

CHAPTER 33: DEPARTMENTS, BOARDS AND COMMISSIONS

Section

POLICE DEPARTMENT

- 33.01 Police Department continued

VOLUNTEER FIRE DEPARTMENT

- 33.25 Volunteer Fire Department continued; appointment of officers
- 33.26 Duties of Chief
- 33.27 Duties of the Assistant Chiefs
- 33.28 Duties of the Training Officer
- 33.29 Duties of the Department Secretary
- 33.30 Records
- 33.31 Membership Requirements
- 33.32 Loss of membership
- 33.33 Certification of Active Service Credit
- 33.34 Compensation
- 33.35 Primary Service Area
- 33.36 Interference with Volunteer Fire Department
- 33.37 Bylaws

VOLUNTEER AMBULANCE SERVICE

- 33.50 Volunteer Ambulance Service continued

PLANNING COMMISSION

- 33.75 Planning Commission continued
- 33.76 Composition
- 33.77 Meetings, minutes and expenditures
- 33.78 Powers and duties; comprehensive plan

PARK AND RECREATION BOARD

- 33.100 Park and Recreation Board continued
- 33.101 Membership and terms
- 33.102 Powers and responsibilities
- 33.103 Preparation of annual program and budget
- 33.104 Finances and audit
- 33.105 User fees and sale of concessions
- 33.106 Reports

ECONOMIC DEVELOPMENT AUTHORITY

- 33.125 Economic Development Authority continued
- 33.126 Powers and responsibilities
- 33.127 Membership and terms
- 33.128 Limits of powers
- 33.129 Rights of contractors and bond holders

LIBRARY BOARD

- 33.150 Library Board continued
- 33.151 Membership and terms
- 33.152 Organization and duties
- 33.153 Annual reports
- 33.154 Free use and benefits of library
- 33.155 Title to property
- 33.156 Gifts

CITY TREE BOARD

- 33.175 Tree Board continued
- 33.176 Membership and terms
- 33.177 Authority and powers
- 33.178 Applicability
- 33.179 Licensing and insurance required
- 33.180 Planting, maintenance and removal
- 33.181 Permits required
- 33.182 Adjacent Landowner Responsibility
- 33.183 Trees on private property as nuisance
- 33.184 Violations
- 33.185 Appeal

ARTS BOARD

- 33.200Harmony Arts Council Established
- 33.201Powers and Responsibilities
- 33.202Membership and Terms
- 33.203Preparation of Program
- 33.204Finances and Audit
- 33.205User Fees and Sale of Concessions
- 33.206Reports

POLICE DEPARTMENT

§33.01 POLICE DEPARTMENT CONTINUED

The Police Department of the City of Harmony is hereby continued, as contracted with the Fillmore County Sheriff's Department. The current contract is attached to this code.

VOLUNTEER FIRE DEPARTMENT

§33.25 VOLUNTEER FIRE DEPARTMENT CONTINUED; APPOINTMENT OF OFFICERS.

(A) The Volunteer Fire Department of the city of Harmony is hereby continued, which department shall have the following officers: a Chief, two (2) Assistant Chiefs, a Secretary, and a Training Officer.

(B) The Chief and Secretary of the Volunteer Fire Department shall be elected annually by the members of the Volunteer Fire Department, subject to confirmation by the City Council. The Chief of the Volunteer Fire Department shall appoint each year two (2) Assistant Chiefs and a Training Officer, subject to confirmation by the City Council. The Chief, Secretary, Assistant Chiefs and Training Officer each shall hold office for one year and until their successors have been duly appointed or qualified. These officers may be removed by the City Council for cause and after a public hearing. If one of the officers shall resign his or her office, be removed from office by the City Council, or is deceased during his or her term of office, the successor shall be duly elected by the membership or appointed by the Fire Chief, subject to confirmation by the City Council, as soon as is practical and no later than two weeks from the time the position becomes open. The officer so elected or appointed is appointed for the period of the un-expired term of the vacated office.

(B) Active 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. Retirement from active service is required at age 65.

§33.26 DUTIES OF CHIEF.

The Chief shall have control of all fire fighting apparatus and shall be responsible for its care and condition. He or she shall be responsible for the proper training and discipline of the members of the Volunteer Fire Department, and develop and maintain an effective fire loss management program, including fire prevention and public education. He or she may suspend any member for refusal or neglect to obey orders pending final action by the City Council on his or her discharge or retention, and shall report each suspension of a member of the Volunteer Fire Department at the first meeting of the City Council following the suspension. The Chief shall make a report annually to the City Council at its meeting in August as to the condition of the equipment and needs of the Volunteer Fire Department. The Chief may submit additional reports and recommendations at any meeting of the City Council.

§33.27 DUTIES OF THE ASSISTANT CHIEFS.

In the absence or disability of the Chief of the Volunteer Fire Department, one of the Assistant Chiefs shall perform all functions and exercise all of the authority of the Chief.

§33.28 DUTIES OF THE TRAINING OFFICER.

It shall be the duty of the Chief to hold regular practice drills for members of the Volunteer Fire Department and to give the firefighters instruction in approved methods of fire fighting and fire prevention. The Training Officer shall be responsible for establishing, organizing and conducting all training programs, orientation activities and drill schedules for active and probationary firefighters. He or she shall maintain adequate and competent attendance records for all training activities. He or she shall coordinate and communicate regularly with the Fire Chief regarding training and record keeping activities.

