

CHAPTER 33: POLICE AND FIRE DEPARTMENTS

Section

Police Department

- 33.01 Establishment; duties
- 33.02 Police Chief

Fire Department

- 33.15 Establishment
- 33.16 Membership, organization, funding, and the like
- 33.17 Duties of Chief or officer in command
- 33.18 Duties of members
- 33.19 Prohibited interference with operations and equipment
- 33.20 Establishing fees for emergency protection fire services

Unclaimed Property

- 33.30 Statutory authorization
- 33.31 Definitions
- 33.32 Custody of property
- 33.33 Attempt to find owner
- 33.34 Disposal of property
- 33.35 Proceeds of sale

Cross-reference:

Fire Department, see Charter § 12.13

Oversight of Police and Fire Departments by City Manager, see § 31.15

Special police for civil defense, see § 36.08

Abandoned vehicles, see Ch. 95

Fire prevention, see Ch. 96

POLICE DEPARTMENT

§ 33.01 ESTABLISHMENT; DUTIES.

The Police Department, under the supervision of the Police Chief, shall consist of such forces of officers and men and women as may be recommended by the Chief and approved by the City Council. The Police Department shall perform the following duties and functions:

- (A) Enforce the laws and ordinances of the state and city;
- (B) Prevent crime and maintain the peace;

(C) Protect lives and property from malicious damage and injury;

(D) Maintain and care for all property assigned to the Police Department;

(E) Prepare and maintain all necessary records pertaining to the Police Department;

(F) Report to the City Manager all defective streets, sidewalks, traffic signs, unlit lights, and other similar type information as soon as possible;

(G) Take steps to insure people are properly protected from hazards such as ditches, holes in the street, sinkings, and the like;

(H) Enforce laws and direct traffic in times of emergency, heavy concentrations of traffic, or special occasions;

(I) Provide a good public image and perform such other duties as may hereafter be required. ('75 Code, § 11.101)

§ 33.02 POLICE CHIEF.

The Police Department shall be under the direct supervision of the Police Chief, whose responsibilities include:

(A) Supervising and scheduling all police officers and patrol activities;

(B) Serving as liaison on all public safety matters with the County Sheriff's Department;

(C) Performing any other related duties and functions as required by the City Manager. ('75 Code, § 3.370) (Ord. 1062.88, passed 1-7-88)

Cross-reference:

Weapons permits; issuance by Chief of Police, see § 132.05

FIRE DEPARTMENT

§ 33.15 ESTABLISHMENT.

(A) There shall be a volunteer fire department in the city to be known and designated as the "Benson Fire Department," and it shall consist of a Chief, Assistant Chief, and 33 other individuals to be divided into such companies as they, by their constitution and bylaws, may decide. Firefighters and probationary firefighters shall be appointed by the Chief of the Volunteer Fire Department, subject to confirmation by the City Council. Firefighters shall continue as members of the Volunteer Fire Department during good behavior until retirement, but may be removed by the City Council for cause after a public hearing.

('75 Code, § 3.380) (Ord. 1062.88, passed 1-7-88; Am. Ord. 1081.92, passed 10-15-92)

(B) The Fire Chief shall have general superintendence over the Fire Department and the custody of all property used and maintained for the purpose of said Department. He or she shall see that the same are kept in order and that all rules and regulations of the city and the state are enforced. On or before the date of the first regular meeting of each month, the Fire Chief shall file a report with the City Manager showing the number of fires and rescues attended, and the location, name, estimated damages, and probable cause of each call. He or she shall file such other reports as required and forward all calls of the Department along with said report. ('75 Code, § 11.301) (Ord. 1081.92, passed 10-15-92)

§ 33.16 MEMBERSHIP, ORGANIZATION, FUNDING, AND THE LIKE.

(A) (1) The Chief and Assistant Chief shall be elected by ballot of the Fire Department at their annual meeting and shall hold their respective offices for two years and until their successors are elected and have qualified. The other officers shall be elected and appointed according to the bylaws of the Department. All officers elected or appointed under this section shall enter upon the duties of their respective offices at noon of the day following the day on which they were elected or appointed.

(2) The succession of authority during the absence of the Chief and the Assistant Chief shall be as provided in the bylaws of the Department.

(3) Salaries shall be designated by resolution at each annual meeting of the Department, and are subject to the approval of the Council. The salaries and expenses for equipment and maintenance of the Department shall be provided for and paid from the general revenue of the city. Members shall be paid for attending meetings and fires as fixed by the constitution and bylaws.

(4) The Department shall be governed by a constitution and bylaws, which the Department shall adopt by majority vote, not inconsistent with the provisions of this code or resolution of the City Council. ('75 Code, § 3.381) (Ord. 1062.88, passed 1-7-88; Am. Ord. 1081.92, passed 10-15-92)

(B) No person shall retain membership in the Department who shall fail to comply with the constitution and bylaws of the Fire Department, except those excused by the Chief or officer in command. ('75 Code, § 11.304) (Ord. 1081.92, passed 10-15-92)

§ 33.17 DUTIES OF CHIEF OR OFFICER IN COMMAND.

