularly scheduled work days or work periods. When a holiday occurs during an employee's sick leave and the employee is regularly entitled to the holiday, the holiday will not be counted as part of sick leave time.

Subd. 8. Penalty. The manager may verify the reported sickness of an employee. Claiming sick leave when physically and mentally fit, except as permitted in this section, is cause for disciplinary action, including suspension, demotion or dismissal.

310.37. Personal leave. Subdivision 1. Eligibility and accrual. A managerial employee, a regular full-time or full-time probationary employee, and a regular part-time or part-time probationary employee, classified and compensated under the management compensation plan or general services pay plan, as those plans have been adopted and may be amended from time to time pursuant to subsection 310.17 of this code, is eligible to accrue and use personal leave. Effective June 19, 2006, an eligible full-time employee shall accrue 3.0 hours of personal leave biweekly and may accumulate such leave from year to year up to a maximum of 204 hours of personal leave, unless written authorization extending this maximum is obtained from the department head and the city manager. Hours in excess of 204 hours shall be forfeited by the employee without compensation. Eligible part-time employees shall accrue personal leave on a proportional basis of the full-time accrual based on hours worked per payroll period and shall be limited to maximum accruals and extensions authorized for full-time employees. (Amended, Bill No. 1995-10, Sec. 56; Bill No. 2000-10; Bill No. 2001-16; Bill No. 2001-19; Bill No. 2006-4)

Subd. 2. Restrictions. Notwithstanding any other provision of this code, an employee eligible for personal leave may not accrue or use sick leave. (Correction, 6-15-90)

Subd. 3. Conversion of sick leave benefit. Each employee who becomes eligible for personal leave and who has accrued sick leave hours shall convert such sick leave hours into personal leave hours in accordance with the formula developed and amended from time to time by the city manager and set out in the city's human resources policy. In the event that an employee ceases to be classified under the management or general services pay plan, but remains an employee of the city, that employee's personal leave shall be converted back to the then applicable sick leave benefit in reverse application of the above-mentioned formula then in effect. (Amended, Bill No. 1995-10, Sec. 57)

Subd. 4. Usage and administration. An employee may use accrued personal leave for any reason, subject to the restrictions stated herein, but shall be required to use accrued personal leave for illness or injury necessitating absence from work, except that personal leave shall not be used if the employee is eligible for short-term disability or long-term disability benefits. Personal leave shall be scheduled and administered under direction of the department heads. In the event of illness or injury necessitating work absence, the employee requesting such leave shall notify the employee's supervisor prior to the scheduled reporting time. Requests for personal leave for reasons other than illness or injury must be submitted to the supervisor a reasonable time in advance of the period of time for which such leave is requested to enable the supervisor to arrange for normal continuance of the department functions, and in such cases, requested personal leave will not be unreasonably refused, but shall be subject to and coordinated with the administrative and managerial needs of the city. Personal leave shall be chargeable only when used on regularly scheduled work days or work periods. When a holiday occurs during an employee's personal leave, and the employee is regularly entitled to time off on the holiday with pay, such time will not be charged against the employee's personal leave. (Amended, Bill No. 1995-10, Sec. 58)

310.39. Other leaves. Subdivision 1 Leaves for jury duty, attendance at conventions and other meetings. An employee who performs jury duty or is subpoenaed as a witness in court is entitled to compensation equal to the difference between the employee's regular pay and the amount received as juror or witness fees. Such time off is considered as time on duty. Attendance at conventions and other meetings and visits to other cities shall be considered as time on duty, provided that such attendance be approved in advance and in writing by the manager.

Subd. 2. Leaves for military service. City officers and employees are entitled to the benefits provided in Minnesota Statutes, sections 192.26 and 192.261. (Amended, Bill No. 1995-10, Sec. 59)

Subd. 3. Maternity leave. Employees may be granted reasonable periods of time off from work for maternity and child care leaves of absence. Maternity leaves for biological or adoptive mothers will be treated as a medical disability leave and governed by ordinance and policies relating to disability leaves. Child care and related leaves will be treated as nonmedical leave and governed by ordinance and policies relating to nonmedical leaves. Policies for acting upon applications for leaves of absence will be established and maintained by the manager.

Subd. 4. Leave of absence without pay. Leaves of absence without pay for periods of up to 90 days may be granted at the discretion of the manager. The manager may extend such leaves to a maximum period of one year in cases of disability or where extraordinary circumstances in the manager's judgment warrant such an extension. Vacation or sick leave benefits do not accrue during a period of leave of absence without pay. (Amended, Bill No. 1995-10, Sec. 60)

Subd. 5. Absence without leave. If any employee shall, without proper authorization, be absent from duty, whether for part or all of a working day or for a longer period, such absence may be grounds for disciplinary action or discharge. Absence without leave for a period of three duty shifts may be considered resignation of employment and separation from municipal service.