§33.29 DUTIES OF THE DEPARTMENT SECRETARY.

It shall be the duty of the Secretary of the Department to keep minutes of all meetings of the Volunteer Fire Department, and to keep adequate and competent attendance records for all fire call responses by active and probationary firefighters, accrual of active service credit, and other data relating to the maintenance of minimum requirements for active service status. Copies of the fire run sheets shall be sent to the City office.

§33.30 RECORDS.

The Chief shall keep a record of all fires on the standard form required by the State of Minnesota.

§33.31 MEMBERSHIP REQUIREMENTS.

Membership in the Harmony Volunteer Fire Department shall not exceed twenty-eight (28) members. Prospective members may be recommended by active members or may apply to the Chief or one of his assistants to be considered for membership. The following requirements shall be maintained by all probationary and active members of the department. All members must:

1. Be at least eighteen (18) years of age;
2. Be able bodied and in good physical and mental health;
3. Possess, or be able to obtain, a valid driver's license;
4. Complete at least the Basic Firefighting Course prior to completion of an 18-month probationary period;
5. Reside within the Harmony Fire district;
6. Be able (from home or work) to respond by arriving at the Fire Hall within 8 minutes of the alarm being sounded, while abiding by all applicable traffic laws and speed limits; and
7. Attend all department members' meetings, initial and continuing education courses, local training and fire calls, unless he or she applies for and receives an excused absence for an individual event from an officer of the department. Unexcused absences shall be recorded by the Secretary, and failure to fulfill any attendance requirement may result in suspension from active duty.

If an active member's residence and /or work status changes so that he or she does not either live or work within the required 8 minutes travel time, he or she shall be terminated from active status immediately. At no time shall more than thirty percent (30%) of the membership of the department live outside the Harmony city limits.

The City Council may, at its sole discretion, consider a waiver from one or more of these membership requirements in response to a written request from a firefighter on active duty status or a prospective firefighter, with a recommendation from the fire chief. Such consideration shall require the presentation to the City Council of relevant facts and extenuating circumstances by the firefighter and/or the Fire Chief. Following a finding that no undue hardship or hazard will result to the citizens of the City and Fire District, the City Council may, by a majority vote, waive the requirement(s) or adjust them for the specific case under consideration.

The Fire Chief shall certify that probationary firefighters have completed adequate fire services training before allowing them to respond to fire calls. This requirement may be waived if a firefighter has successfully completed the same or equivalent training, and was an active firefighter in another department prior to living in the Harmony area. Evaluation of the probationary firefighter shall include (but not be limited to) an understanding of the work, the quality and quantity thereof, and the probationer's dependability, initiative, ability to follow orders and work as part of a team. For purposes of membership in the Harmony Firefighters' Relief Association, the probationary firefighter's active service start date shall be the first day the month in which training begins.

§33.32 LOSS OF MEMBERSHIP.

Any probationary or active firefighter shall forfeit membership in the Volunteer Fire Department for unreasonable inattention to duties, lack of attendance at meetings or calls, disobedience of orders, or other due cause. Any firefighter may be suspended by the Chief pending a hearing before the City Council regarding his or her removal. Such hearing, which must be requested in writing, shall require the presentation to the City Council of relevant facts and records by the Fire Chief, as well as any facts and extenuating circumstances by the firefighter. The Council shall consider the facts and, by majority vote, decide the matter. At this time, the Council shall also make a final determination as to the length of Active Service Credit to which the firefighter is entitled.

§33.33 CERTIFICATION OF ACTIVE SERVICE CREDIT.

Before each Annual Meeting of the Harmony Firefighters' Relief Association (the second Monday in January) the Chief and Secretary of the Fire Department shall present a written "Active Service Credit Report" to the Executive Committee of the Association. The report shall contain the names of the members of the Department, each member's active service accrued in the year for which the report is being made, and the names of any members who earned partial credit due to a leave of absence or any break in active status during the year. The report shall not contain information related to the reasons for the leave of absence or the break in active service. Temporary disabilities occurring as a result of fire or rescue related activities shall not result in loss of Active Service Credit.

The annual "Active Service Credit Report" shall be posted in the Fire Department and said

report shall be deemed final, except as to any member's appeal of a Certification of Active Service accrued who shall have filed a written appeal to the City Council within thirty (30) calendar days of the date the Certification is posted. The City shall, within sixty (60) calendar days of receipt of written appeal, make a final determination concerning the appellant member's accrued active service.

§33.34 COMPENSATION.

Active and probationary members and officers of the Volunteer Fire Department shall receive compensation as determined annually by the City Council, based on attendance records submitted to the City. In addition, all active or probationary members of the Harmony Fire Department are eligible to apply for membership in the Harmony Firefighters' Relief Association, which provides pension benefits based on the organization of the Association, as reflected in its by-laws. A copy of the firefighters' relief association document is contained in the Appendix to this Code.

§33.35 PRIMARY SERVICE AREA.

In addition to the city of Harmony, the primary service area shall be the following townships and township sections (by Fillmore County coordinates and Fremont Township section numbers, and also shown on a map which is attached to this section):

T101NR9W, Sec. 5

T101NR10W

T101NR11W

T102NR9W, Sec. 28, 29, 30, 31, 32, 33

T102NR10W, Sec. 33 & 34

Fremont Township, Winneshiek Co, IA, Section # 8-12, 13-17, 21-24, and 26-27.