(A) (1) The Chief or officer in command shall have full power and control of all apparatus, companies, and persons whatsoever at every fire or rescue, and shall direct their operations.

(2) It shall be the duty of the Chief or commanding officer to take such measures as he or she may deem necessary at any fire or rescue for the preservation of or protection of life or property.

(3) The Chief shall, as often as he or she may deem necessary, examine the whole or any part of the fire and rescue apparatus of the city, and it shall be the Chief's duty to see that the same is in proper condition and repair at all times, and if upon examination any part of such apparatus be found out of order or unsuitable, the Chief shall at once report the same to the City Manager.

(B) It shall be the duty of the Chief to keep a book which shall be provided by the city containing a true list of the names of all officers and members of the Fire Department; the number of fires and rescues occurring each and every calendar year; the date of the same; the cause of the same as near as

can be ascertained; the number of buildings injured or destroyed; the names of the owners and occupants; and the value of the property destroyed as near as can be ascertained, a copy of which he or she shall present to the City Council at its first regular meeting in February of each and every year, and the same shall be filed thereafter in the office of the City Clerk.
(‘75 Code, §§ 11.302-11.303) (Ord. 1081.92, passed 10-15-92)

§ 33.18 DUTIES OF MEMBERS.

It shall be the duty of all officers and members of the Department upon the alarm of fire or rescue to assemble and perform their duties as provided as quickly as possible and continue on duty until discharged by the Chief or person in command and also meet for practice or inspection at such times as may be ordered by the Chief. (‘75 Code, § 11.305) (Ord. 1081.92, passed 10-15-92)

§ 33.19 PROHIBITED INTERFERENCE WITH OPERATIONS AND EQUIPMENT.

(A) No person shall willfully or intentionally make or cause to be made a false alarm of fire.

(B) No person shall willfully remove, displace, injure, disable, or destroy any engine, hose cart truck, hose, hooks, ladders, or any apparatus or article kept for use in the extinguishment of fires.
(‘75 Code, § 11.306) (Ord. 1081.92, passed 10-15-92) Penalty, see § 10.99

§ 33.20 ESTABLISHING FEES FOR EMERGENCY PROTECTION FIRE SERVICES.

(A) *Purpose and intent.* This section is adopted pursuant to M.S. §§ 366.011, 366.012, and 415.01 for the purpose of establishing fees charged by the City of Benson for fire service.

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

FIRE PROTECTION CONTRACT. A contract between the city and a town or other city for the city to provide fire service.

FIRE SERVICE. Any deployment of fire fighting personnel and/or equipment to extinguish a fire or perform any preventative measure in an effort to protect equipment, life, or property in an area threatened by fire. It also includes the deployment of fire fighting personnel and/or equipment to provide fire suppression, rescue, extrication, and any other services related to fire and rescue as may occasionally occur.

FIRE SERVICE CHARGE. The charge imposed by the city for receiving fire service.

MOTOR VEHICLE. Any self-propelled vehicle designed and originally manufactured to operate primarily upon public roads and highways, and not operated exclusively upon railroad tracks. It includes semi trailers. It does not include snowmobiles, manufactured homes, all terrain vehicles, or park trailers.

MUTUAL AID AGREEMENT. An agreement between the city and a town or other city for the city’s Fire Department to provide assistance to the fire department of a town or other city.

(C) *Parties affected.*

(1) Owners of property within the city who receive fire service.

(2) Anyone who receives fire service as a result of a motor vehicle accident or fire within the city.

(3) Owners of property in towns or cities to which the city provides fire service pursuant to a fire protection contract.

(D) *Rates.* The rates for fire service charge shall be determined by the City Council and set by resolution.

(E) *Billing and collection.*

(1) Parties requesting and receiving fire services may be billed directly by the city within 30 days of the fire service. Additionally, if the party receiving fire services did not request services but a fire or other event exists which, at the discretion of the fire department personnel in charge requires fire service, the party will be charged and billed. All parties will be billed whether or not the fire service is covered by insurance. Any billable amount of the fire charge not covered by a party's insurance remains a debt of the party receiving the fire service.

(2) Parties billed for fire service will have 30 days to pay. If the fire service charge is not paid by that time, it will be considered delinquent and the city will send a notice of delinquency.

(3) If the fire service charge remains unpaid for 30 days after this notice of delinquency is sent, the city will use all practical and reasonable legal means to collect the fire service charge. The party receiving fire service shall be liable for all collection costs incurred by the city including, but not limited to, reasonable attorney fees and court costs.

(4) If the fire service charge remains unpaid for 30 days after the notice of delinquency is sent, the City Council may also, on or before October 15 of each year, certify the unpaid fire service charge to the County Auditor in which the recipient of the services owns real property for collection with property taxes. The County Auditor is responsible for remitting to the city all charges collected on behalf of the city. The city must give the property owner notice of its intent to certify the unpaid fire service charge by September 15.