Subd. 6. Bereavement leave. Employees eligible for personal leave shall also be eligible for bereavement leave. Eligible employees may be granted up to a maximum of twenty-four hours of bereavement leave for the death of the employee's spouse or registered domestic partner, as well as the following employee's, or the spouse's, or the registered domestic partner's family members; i.e., parents, children, siblings, grandparents, grandchildren, mother-in-law, father-in-law, brother-in-law and sister-in-law, son-in-law and daughter-in-law, stepparents and/or legal guardians, and stepchild/foster child. The City Manager may approve exceptions to this list. (Amended, Bill No. 2002-20; Bill No. 2011-3)

310.41. Penalties and separations. Subdivision 1. Discipline. City employees shall be subject to disciplinary action for failing to fulfill their duties and responsibilities, including lack of observance of work rules, policies and procedures adopted by the city manager. Every disciplinary action shall be for just cause and applied without discrimination. The employee may use the grievance procedure outlined in subsection 310.47 with respect to punishment which the employee believes is either unjust or disproportionate to the offense committed.

Subd. 2. Forms of discipline. Discipline may be in one or more of the forms specified in this subdivision:

(a) oral reprimand. When an employee's performance warrants discipline, the appropriate supervisor shall inform the employee promptly and specifically of the deficiency.

(b) written reprimand. In situations where an oral warning has not resulted in sufficient improvement of the employee deficiency or where more severe initial action is warranted, a written reprimand shall be issued to the employee and a copy placed in the employee's personnel file.

(c) suspension without pay. In those cases where one or more written reprimands have not proven to be effective, or in those cases where the seriousness of the events or conditions warrant it, an employee may be suspended without pay by the city manager, for a period not to exceed forty-five calendar days per occurrence. (Amended, Bill No. 1995-10, Sec. 61)

(d) demotion and dismissal. When other forms of disciplinary action have been proved to be ineffective, or where the seriousness of the offense or condition warrants it, the city manager may demote or dismiss an employee for just cause.

310.43. Terminations. Subdivision 1. Resignation. An employee wishing to leave the municipal service in good standing shall file with the employee's supervisor or department head, at least 14 days before leaving, a written resignation stating the effective date of the resignation and the reason for leaving. Failure to comply with this procedure may be considered cause for denying such employee future employment by the city. Unauthorized absence from work for a period of three or more working days may be considered by a department head as a resignation. (Amended, Bill No. 1995-10; Bill No. 2007-17)

Subd. 2. Lay-off. The manager may lay off any employee whenever such action is necessary because of shortage of work or funds, the abolition of a position, or changes in organization; provided, however, that two weeks advance written notice shall be given to the employee. Length of service in the same position class may be given consideration by the manager.

Subd. 3. Termination of project employees. The employment of a project employee shall terminate upon the earlier of (i) the conclusion of the project for which such employee was hired, or (ii) the exhaustion of the fund or portion thereof designated as the source of the project employee's compensation. Project employees may also be terminated at any time in accordance with subsections 310.41 through 310.45. (Amended, Bill No. 1987-12)

310.45. Retirement age. Subdivision 1. General rule. The retirement age for employees except elected officials but including the manager, city attorney and health officer, shall be as provided in the Age Discrimination and Employment Act of 1967, as amended, and subject to all applicable exceptions contained therein. (Amended, Bill No. 1991-8)

Subd. 2. Occupational qualifications. Where the employee's age is a bona fide occupational qualification reasonably necessary to the City's normal operation, a mandatory retirement age may be imposed. (Amended, Bill No. 1991-8)

Subd. 3. Verification. The city may require verification of the age of any employee, and failure of the employee to provide such verification shall permit the city to determine that such employee has reached the age of mandatory retirement. Failure to provide verification in the form requested shall be grounds for dismissal.

Subd. 4. Time of retirement. Employees will retire at the end of the month in which they reach retirement age.

Subd. 5. Service after retirement. The provisions of this subsection do not prevent a former employee of the city from being engaged as a full-time or part-time consultant of the city on specific projects after retirement.

Subd. 6. (Repealed, Bill No. 1991-8)

310.47. Appeals and hearings. Subdivision 1. Procedure. An employee who has a grievance may follow the grievance procedure described in this subsection. All grievances must be filed within twenty-one calendar days after the occurrence of the grievance is deemed to exist. The employee must submit a grievance in the following sequence: (i) to the division head or other supervisor above the division head, if any; (ii) to the department head; and (iii) to the manager. (Amended, Bill No. 1995-10, Sec. 63)

Subd. 2. Form of appeal. An appeal to a division head or other supervisor above the division head, if any, may be either oral or in writing. It shall be in writing if either party so demands. A grievance presented in writing shall be answered in writing. (Amended, Bill No. 1995-10, Sec. 64)

Subd. 3. Employee representation. Employees are entitled to representation of their own choosing in appealing any grievance. Employees shall be entitled to one representative at the first step in the grievance procedure and any reasonable number of representatives thereafter. When necessary in investigating and settling a grievance, employees and their representatives shall be released from work without loss of pay for a reasonable amount of time, providing department heads or supervisors are given sufficient advance notice to adjust work schedules.