The City has mutual aid agreements with Canton, Cresco and Lime Springs, and belongs to a tri-county mutual aid group with several communities in Fillmore, Houston and Winona Counties. Copies of current aid agreements are on file in the City office.

§33.36 INTERFERENCE WITH VOLUNTEER FIRE DEPARTMENT.

It shall be unlawful for any person to give or make, or cause to be given or made, an alarm of fire without probable cause, or to neglect or refuse to obey any reasonable order of the Chief or other firefighter at a fire, or to interfere with the Volunteer Fire Department in the discharge of its duties. (Penalty, see §10.99)

§33.37 BYLAWS.

The Volunteer Fire Department may adopt bylaws for its governance, which bylaws shall be effective upon approval by the City Council.

VOLUNTEER AMBULANCE SERVICE

§33.50 VOLUNTEER AMBULANCE SERVICE CONTINUED.

The Harmony Volunteer Ambulance Service is hereby continued, for the purpose of providing ambulance service for the sick, injured, and endangered citizens of the city and its entire primary service area, and for promoting the public health, safety, comfort and welfare of all its citizens.

§33.51 MEMBERSHIP

Members of the service shall consist of men and women over the age of 18 who have, within six months of application for membership, successfully completed the 120 hour training course required for certification under all applicable state and federal rules, are able bodied and in good health, live within five (5) miles (or five minutes travel time) of the City of Harmony, have a current valid Minnesota drivers' license and attend a safe driver class. All new members must obtain all required certificates prior to final approval for membership, and must participate in at least two (2) "Observation Runs" before being placed on the service. Full time ambulance attendants are those who carry a pager as scheduled, or as a substitute who has substituted for the equivalent of at least five (5) days per month while on the substitute list. Records of all members' service shall be kept by the Director.

The City of Harmony, following city council approval, will pay or reimburse full time members for:

1. The costs of the 120 hour EMT or 24 hour Refresher course when required for certification unless the costs are reimbursed by state or federal funds.
2. State and regional association dues if needed for re-certification.
3. Costs of registration, current state mileage allowance, and up to \$75 per day for room and meals while attending approved conferences, workshops or conventions. Receipts must be provided.

If a member leaves the Ambulance Service for reasons other than medical less than a year after having received expenses for training, membership or conference lodging and meals, he or she must reimburse the city for those expenses.

Members shall be recommended for appointment to the service by other members, or may apply to the Director. All members shall keep their certification current and attend 24 hours of training annually. Any member who fails to report or find a substitute when on call, or fails to perform his or her duties in a professional manner, may be suspended or removed by the council for cause, after a hearing.

§33.52 ELECTION AND DUTIES OF OFFICERS.

The offices of President, Vice President and Secretary-Treasurer continue, elected for two-year terms by the membership. They shall serve until their successors are duly elected and qualify, except that they may be removed by the council for cause, after a hearing. Duties of the president consist of presiding at monthly meetings, receiving and reporting needed vehicle repairs to the

Director, and assisting the training officer at local meetings. The vice president assists the president and presides at meetings in the absence of the president. The secretary-treasurer records minutes at monthly meetings, keeps records of attendance for training purposes, maintains the Service Fund checking account, keeps records of donations and gifts, and sends thank you notes and answers other correspondence when asked by the president. Rules and regulations for the operation of the service and maintenance of the vehicle and equipment are made by the members of the crew, with final approval by the city council. Members are scheduled by the Director to do bi-weekly inspections to insure that supplies are adequate and all equipment is running properly.

§33.53 DUTIES OF THE DIRECTOR.

The Ambulance Director is a city employee responsible for the operation, maintenance and improvement of the ambulance service in the City of Harmony. The director is administratively supervised by the Harmony City Administrator/Clerk-Treasurer, and medically supervised by the Medical Director of Gundersen Lutheran Hospital in LaCrosse, WI. Specific duties include (but are not limited to):

1. Responds to ambulance calls during the day shift Monday through Friday, and on weekends as scheduled.
2. Supervises volunteer ambulance EMTs and First Responders.
3. Sets ambulance crew schedule and prepares Billing Information Forms from the “run sheets” prepared by the crew on duty for each run, as prescribed by the Minnesota Dept. of Health.
4. Prepares State licensing and bi-weekly inspection documents and schedules.
5. Interprets OSHA and HIPPA requirements to crew members.
6. Participates in area professional organizations such as SE Emergency Medical Services and EMSRB.
7. Provides training, certification and continuing education for crew members.
8. Orders and purchases supplies and equipment for the ambulance.
9. Works with the ambulance billing agency to provide all needed information for payments and insurance.
10. Documents and prepares payroll schedule for payment and enrolls full time crew members in PERA retirement fund.
11. Provides liaison to the council and reports any discipline problems.
12. Handles any other duties that may be assigned.

§33.54 TRAINING.

It shall be the duty of the Director, in cooperation with the President and other officers, to schedule regular training and practice sessions for the purpose of educating members of approved methods of emergency health care, use of new equipment, OSHA and HIPPA policies and requirements, and community services (demonstrations and school activities). New members shall also be informed of proper procedures for maintaining equipment, doing inventory and replacement of supplies, and repair and maintenance of the vehicle, its radio, and the pagers.