(5) False alarms will be billed as a fire call.

(F) *Mutual aid agreement.* When the City Fire Department provides fire service pursuant to a mutual aid agreement, the billing will be determined by the mutual aid agreement.

(G) *Fire protection contracts.* When the City Fire Department provides fire service pursuant to a fire protection contract, the billing will be determined by the contract.

(H) *Application of collections to budget.* All collected fire charges will be city funds and used to offset the expenses of the City Fire Department in providing fire services.

(Ord. 1126.07, passed 11-13-07)

UNCLAIMED PROPERTY

§ 33.30 STATUTORY AUTHORIZATION.

This subchapter is adopted pursuant to and in accordance with the authority contained in M.S. § 471.195. ('75 Code, § 2.601) (Ord. 1079.92, passed 9-17-92)

§ 33.31 DEFINITIONS.

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

OWNER. Any person having a legal or equitable interest in any property affected by this subchapter.

PROPERTY. Tangible personal property.
(‘75 Code, § 2.602) (Ord. 1079.92, passed 9-17-92)

§ 33.32 CUSTODY OF PROPERTY.

Whenever the city in the course of its municipal operations shall come into possession of property owned by another such property shall be delivered to the Chief of the Police Department for safekeeping. ('75 Code, § 2.603) (Ord. 1079.92, passed 9-17-92)

§ 33.33 ATTEMPT TO FIND OWNER.

Upon receipt of any such property, the Chief of Police shall make or cause to be made a reasonable and diligent effort to find the rightful owner of such property. If the rightful owner of such property is found, the Chief of Police shall return the property to such owner as soon as is reasonably possible under the circumstances. ('75 Code, § 2.604) (Ord. 1079.92, passed 9-17-92)

§ 33.34 DISPOSAL OF PROPERTY.

(A) (1) Except as provided in subsections (B) and (C) of this section, if the owner of any property coming into possession of the city cannot be found within 60 days after the date such property came into possession of the city, the Chief of Police shall sell or cause to be sold such property to the highest bidder at public auction or by sealed bids.

(2) Notice of the time and place of the holding of any public auction shall be published once a week for two consecutive weeks in the official newspaper of the city. At the time and place designated in such notice, the Chief of Police or his duly authorized representative shall conduct the auction in such manner as the Chief of Police shall deem appropriate under the circumstances.

(3) Notice of a sale of such property by sealed bids shall be published once a week for two consecutive weeks in the official newspaper of the city and posted in the city hall and at such other locations as the Chief of Police shall determine to be advisable.

(B) If any item of unclaimed property in possession of the city appears to have a value as may be adopted from time to time by Council resolution or ordinance, is hazardous to store, or is perishable, the Chief of Police or his or her authorized representative may sell or otherwise dispose of such property in whatever manner the Chief of Police determines reasonable and appropriate.

(C) Unclaimed handguns in the possession of the city shall be sold only to gun dealers licensed by the federal government.

(‘75 Code, § 2.605) (Ord. 1079.92, passed 9-17-92)

§ 33.35 PROCEEDS OF SALE.

(A) (1) The proceeds of the sale of any item of property made pursuant to this subchapter shall be first applied to the payment of all costs and charges incurred for the storage, maintenance, or otherwise in connection with such property and then to payment of such item’s proportionate share of the expenses incurred by the city in connection with such sale. For purposes of the preceding sentence “proportionate share of expenses of sale” of each item shall be determined by dividing the sale price of each item by the total of all sales and multiplying the result by the total expense of conducting the sale.

(2) The balance of the proceeds of the sale of each item shall be deposited by the Chief of Police with the City Clerk along with a statement containing a description of the property sold, the gross amount for which it was sold, the amount of charges incurred in connection with such property, and the proportionate share of the costs of sale of such item.

(3) The City Clerk shall keep such records necessary to account for the proceeds of the sale of each item. Such proceeds shall be invested in whatever manner is determined appropriate by the City Clerk.

(B) (1) If the owner of any property sold pursuant to this subchapter shall furnish the City Clerk with evidence substantiating his or her claim of ownership of such property within six months after the proceeds from the sale of such property were deposited with the City Clerk, then the City Clerk shall pay to such owner the balance of the proceeds of the sale of such property deposited by the Chief of Police with the City Clerk under subsection (A) hereof and shall provide such owner with a copy of the statement provided by the Chief of Police to the City Clerk under subsection (A) hereof.

(2) (a) If no claim is made for the proceeds of any sale of property made pursuant to this subchapter within six months after the proceeds were deposited with the City Clerk, then such proceeds shall thereupon become the property of the city to the exclusion of the owner of such property and all others.

(b) All such proceeds that become the property of the city shall be credited to the General Fund of the city.

(‘75 Code, §§ 2.607-2.608) (Ord. 1079.92, passed 9-17-92)