Subd. 4. Decision time limits for appeals. The decision in an appeal shall be made as follows (except that failure to receive a decision shall entitle the employee to appeal at the next step):

(a) First step. The division head or other supervisor above the division head, if any, shall render a written decision giving the reasons for the decision within seven calendar days after receipt of the grievance. (Amended, Bill No. 1995-10, Sec. 65)

(b) Second step. If the grievance is not settled in step 1 and the employee desires to appeal, the grievance shall be presented in writing to the department head within seven calendar days after the division head's answer in the first step. The department head shall render a written decision giving the reasons for the decision within ten calendar days after receipt of the grievance.

(c) Third step. If the grievance is not settled in step 2 and the employee desires to appeal, the grievance shall be presented in writing to the city manager within seven calendar days after the department head's answer in the second step. The city manager shall render a written decision giving reasons for the decision within fifteen calendar days after receipt of the grievance.

(d) Waiver. If a grievance is not presented within the time limits set forth above, it shall be considered "waived." If a grievance is not appealed to the next step within the specified time limit, it shall be considered settled on the basis of the employer's last answer. If the employer does not answer a grievance or an appeal thereof within the specified time limits, the employee may elect to treat the grievance as denied at the step and immediately appeal the grievance to the next step. The time limits in each step may be extended by mutual written agreement.

Subd. 5. Labor contracts. An employee who is a member of an appropriate bargaining unit as provided by Minnesota Statutes, chapter 179A, may not follow the grievance procedure set forth herein. Instead, the employee may process the grievance according to the grievance procedure established in the employee's respective labor contract. (Amended, Bill No. 1995-10, Sec. 66)

310.49. Incompatible activities. Subdivision 1. Prohibition. An employee shall not engage in any employment, activity or enterprise which is inconsistent, incompatible or in conflict with the employee's duties as a city employee, or with the duties, functions and responsibilities of the department in which employed.

Subd. 2. Type of incompatible activities. The following activities shall be considered inconsistent, incompatible or in conflict with city employment. Any employment activity or enterprise which; (Amended, Bill No. 1995-10, Sec. 67)

(a) involves the use for private gain or advantage of the city's time, facilities, equipment or supplies, prestige or influence of a city office or employment;

(b) involves the receipt or acceptance by the officer or employee of any money or other consideration from anyone other than the city from the performance of an act which the officer or employee would be required or expected to render in the regular course of city employment or as part of the employee's duties as a city officer or employee; (Amended, Bill No. 1995-10, Sec. 67)

(c) involves the performance of an act in other than one's capacity as a city officer or employee which may later be subject, directly or indirectly, to the control, inspection, review, audit or endorsement by such officer or employee or the employing department; (Amended, Bill No. 1995-10, Sec. 67)

(d) involves so much of the employee's time that it impairs the attendance or efficiency in the performance of the employee's duties as a city officer or employee; or (Amended, Bill No. 1995-10, Sec. 67)

(e) involves conduct that undermines the public's confidence in the city and adversely affects employees' morale. (Added, Bill No. 1995-10, Sec. 67)

The manager shall make a final determination, when necessary, as to whether a specific activity is incompatible.

310.51. Political activity. Subdivision 1. Participation. Employees may participate in political activities to the extent permitted by Minnesota Statutes, section 210A.081, subdivision 1.

Subd. 2. (Amended Bill No. 2007-17)

310.53. Outside employment. Employees may not engage in outside employment which might in any way hinder their objective and impartial performance of their public duties, embarrass the city government, or impair their efficiency on the job. Employees who wish to obtain outside employment must obtain prior written approval from their department head and the city manager on the appropriate forms and in the prescribed manner. Employees who are granted permission to engage in outside employment must sign the following waiver:

"The undersigned, an employee of the city of Richfield, Minnesota, does hereby waive and release said city from any liability, expense or costs because of any injury or sickness incurred by reason of any employment accepted by the undersigned other than as an employee of said city. I further release the city from any claim for wages or other benefits during any absence caused by any such injury or sickness. This waiver shall be binding upon my heirs, representatives or assigns."

310.55. Police officers and fire fighters: PERA membership. Subdivision 1. Recitals. It is recognized that the unfunded accrued liabilities of the Richfield fire department relief association had increased to approximately \$2,334,000 in January of 1979; that the unfunded accrued liabilities of the Richfield police relief association had increased from approximately \$458,000 in January of 1965 to \$1,818,000 in January of 1979; that the existence and increasing amount of these unfunded accrued liabilities gives rise to an intense concern about the financial condition of the associations, the security for expected benefits to employees and the obligations being incurred by the taxpayers of the city in undertaking to fund the liabilities of the funds of the association; that the city desires to promote the financial soundness of the funds of each of these associations and to take measures to provide that the fire fighters and police officers of the city participate in pension plans which are fiscally sound and responsible; that the public employees police and fire fund of the Minnesota public employees retirement association provides benefits to police officers and fire fighters which have been determined by the legislature of the state of Minnesota to be appropriate; that it is the policy of the pension laws of the state of Minnesota to provide for the inclusion of police officers and fire fighters in the public employees police and fire fund in preference to other pension plans; and that it is in furtherance of the best interest of the city's employees and of the general welfare of the city to include such employees of the city, hereafter employed, in the public employees police and fire fund.