§33.55 COMPENSATION.

The officers and members of the service shall receive such compensation as may be set from time to time by the city council. Full time members who have served one (1) full year shall be eligible to be enrolled in the Public Employees Retirement Assn. (PERA), and shall be enrolled by the Director.

§33.56 ESTABLISHMENT OF RATES.

The city council, based on recommendations prepared by the Ambulance Director and officers, shall establish, and periodically adjust, a schedule of charges for the use of the ambulance that will pay all costs incurred in the operation of the service. An Ambulance Fund shall be maintained in the accounts of the city, into which shall be paid all monies received from services rendered, and from it all disbursements shall be paid, in accordance with city policies. The Service Fund, maintained by the secretary-treasurer of the service, generally is used for purchase of all equipment used in the vehicle, while city ambulance funds pay for the vehicle itself and for day to day supplies and oxygen for the Service.

§33.56 EQUIPMENT REQUIREMENTS

The ambulance, when in service, shall possess a valid license and be equipped with and carry at least the minimum equipment required by law and/or the Minnesota Dept. of Health.

§33.57 PRIMARY SERVICE AREA

In addition to the City of Harmony, the primary service area shall be the following townships and township sections (by Fillmore County coordinates, and also shown on a map which is attached to this section):

- T101NR8W – sections 5-8, 17-20, 29-32
- T101NR9W
- T101NR10W
- T101NR11W
- T101NR12W – sections 1-4, 9-16, 21-28, 33-36
- T102NR8W – sections 5-8, 17-20, 29-32
- T102NR9W
- T102NR10W – sections 19-36
- T102NR11W – sections 25-36

The city also has Mutual Aid Agreements with the cities of Preston and Mabel.

§33.57 RELIEF ASSOCIATION

Minnesota's Public Employees Retirement Association (PERA) serves as the "relief association" for the city's Volunteer Ambulance Service. Full time volunteer ambulance attendants

are eligible to join PERA after one (1) year of active service.

§33.58 INTERFERENCE WITH DEPARTMENT

It shall be unlawful for any person to give or make, or cause to be given or made, a call for ambulance or rescue service without probable cause or to neglect to obey any reasonable order of the driver or a crew member at an ambulance call or to interfere with the ambulance and rescue service's discharge of its duties.

Any person convicted of violating this section shall be guilty of a misdemeanor.

PLANNING COMMISSION

§33.75 ESTABLISHMENT OF THE PLANNING COMMISSION.

A Planning Commission for the City of Harmony is hereby continued. The Planning Commission is the city planning agency authorized by M.S. §462.354(1), as it may be amended from time to time.

§33.76 COMPOSITION.

(A) The Planning Commission consists of four members from the resident population of the city, appointed by the Mayor with the approval of the City Council. The appointees shall be appointed to serve staggered terms of four years, except as noted below, commencing on the first day of January in the year of appointment. Upon expiration of a term, the appointee shall continue until reappointed or a successor is appointed. Absence from any three meetings in a year, unless excused in advance by the Chair, constitutes a vacancy. In the event of any vacancy, the Mayor, with the approval of the City Council, shall appoint a person to complete the unexpired term.

(B) One member shall be a Council Member, to be appointed by the Mayor with the approval of the City Council. This member shall serve for a four-year term, or until his or her council term expires.

(C) The City Engineer, the City Attorney, and the Zoning Administrator shall serve in an ex officio capacity as the City Council may, in its discretion, deem appropriate.

(D) Each of the five regular Planning Commission members shall have equal voting privileges. Any member may be removed for cause by majority vote of the City Council upon written charge and after a public hearing.

§33.77 MEETINGS, MINUTES AND EXPENDITURES.

(A) The Planning Commission shall meet periodically as necessary. Proper and timely notice of all meetings shall be sent to all members.

(B) Written minutes of meetings shall be kept and filed with the City Administrator/Clerk-Treasurer prior to the next regularly scheduled City Council meeting, but shall be subject to approval at the next Planning Commission meeting.

(C) No expenditures by the Planning Commission shall be made unless and until authorized for the purpose by the City Council.

§33.78 POWERS AND DUTIES; COMPREHENSIVE PLAN.

(A) *Generally.* The Planning Commission shall have the powers and duties given to city planning agencies generally by law. The Planning Commission shall also exercise the duties conferred upon it by this code. It shall be the purpose of the Planning Commission to prepare and adopt a comprehensive plan for the physical development of the city, including proposed public buildings, street arrangements and improvements, efficient design of major thoroughfares for moving of traffic, parking facilities, public utilities services, parks and playgrounds, a general land use plan and other matters relating to the physical development of the city. This plan may be prepared in sections, each of which shall relate to a comprehensive plan program. After the Planning Commission has prepared and adopted the comprehensive plan, it shall periodically, but at least every three years, review the comprehensive plan and any ordinances or programs implementing the plan.

(B) *Means of executing plan.* Upon the adoption of a comprehensive plan or any section thereof, it shall be the concern of the Planning Commission to recommend to the City Council reasonable and practical means for putting into effect the plan or section thereof in order that it will serve as a pattern and guide for the orderly physical development of the city and as a basis for judging the timely disbursements of funds to implement the objective. Means of effectuating the plan shall, among other things, consist of a zoning ordinance, subdivision regulations, capital improvement programming and technical review, and recommendations of matters referred to the Planning Commission by the City Council.

(C) *Zoning ordinance.* Pursuant to M.S. §462.357(3), as it may be amended from time to time, the Planning Commission shall review all proposed amendments to the zoning ordinance, take part in public hearings, and make recommendations to the City Council as may be prescribed by the zoning ordinance.

(D) *Special permits.* The Planning Commission shall make recommendations on all requests for a conditional use permit under the terms of the zoning ordinance. The Planning Commission shall report its recommendations to the City Council for action.

(E) *Subdivision regulations.* The Planning Commission shall make recommendations in relation to the subdividing of land as prescribed by the ordinance. The Planning Commission shall report its recommendations to the City Council for action within the time limits required by Minnesota statute, and failure to do so is deemed to have satisfied the requirements of this subdivision.

(F) *Variances.* All applications for variances shall be referred to the Planning Commission which shall have the powers of a Board of Appeals and Adjustments as provided for in M.S. §462.357, Subd. 6, as it may be amended from time to time, and forwarded with or without recommendations directly to the City Council for its decision. Variances may be granted from the literal provisions of an ordinance only where strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration as authorized by M.S. §462.357, Subd. 6(2) as it may be amended from time to time.

PARK AND RECREATION BOARD

§33.100 PARK AND RECREATION BOARD CONTINUED

The Park and Recreation Board for the City, pursuant to authority given by Minnesota Statutes, Sections 412.501 to 412.531 and 471.15 to 471.191, is hereby continued.

§33.101 MEMBERSHIP AND TERMS

The board shall consist of five (5) members, appointed by the Mayor, with the consent of the City Council. Members shall be appointed for a term of three (3) years, and shall serve until their successors are appointed and qualified. Two (2) members shall be council persons, who shall serve until their terms on the City Council end or they are replaced by other council members. All terms shall begin on January 1 and shall expire on December 31. A vacancy shall be filled for the unexpired portion of a term by Mayoral appointment with the consent of the City Council. Any member may be removed by the Mayor with the consent of the Council for cause, after a hearing. Board members shall serve without compensation. They shall, at the beginning of each fiscal year, select a chairperson, a secretary and such additional officers as the board shall determine. The secretary need not be a member of the board. A majority shall constitute a quorum for the transaction of business.

§33.102 POWERS AND RESPONSIBILITIES.

The board shall have full, absolute and exclusive control of all property set-aside for park purposes. The board shall operate facilities made available to it for recreational purposes; but it shall have no authority to construct buildings or other permanent structures upon any land without the consent of the City Council. In order to carry the duties provided in this ordinance the board may:

(A) Adopt rules for its meetings and the transaction of its business, and rules governing the use by the public of the facilities under its control,

(B) Employ and fix the compensation of a superintendent and other personnel. Employees shall be selected and supervised according to the city's personnel policies,

(C) Purchase materials, supplies, equipment, and services, subject to budgeting limitations and requirements imposed by law. All purchases shall be made according to state law and city policy,

(D) Accept gifts of real and personal property for public recreational purposes,

(E) Maintain and care for the public property which it has acquired or had assigned to it for public recreational purposes, including the Highway 52 corridor, and

(F) Perform whatever other acts shall be reasonable and necessary and proper to carry out a park and recreational program under this section.

§33.103 PREPARATION OF PROGRAM AND BUDGET

The board shall each year prior to September 1 prepare a comprehensive program for public parks and recreation activities for the following year. The program shall be described in terms of activities, as well as finances. The budget of finances shall be substantially balanced and shall show:

- (A) Estimated revenues and estimated expenditures,
- (B) Personnel requirements, and
- (C) Proposed improvements to parklands and buildings.

The budget shall be submitted not later than September 1 to the City Council and any other public body from which contributions are requested. Final decisions as to these contributions shall be reported to the board, which shall adjust its budget if necessary. The board may not levy taxes or borrow money; and it shall not approve any claims or incur any obligations for expenditure unless there is unencumbered cash in the Park and Recreation Fund with which to pay the same.

§33.104 FINANCES AND AUDIT.

For the purposes of financing the public parks and recreation program authorized by this code, there shall be established in the city accounts a special fund to be called the Park and Recreation Fund. Into this fund shall be placed the various revenues of the board and from it shall be paid claims for the various expenditures of the board. All receipts of the board shall be deposited with the City Administrator/Clerk-Treasurer to the credit of the fund and no disbursement shall be made from this fund unless it has first been submitted to and approved for payment by the board. The accounting of the fund and the custody of the cash and the bank checking account shall be the responsibility of the City Administrator/Clerk-Treasurer, who shall make a report to the board at its regular monthly meeting. An audit of the Park Board account shall be made in conjunction with the annual audit of city funds.

§33.105 USER FEES AND SALE OF CONCESSIONS.

The Board shall be authorized to establish charges or fees for the restricted use of any facilities. Any concessions or privileges may be sold after public advertising and competitive bidding, in accordance with applicable laws and regulations.

§33.106 REPORTS.

The board shall, through its chairperson or other designated representative, report on its activities to the City Council at the regular council meeting held each month. The reports shall be in such form as the City Council may direct.