Subd. 2. Membership of certain police officers in public employees police and fire fund. Persons who are first employed by the city on or after April 1, 1981 and who, in the absence of the Richfield police relief association would be eligible for membership in the public employees police and fire fund of the Minnesota public employees retirement association, shall be members of such public employees police and fire fund and shall not be members of the Richfield police relief association.

Subd. 3. Membership of certain fire fighters in the public employees police and fire fund. Persons who are first employed by the city on or after April 1, 1981 and who, in the absence of the Richfield fire department relief association would be eligible for membership in the public employees police and fire fund of the Minnesota public employees retirement association, shall be members of such public employees police and fire fund and shall not be members of the Richfield fire department relief association.

Subd. 4. City's obligations. The city shall fully discharge its obligations in behalf of those persons who became members of the Richfield fire department relief association and the Richfield police relief association prior to April 1, 1981, and shall also fully discharge its obligations in behalf of those persons who become members of the public employees police and fire fund.

Section 315 - Miscellaneous administrative regulations

315.01. Disposition of unclaimed property in possession of the city. Subdivision 1. Purpose and statutory authority. The purpose of this subsection is to provide for the custody and disposal of property coming into the possession of the city in the course of municipal operations and remaining unclaimed by the owner. This subsection is adopted pursuant to Minnesota Statutes, section 471.195.

Subd. 2. Method of disposition. If property has come into the possession of the city and has remained unclaimed by the owner thereof for a period of 60 days or more, the city may dispose of such property by sale at auction or other sale. If the property is a legal firearm, sale may only be to a licensed firearms dealer or destroyed in accordance with state law. In all other cases the sale may be to the public. The auction or sale shall be conducted under the direction of the city manager, following published notice in the official newspaper at least 10 days in advance of such sale. Unclaimed properties shall be sold to the highest qualified bidder. (Amended, Bill No. 1995-8)

Subd. 3. Property having insubstantial value. Property having no substantial value need not be sold at public auction or sale but may be discarded or given away. A list of any such item shall be retained in the files of the city for at least six years after such disposition of such property.

Subd. 4. Limitation on application. This subsection does not apply to motor vehicles or to personal property that the city acquires through civil or criminal forfeiture proceedings. Disposition of an abandoned, junk or impounded motor vehicle is governed by Minnesota Statutes, section 168B. Disposition of motor vehicles and other personal property that the city has acquired through forfeiture proceedings is governed by subsection 315.02 of this code. (Amended, Bill No. 2001-7)

Subd. 5. Items which may be destroyed. Items of personal property having nuisance potential, such as illegal firearms, dangerous weapons, liquor and narcotics may be destroyed upon order of the city manager. A list of items so destroyed shall be maintained for a period of at least six years following such destruction.

Subd. 6. Disposition of proceeds. The proceeds of the sale shall be placed in the general fund of the city, subject to the right of the former owner to payment of the sale price from the city upon application and satisfactory proof of ownership within six months after the sale.

Subd. 7. Lost property. The provisions of subdivisions 1 through 6 of this subsection do not apply to any item which is surrendered to the city as lost property. Any such item shall be retained by the city for a period of 60 days and shall be returned to its owner upon proper request at any time during that period. If, at the time of surrender, the finder makes a proper request to claim the property, it shall be returned to the finder upon the expiration of the retention period. The city council may require as a precondition a person pay all costs reasonably incurred by the city in connection with its efforts to identify and locate the owner. After 60 days any item which has not been returned to its owner or claimed by the finder shall become the property of the city and may be disposed of as provided in subdivisions 2 or 3 of this subsection. No owner or finder shall have a claim against the city for disposition of lost property if a good faith effort has been made to comply with this subdivision. The provisions of this subdivision shall not apply to stolen property, keys, firearms, dangerous weapons, illegal items, liquor or narcotics. (Amended, Bill No. 1995-8)

315.02. Disposition of forfeited property. Subdivision 1. The purpose of this subsection is to provide for the disposal of forfeited property. For purposes of this subsection, the term “forfeited property” means any personal property acquired by the city pursuant to civil or criminal forfeiture proceedings under state law.

Subd. 2. Method of disposition. When the sale of forfeited property is permitted under applicable law, the city manager will determine what forfeited property is to be sold and the method of sale. The available methods of sale are:

(a) Sale by quotation. If the sale is made upon quotation it must be based, so far as practicable, on at least two quotations which shall be kept on file for a period of at least one year after their receipt. Sale by quotation may not be used for forfeited property, the estimated value of which exceeds \$50,000.

(b) Sale by public auction. If the sale is made by public auction, the auction must be conducted under the direction of the city manager, following published notice in the official newspaper at least 10 days in advance of the sale date.

(c) Sale by other auction. The city manager may provide for sale of forfeited property by placement in an established dealer auction or salvage auction conducted by a licensed broker.

(d) Sale by direct negotiation. The city manager may direct the sale of a forfeited motor vehicle to a scrap yard by direct negotiation, if the vehicle has an approximate fair market value equal only to the approximate value of the scrap in it. The city manager may direct the sale of forfeited personal property to the storage facility where the property is stored, if the forfeited property has an approximate fair market value equal only to the storage fees.

Subd. 3. Disposition of proceeds. The proceeds of the sale of forfeited property must be disbursed in accordance with applicable law.

(Added, Bill No. 2001-7)

315.03. Administrative procedure - competitive bids. Subdivision 1. Statutory authority. This section is adopted in accordance with the provisions of Minnesota Statutes, section 471.345 and section 429.041 insofar as the latter section relates to public improvements.

Subd. 2. Administrative staff to open bids. Competitive bids submitted to the city for any purpose shall be opened by the city administrative staff. When such bids are opened, the city manager, the city clerk and one department director or their respective authorized designee shall be present. (Amended, Bill No. 1997-11)

Subd. 3. Minutes of bids. When bids are opened as provided in subdivision 2, minutes shall be kept. These minutes shall then be presented to the council for consideration at a council meeting prior to or at the time of council consideration of the bids.

315.05. Municipal state-aid street fund. Subdivision 1. Establishment. Pursuant to the provisions of section 7.12, subdivision 5 of the city charter, there is established and continued a separate fund of the city to be known as the municipal state-aid street fund.

Subd. 2. Financing. There shall be paid into such fund (i) such sums as have heretofore been received or are hereafter received by the city as municipal state-aid street funds under the provisions of Minnesota Statutes, chapter 162; (ii) the proceeds of any municipal state-aid street bonds issued pursuant to chapter 162; and (iii) such other monies as may be appropriated thereto by the city or which by law are to be handled in the same manner as municipal state-aid street funds.

315.07. Permanent improvement revolving fund. Subdivision 1. Establishment. There is hereby created and continued a permanent improvement revolving fund (PIR Fund) of the city, separate and apart from all other funds of the city. The purpose of the PIR fund is to finance local improvements.

Subd. 2. Source of funds. The PIR fund is a permanent fund of the city, and the monies necessary for its maintenance shall be provided by taxation, by the appropriation of available monies from other funds of the city, or by the issuance and sale of general obligation permanent improvement revolving fund bonds of the city as deemed necessary from time to time by the council.

Subd. 3. Disposition of funds. The monies in the PIR fund shall be used only as directed by resolution of the city and for the purposes of (i) advancing to local improvement funds the cost of improvements for which assessments are to be levied, and (ii) providing interim financing of capital expenditures for projects of the city or the city's housing and redevelopment authority. All such monies so furnished shall be restored when and as sufficient monies are received in said improvement funds or permanent project financing has been obtained, as the case may be, with interest at a rate of not less than five percent per annum during the time for which such monies have been so furnished. Notwithstanding the foregoing provisions of this subdivision, the proceeds of the PIR fund, in a total amount not to exceed \$300,000, may be transferred to the capital improvement budget of the city by resolution of the city council to provide funds for the acquisition and betterment of public safety facilities in the city.

Subd. 4. Investment when permitted. Whenever there shall be monies in the PIR fund not immediately needed for the purposes set forth in subdivision 3 of this section, such monies may be invested at the direction of the council in any securities authorized for investment of municipal debt service funds.

315.09. Other funds. Other funds have been established from time to time, and provision for their creation and operation is made in other sections of this code or in the city charter: They are: (i) the liquor store fund (see chapter XII), and (ii) those funds established and maintained in accordance with the provisions of section 7.12 of the city charter.

315.11. Special assessments for local improvements: prepayment. Subdivision 1. This section applies to special assessments imposed against real property for local improvements under the provisions of Minnesota Statutes, chapter 429.

Subd. 2. Prepayment in whole. The owner of property assessed for a local improvement may pay the whole of such assessment in the manner provided by Minnesota Statutes, section 429.061, subdivision 3.

Subd. 3. Prepayment in part. The owner of property assessed for a local improvement, where the total principal amount of the assessment against such property exceeds \$300, may pay any part of the assessment, without interest, to the finance manager. The partial payment may be made within 30 days after the adoption of the assessment roll containing the assessment. The finance manager shall reduce the principal amount of such assessment by the amount of the prepayment prior to the certification of the assessment roll or the first installment thereof to the county auditor. The remaining unpaid balance of the assessment shall be payable in the same number of years and with the same rate of interest as set forth in the assessment containing the assessment. No partial prepayment of less than \$100 may be made.