ECONOMIC DEVELOPMENT AUTHORITY

§33.125 ECONOMIC DEVELOPMENT AUTHORITY CONTINUED

It was found and determined by the City Council that the encouragement and financial support of economic development and redevelopment in the City is vital to the orderly growth and financing of the City and in the best interests of the health, safety, prosperity and general welfare of its citizens. It was further found and determined that the economic development and redevelopment of the City can best be accomplished by the establishment of an Economic Development Authority (EDA) as authorized by MN Statutes, Ch. 469, called “the Act”. Therefore, the City Council, in accordance with §469.093 of the Act, provided public notice and conducted a public hearing on June 7, 1994, concerning the creation of an EDA, at which hearing all persons desiring to express their views were heard. Following the hearing, the City Council, by Resolution, established an EDA to coordinate and administer economic development and redevelopment plans and programs for the City of Harmony. That Economic Development Authority is hereby continued.

§33.126 POWERS AND RESPONSIBILITIES

The EDA is a public body, corporate and politic, and a political subdivision of the State of Minnesota. The EDA shall have all the powers, duties and responsibilities set forth in §469.029 to §469.108 of the Act, as said Act may be amended from time to time, and all other applicable laws, except as limited by §33.128 herein.

§33.127 MEMBERSHIP AND TERMS

The EDA shall consist of a governing body of five commissioners. Two of the commissioners shall be members of the City Council. All commissioners shall be appointed by the Mayor with the approval of the City Council for terms of six (6) years. A vacancy is created when a City Council member of the Authority ends Council membership or when a citizen member resigns, and a replacement shall be appointed by the Mayor with City Council approval. No commissioner shall serve more than two (2) consecutive full terms.

§33.128 LIMITS OF POWERS

The following limits shall apply to the Economic Development Authority of the City of Harmony and its operation:

- (A) The EDA shall follow the budget process for City Departments as may be provided by the City, and in accordance with City policies.
- (B) The EDA shall obtain approval from the City Council prior to expending funds outside of its approved budget.

- (C) Development and redevelopment plans of the EDA shall be consistent with the City Comprehensive Plan and official controls implementing the Comprehensive Plan.
- (D) The EDA shall obtain approval of its proposed plans for development and redevelopment from the City Council prior to implementation.
- (E) The sale of all bonds or other obligations issued by the EDA, and any levy of taxes, shall first be approved by the City Council
- (F) Land purchase and sale are subject to approval by the City Council.

§33.129 RIGHTS OF CONTRACTORS AND BOND HOLDERS

It is the intention of the City Council that nothing in this Resolution or any activities of the EDA shall be construed to impair the obligations of the City under any of its contracts or to affect in any detrimental manner the rights and privileges of a holder of a bond or other obligation heretofore issued by the City. The City Council shall not modify any limit in effect at the time any bonds or obligations are issued or contracts executed to the detriment of the holder of the bonds or any contracting party.

LIBRARY BOARD

§33.150 LIBRARY BOARD CONTINUED

Pursuant to authority given by Minnesota Statutes Ch 134.07, the Library Board for the City of Harmony is hereby continued.

§33.151 MEMBERSHIP AND TERMS

The Library Board for the city shall consist of seven (7) members appointed by the Mayor with approval of the city council. No more than one (1) council member shall be a member of the library board at a time. Because the library is a member of SELCO, the regional public library system, residents of the city and residents of rural Fillmore County may be appointed, provided that the majority of the members are residents of the city. Appointments shall be made before the first library board meeting after the end of the fiscal year.

The term of each member shall be three years and they shall serve until their successors are appointed and qualified. All terms shall end with the fiscal year. According to MN Statutes Ch 134.09, Subd. 2, and previously established procedure, two members' terms shall expire in each of two years, and three members' terms shall expire in the third year. The library board president shall report vacancies in the board to the council, which shall fill vacancies by appointment for the unexpired term. A library board member shall not be eligible to serve more than three (3) consecutive three-year terms. The Mayor, with the consent of the council, may remove any member for misconduct or neglect.

Library board members shall receive no compensation for their services, but may be reimbursed for actual and necessary traveling expenses incurred in the discharge of library board duties and activities.

§33.152 ORGANIZATION AND DUTIES.

The library board shall organize by electing one of its number as president and one as secretary, and such other officers as it deems necessary.

The board shall adopt bylaws and regulations for the government of the library and for the conduct of its business as may be expedient and conformable to laws. It shall have exclusive control of the expenditure of all money collected for or placed to the credit of the library fund, of interest earned on all money collected for or placed to the credit of the library fund, of the construction of library buildings, and of the grounds, rooms, and buildings provided for library purposes. All money received for the library shall be paid into the city treasury, credited to the library fund, kept separate from other money of the city, and paid out only upon approval by the board. The library board may lease rooms for library use.

The library board shall appoint a qualified library director and other staff as necessary, establish the compensation of employees, and remove any of them for cause. With the approval of the council, the library board may purchase grounds and erect a library building thereon.

§33.153 ANNUAL REPORT.

As soon as practicable following the end of the fiscal year the library board shall report to the council all amounts received during the preceding year and the sources thereof, the amounts expended and for what purposes, the number of library materials on hand, the number purchased and loaned, and such other information as it deems advisable. No later than April 1 of each year the library board shall file a report containing this information with SELCO, the regional public library system, and with the Dept. of Children, Families and Learning on forms supplied by the department.

§33.154 FREE USE AND BENEFITS OF LIBRARY.

The Harmony public library shall be forever free to the use of the inhabitants of the city, subject to reasonable regulations that the library board may adopt, and to the citizens of Fillmore County and the SELCO region, subject to contracts and regional agreements.

The library board may admit to the benefits of its library persons not residing within the State of Minnesota under regulations and upon conditions as to payment of a non-resident fee as established by SELCO, the regional library system.

The Harmony library, as a member of the Fillmore County libraries and the SELCO regional public library system, has contracted with the county board of Fillmore County to loan library materials to residents of the county and to receive annual compensation for that service. Reciprocal borrowing and lending services are also maintained throughout SELCO and the State of Minnesota.

§33.155 TITLE TO PROPERTY.

All property given, granted, conveyed, donated, devised, bequeathed to, or otherwise acquired by the city for a public library shall vest in, and be held in the name of, the city, and any conveyance, grant, donation, devise, bequest, or gift made to, or in the name of, the city library or library board shall be deemed to have been made directly to the city to be used for library purposes.

§33.156 GIFTS.

With the consent of the city council, expressed by ordinance or resolution, the library board may accept any gift, grant, devise, or bequest made or offered by any person for public library purposes or for the establishment, enlargement, or maintenance of an art gallery or museum in connection with the library, and may carry out the conditions of the donation. The city is authorized to acquire a site, levy a tax, and pledge itself by ordinance or resolution to a perpetual compliance with all the terms and conditions of the gift, grant, devise or bequest so accepted.

CITY TREE BOARD

§33.175 CITY TREE BOARD CONTINUED

The City Tree Board for the City of Harmony is hereby continued. It shall continue to be the responsibility of this Board to study, investigate, counsel, develop, maintain, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs, in parks, along streets and in other public areas. Any revisions in the plan shall be presented to the Council and, following review and approval by the Council, shall constitute the official comprehensive City Tree Plan for the City of Harmony. The Board, when requested by the Council, shall consider, investigate, make findings, report and recommend upon any special matter or question coming within the scope of its work.

§33.176 MEMBERSHIP AND TERMS

The City Tree Board shall consist of the five members of the Park and Recreation Board who have been appointed by the mayor with the approval of the City Council. Members of the board shall serve without compensation. In the event that a vacancy shall occur during the term of any member, his or her successor shall be appointed.

The Board shall choose its own officers, make its own rules and regulations, and appoint a member to keep a journal of its proceedings. Each year the Board at its first regular meeting after January 1st shall select one of its members as chairperson and another of its members as vice-chairperson, who shall perform the duties of the chairperson during the absence or disability of the chairperson. A majority of the members shall constitute a quorum for the transaction of any business.

§33.177 AUTHORITY AND POWERS

The Board shall have the following powers and duties:

- A.** Determine and establish such rules and regulations for the conduct of the Board as the members shall deem advisable; provided, however, that such rules and regulations shall not be in conflict with this code or other city, state or federal law;
- B.** Recommend the adoption or alteration of all rules and regulations which it shall from time to time deem in the public interest and most likely to enhance and beautify the urban forest, and for the purposes of carrying out this section;
- C.** Recommend policies regarding the planting, maintenance and removal of trees and other vegetation on city property, or on private property if the tree is diseased and constitutes a nuisance (See Ch 9 §92.02).
- D.** Recommend policies for the review and approval of capital projects where trees or other vegetation will be planted or removed on city property;

- E.** Recommend policies for the review and approval of projects on private property where open space and/or landscaping is required as a condition for development, and recommend policies for the enforcement of approved plans;
- F.** Assist the city in encouraging landscaping installation and maintenance on private property by providing information on the value of landscaping and on the proper planting and care of trees and other vegetation;
- G.** Identify landscaping projects that will enhance the urban forest and advocate incorporating of those projects into the capital planning process;
- H.** Recommend policies and procedures to identify, mark, publicize and preserve historic and notable trees on both public and private property;
- I.** Assist the city in promoting appreciation of trees and the urban forest through annual Arbor Day observances and other activities;
- J.** Review those portions of the city budget allocated for the planting and care of trees and other vegetation, and advise the mayor on the appropriateness of the funding levels;
- K.** Encourage improvement of the urban forest through planning and policy development;
- L.** Assist city departments in every way possible to enhance the urban forest in the city;
- M.** In all instances, serve as an advocate of the city's urban forest.

§33.178 APPLICABILITY

This ordinance provides full power and authority over all trees, plants and shrubs located within street rights-of-way, parks and public places of the city, and to trees, plants and shrubs located on private property that constitute a hazard or threat as described in Ch 9 §92.02.

It shall be a violation of this ordinance for any person to prevent, delay, or interfere with the City Tree Board, or any of its agents, while engaging in the inspecting, planting, cultivating, mulching, pruning, spraying, or removing of any city trees, or trees on private grounds as authorized in this code. See §33.184.

§33.179 LICENSE AND INSURANCE REQUIRED

It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating, or removing city trees within the City without first applying for and procuring a license from the City; provided, however, that no license shall be required of any public utility company, or its agents, or City employees doing such work in the pursuit of their public service endeavors.

A license will be granted by the City upon the payment of an annual license fee (listed in the Schedule of Fees), and upon the applicant submitting evidence of possession of liability insurance in the minimum amounts of \$300,000 for bodily injury or death and \$100,000 property damage indemnifying the City or any person injured or damaged resulting from the pursuit of such endeavor as herein described.