Section 320 - Uniform Enforcement Procedures

320.01. Application. Subdivision 1. Purpose. The purpose of this section is to provide uniform procedures for the enforcement of the regulations contained in the zoning code, appendix B and any other provision of this code which references this section. (Amended, Bill No. 1995-6, Sec. 1)

Subd. 2. Conflicts. To the extent that the provisions of this section conflict with those of any procedure adopted by reference in the above referenced code provisions, the provisions of this section control. (Amended, Bill No. 1995-6, Sec. 2)

Subd. 3. Exceptions. This section does not apply to matters governed by the administrative procedures contained in the state building code or the uniform fire prevention code.

Subd. 4. Other sections. Where other sections of this code refer to this section the procedures herein shall be followed.

320.03. Definition. For the purposes of this section the term "enforcement officer" includes the director of public safety, the fire chief, the director of community development, and the appropriate division heads within those departments. The enforcement procedure set out in this section shall be used by the appropriate enforcement officer in enforcing the regulations to which this section apply. (Amended, Bill No. 2003-18)

320.05. Procedure. Subdivision 1. Notice. Whenever the enforcement officer determines that there has been a violation of any one or more provisions to which this section applies, he shall give notice of such alleged violation to the person or persons who are or may be responsible therefor.

Subd. 2. Form of notice. The notice shall:

(a) be in writing;

(b) particularize the violation or violations alleged to exist or to have been committed and the repairs or improvements required to bring the condemned building, dwelling, dwelling unit or rooming unit into compliance with this code;

(c) provide a reasonable time, but not less than five days in any event for the correction of the violation or violations particularized; (Amended, Bill No. 1995-6, Sec. 3)

(d) be addressed to and served upon the owner of the property, the owner of the building, the operator of the dwelling, and the occupant of the dwelling unit or the rooming unit concerned, if the occupant is or may be responsible for the violation; and

(e) inform persons concerned of their right of appeal under this section.

Subd. 3. Service of notice. Service shall be as provided for personal service by the rules of civil procedure for courts of record in Minnesota, or by registered or certified mail, return receipt requested, delivered to the addressee only. If service is made by registered or certified mail, the enforcing officer shall make a record giving details regarding the mailing. If one or more persons to whom the notice is addressed cannot be found or served after diligent effort to do so, service may be made upon such person or persons by posting a notice in a conspicuous place in or about the building affected by the notice, in which event the enforcing officer shall include in a record a statement as to why such posting was necessary.

320.07. Imminent hazards: temporary condemnation. Whenever the enforcement officer finds any building, dwelling, dwelling unit or rooming unit which is in violation of any provision of the Code to which this section is made applicable, and further finds (i) that by reasons of such violation it presents an imminent and serious hazard to public health, or to the physical and mental health of the occupants therein, and (ii) that the repairs or improvements required to remove such hazards do not appear reasonably possible within a time which will be adequate to eliminate such imminent hazard, the written notice of violation shall also state that the premises are dangerous and unfit for human habitation and shall order that such dwelling, dwelling unit or rooming unit be vacated either immediately or after such period of time as the enforcing officer shall find reasonable in view of circumstances, pending the completion of action to eliminate such hazards. In such case the notice shall be served by delivering a copy thereof to any occupant of suitable age and discretion and by posting the same at a conspicuous place upon the structure. In the case of a hazard which affects more than one unit in a multiple residence, service shall be made upon such an occupant of each unit, except that the failure to make service upon an occupant of one unit shall not affect the validity or effect of service of notice upon an occupant of other units. The notice shall also state that persons aggrieved may appeal such notice to the board of appeals by filing a notice of appeal with the clerk and may be heard on such appeal within one week after such filing, as more specifically provided in this section.

320.09. Failure to correct deficiencies. Subdivision 1. Extension. When notice has been given in accordance with this section and the person or persons responsible have failed to correct the deficiencies specified therein within the time allowed, the enforcement officer may in writing upon a showing of good cause, extend the time for correction of the deficiencies; or serve upon the owner and occupant a written notice requiring that such building, dwelling unit, or rooming unit be vacated because unfit for human habitation.

Subd. 2. Form of additional notice. The notice shall:

(a) particularize the violation or violations which remain uncorrected; and

(b) provide a reasonable time, but not less than 30 days, within which to vacate the premises. Such written extension of time or notice to vacate may be served personally or by registered mail in accordance with the procedures set forth in subsection 320.05, subdivision 3.

320.11. Appeals. Any person aggrieved by a notice issued pursuant to this section may, within 15 days after service of the same, appeal therefrom to the board of appeals by filing a written notice of appeal with the clerk. In the case of an appeal from a notice to vacate pending elimination of imminent hazards issued pursuant to subsection 320.07, the appeal shall be heard within one week from the time of filing thereof unless the appellant requests a hearing at a later time convenient to him and to the board. In the case of appeals from other notices, the appeal shall be heard at such time as may be established by the board, but the taking of an appeal from a notice other than one to vacate pending the elimination of imminent hazards issued under subsection 320.07 shall, during the pendency of such appeal, restrain the city and its officers from proceeding in any manner to enforce the notice.

320.13. Board of appeals. The council is the board of appeals. Appeals under this section shall be heard by the board. The manager, the building official, the director of public safety and the fire chief shall serve in an advisory capacity as ex-officio members of the board. At a hearing conducted pursuant to this section, the enforcing officer shall present the evidence with respect to the existence of a violation, and the appellant and his attorney may call and cross-examine witnesses and make such argument with respect to the facts and law as may be relevant to the alleged violation. The board may obtain the advice of the attorney or his designate in connection with the conduct of the hearing or the action to be taken. The board may act in the absence of any one of its members if such member is not reasonably available, but in no case shall it act without the affirmative vote of any two members. The board may, upon the hearing, affirm in whole or in part or deny the existence of a violation of this part, and, if a violation is found to exist, confirm or modify the corrective action to be taken or the other requiring vacation of the premises and the time allowed therefor. (Amended, Bill No. 2003-18)

320.15. Correction of violation by city and assessment of cost. In all cases of violation to which Minnesota Statutes, sections 463.15 to 463.261 are applicable, the enforcement officer may proceed as therein provided to abate or remove the violation and, if deemed necessary, to have the cost thereof specially assessed against the lot or parcel where the violation was located. In suitable cases, said statutory remedies and procedure may be used either concurrently with, or separate from, the procedures prescribed in this section. (Amended, Bill No. 1995-6, Sec. 4)

320.17. Unlawful to resume occupancy. No building, dwelling, dwelling unit or rooming unit which has been designated as unfit for human habitation and placarded as such may again be used for human habitation until written approval is secured from, and such placarding is removed by, the enforcement officer. The enforcing officer shall remove such placard whenever the defect or defects upon which the designation and placarding action were based have been eliminated and the building, dwelling, dwelling unit or rooming unit has been made to conform to the standards established by this part.

320.19. Unlawful to deface placard. It is unlawful for any person to deface, remove, or obscure any placard affixed under the provisions of this section.

Section 325 – Administrative Enforcement Program  
(Added, Bill No. 2002-23)

325.01. Administrative citations and civil penalties. Sections 325.15 through 325.35 govern administrative citations and civil penalties for violations of the city code.

325.05. 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.

325.10. General provisions. Subdivision 1. Administrative offense. A violation of any provision of the city code is an administrative offense that may be subject to an administrative citation and civil penalties. Each day a violation exists constitutes a separate offense.

Subd. 2. Exemption. Alcohol and tobacco license violations, and motor vehicle violations are not subject to administrative citation under this ordinance.

Subd. 3. Civil penalty. An administrative offense may be subject to a civil penalty not to exceed the maximum penalty for a misdemeanor violation under state law.

Subd. 4. Schedule of fines and fees. 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.

Subd. 5. Procedures. The city manager must adopt procedures for administering the administrative citation program.

325.15 Administrative citation procedures. Subdivision 1. Administrative Notice. Any person authorized to enforce provisions of the city code may issue an administrative order to correct condition or administrative citation upon belief that a code violation has occurred.

(a) After the first violation, the city will deliver to the violator, either in person or by mail, the First Administrative Order to Correct Condition. The violator will have seven (7) days to correct the violation after issuance of the First Administrative Order to Correct Condition.

(b) After the second violation involving the same offense, the City will issue to the violator, either in person or by mail, the Second Administrative Order to Correct Condition. The violator will have seven (7) days to correct the violation after issuance of the Second Administrative Order to Correct Condition.

Subd. 2. Citation. If the violator fails to correct the violation within the time period provided in the Second Administrative Order to Correct Condition, the City may issue an administrative citation. The City must issue the citation to the violator in person or by mail. 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.

Subd. 3. Payment. The person responsible for the violation must either pay the scheduled fine or request a hearing within 14 days after issuance. Penalties for failure to correct the violation or late payment of the fine may be imposed as set forth in section 325.30, subdivision 4. The city may issue a second citation or take other legal action to achieve compliance with the ordinances.

325.20 Administrative hearing. Subdivision 1. Hearing officers. The City Council will periodically approve a list of lawyers, from which the city clerk will randomly select a hearing officer to hear and determine a matter for which a hearing is requested. The hearing officer will be a public officer as defined by Minnesota Statutes, Section 609.415. The hearing officer must not be a city employee. The city manager or their designee must establish a procedure for evaluating the competency of the hearing officers, including comments from accused violators and city staff. These reports must be provided to the City Council.

Subd. 2. Notice of hearing. Within 10 days of the request for a hearing, the city clerk will schedule the hearing and will notify the violator of the date, time and place for the hearing. Parties are expected to be available for two hours. Notice of the hearing must be mailed to the violator or the property owner, if different from the violator, and the hearing officer at least ten days in advance of the scheduled hearing, unless a shorter time is accepted by all parties. The notice must contain the names of the violator or property owner, the identity of the hearing officer, the location of the alleged violation and the type of alleged violation.

Subd. 3. Removal of hearing officer. No later than five days before the date of the hearing, the violator may make a written request that the assigned hearing officer be removed from the case. The city clerk will automatically grant one request for removal. A subsequent request must be directed to the assigned hearing officer who will decide whether they can fairly and objectively review the case. If the hearing officer determines they cannot fairly and objectively review the case, the hearing officer shall notify the city clerk in writing at least one day before the scheduled hearing date. The city clerk will then assign another hearing officer.

Subd. 4. Continuance. A request for a continuance must be made to the city clerk at least five days prior to the scheduled date. Continuances will be granted only for good cause shown and for no more than ten days from the originally assigned date.

Subd. 5. File transmittal. Upon receipt of any request for a hearing the Public Safety Director or their designee will compile a file on each case consisting of the following:

- (a) copy of the citation issues;
- (b) copies of the two Administrative Orders to Correct Conditions, which preceded the citation (one copy for each of the two orders);
- (c) copy of any case history in the issuing employee's department;
- (d) photographs and/or videotape of property where available;

(e) supplemental report detailing the facts in support of any determination that the offense constitutes a serious threat of harm to the public health, safety, or welfare; and

(f) proof of mailing and/or posting of notice on the property if citation was not personally served on the violator.

The file must be ready for the hearing officer to pick up on the business day preceding the scheduled hearing.

Subd. 6. Presentation of case. At the hearing, the parties will have the opportunity to present testimony and question any witnesses, but strict rules of evidence will not apply. The hearing officer must tape record the hearing and may receive testimony and exhibits. The officer must receive and give weight to evidence, including hearsay evidence, that possesses probative value commonly accepted by reasonable and prudent people in the conduct of their affairs.

Subd. 7. Decision.

(a) The decision of the hearing officer must be in writing and contain findings of fact, conclusions of law and an order. The decision will be mailed to the parties within ten days after the hearing. The hearing officer has the authority to determine that a violation occurred, to dismiss a citation, to impose the scheduled fine, or to reduce, stay, or waive a scheduled fine either unconditionally or upon compliance with appropriate conditions. When imposing a penalty for a violation, the hearing officer may consider any or all of the following factors:

- (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 violator's conduct after issuance of the Administrative Orders to Correct Conditions;
- (6) the violator's conduct after issuance of the notice of hearing;
- (7) the good faith effort by the violator to comply;
- (8) the impact of the violation upon the community;
- (9) prior record of city code violations; and
- (10) any other factors appropriate to a just result.

(b) The hearing officer may not impose a fine greater than the established fine, except that the hearing officer may impose a fine for each week that the violation continues if: (i) the violation caused a serious threat of harm to the public health, safety, or welfare as determined by the hearing officer or that (ii) the violator intentionally and unreasonably refused to comply with the code requirement.

(c) The hearing officer's decision and supporting reasons must be in writing.

Subd. 8. Decision. Except as provided in section 325.25 the decision of the hearing officer is final without any further right of appeal.

Subd. 9. Failure to appear. 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 officer may waive this result upon good cause shown. "Good cause" is limited to: death in the immediate family or documented 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.

325.25. Judicial review. An aggrieved party may obtain judicial review of the decision of the hearing officer as provided in state law.

325.30. Recovery of civil penalties. Subdivision 1. Non-payment. If a civil penalty is not paid within the time specified, it will constitute:

(a) 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; or

(b) a personal obligation of the violator in all other situations.

Subd. 2. Lien. A lien may be assessed against the property and collected in the same manner as taxes.

Subd. 3. Personal obligation. A personal obligation may be collected by appropriate legal means.

Subd. 4. Late Fees/Charges.

(a) The fine will increase by 10% for each week, starting 10 days after the citation was issued, that no action is taken to correct the violation.

(b) If payment arrives more than one week after it was due, an additional 10% of the fine may be assessed, together with interest, for each seven-day period, or part thereof, that the fine remains unpaid after the due date.

Subd. 5. Unpaid civil penalty. During the time that a civil penalty remains unpaid, the provisions of city code, section 1005 apply to a license, permit, or other city approval sought by the violator or for property under the violator's ownership or control.

Subd. 6. License revocation or suspension. Failure to pay a fine is grounds for suspending or revoking a license or permit related to the violation.

325.35. Criminal penalties. The following are misdemeanors, punishable in accordance with state law:

(a) Failure, without good cause, to pay a fine or request a hearing within 10 days after issuance of an administrative citation;

(b) Failure, without good cause, to appear at a hearing that was scheduled under section 325.20;

(c) Failure to pay a fine imposed by a hearing officer within 10 days after it was imposed, or such other time as may be established by the hearing officer.

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 provisions based on a different set of facts. A different date of violation will constitute a different set of facts.