§33.180 PLANTING, MAINTENANCE AND REMOVAL

No species may be planted on public property within the City of Harmony without the prior written permission of the City Tree Board. Prior to the Tree Board taking action, it shall review all requests for planting to assure that the species are appropriate. The Tree Board shall submit written reports to the City Council on those matters requested by the Council prior to taking official action.

Tree Species - The City Tree Board shall develop and maintain a list of desirable trees for planting along streets in three size classes: small (to a height of 30 feet), medium (to a height of 50 feet) and large (to a height over 50 feet). A list of trees not suitable for planting will also be created and enforced by the Tree Board.

Spacing - The spacing of street trees will be in accordance with the three species size classes listed in this ordinance, and no trees may be planted closer together than the following: small trees, 30 feet; medium trees, 40 feet; and large trees, 50 feet; except in special plantings designed or approved by the City Tree Board.

Utilities - No trees other than those species listed herein as small trees may be planted under or within 10 lateral feet of any overhead utility wire, or over or within 5 lateral feet of any underground water line, sewer line, transmission line or other utility.

Distance from Curb and Sidewalk - The distance trees may be planted from curbs or curb lines and sidewalks will be in accordance with the three species size classes listed above, and no trees may be planted closer to any curb or sidewalk than the following: small trees, 2 feet; medium trees, 3 feet; and large trees, 4 feet.

Distance from Corners, Fire Hydrants and Driveways - No street tree shall be planted closer than 35 feet to any street corner, measured from the point of nearest intersecting curbs or curb lines. No street tree shall be planted closer than 15 feet to any fire hydrant, nor 5 feet from any driveway.

Care of Trees - The City of Harmony shall have the right to plant, prune, maintain, and remove trees, plants, and shrubs within the lines of all streets, alleys, avenues, lanes, squares, and public grounds as may be necessary to insure the public safety or to preserve or enhance the symmetry and beauty of such public grounds. No other planting may be done without the consent of the City Tree Board.

Removal of Trees Endangering Utilities or Other Public Improvements - The City Tree Board may remove or cause or order to be removed any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewer, electric power lines, gas lines, water lines, or other public improvement, or is affected with any injurious fungus, insect, or other pest. Every tree overhanging any street or right-of-way within the City shall be pruned so that the branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of at least 8 feet above the street or sidewalk. Dead, diseased, or dangerous trees, or broken or decayed limbs that endanger the safety of the public shall be removed. (See also Ch. 9 §92.02.)

Topping - It shall be a violation of this ordinance as a normal practice for any person, firm, or city department to top any city tree on public property. Topping is defined as the severe cutting back of limbs to stubs within the tree's crown to such a degree so as to remove normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this ordinance at the determination of the City Tree Board.

Replacement of Boulevard Trees - The City requires all property owners who remove any tree from a boulevard to replace the tree. Failure to do so shall be a violation of this section.

§33.181 PERMIT REQUIRED

No person shall plant, remove, cut above the ground, or disturb any tree on any street, park or other public place without first filing an application and procuring a permit from the city. The person receiving the permit shall abide by the standards set forth in this code.

§33.182 ADJACENT LANDOWNER RESPONSIBILITY

In cases where an owner of private real property abutting city property requests city actions on city trees, the requesting owner shall be financially responsible for the following:

A. Removal of trees, limbs or roots preventing house moving or other construction activities;

B. Removal of trees, limbs or roots for the alteration of tree or abutting property appearance where no hazard or nuisance exists;

C. Spraying, fertilizing or treatment other than may be regularly conducted on a citywide basis by the city. Financial responsibility does not eliminate the requirement of obtaining necessary permits required by this chapter.

§33.183 TREES ON PRIVATE PROPERTY AS NUISANCE

The following are defined and declared to be public nuisances:

A. Any tree or shrub located on private property having a destructive or communicable disease or other pestilence which endangers the growth, health, life or well-being of trees, shrubs or plants in the city or which is capable of causing an epidemic spread of a communicable disease or insect infestation:

B. The roots of any tree or shrub, located on private property, which cause the surface of the public street, curb or sidewalk to be heaved up or otherwise disturbed;

C. Any tree, shrub or portion thereof located on private property that, by reason of location or condition, constitutes an imminent danger to the health, safety or well-being of the general public on city property.

It is a violation of this code for any person, either as owner, agent or occupant, to create or aid in creating or contributing to or to maintain a public nuisance, as further defined in Ch. 9 §92.02.

The City Tree Board shall have the authority to order the trimming, treatment, and removal of trees, shrubs or plants upon private property when such action is necessary to public safety or to prevent the spread of disease or insects to trees, shrubs, or plants located on public property. Any tree or shrub situated upon private property, but so situated as to extend its branches over the improved portion of a public street or highway easement, shall be so trimmed by the owner of the real property upon which the same is located, so that there is a clear height of at least 8 feet over that portion of such easement that is used for vehicular traffic and over that

portion of such easement used for pedestrian travel; and such persons shall remove the dead or diseased branches or stubs of trees which are or may become hazardous to the public use of such easement. Any trees obstructing traffic control signs or devices from the view of the pedestrian or motorist shall be pruned to a height established by the City Tree Board to insure proper safety for motorists or pedestrians.

§33.184 VIOLATIONS

Any person who violates any provision of §33.175-85, or who fails to comply with any notice issued pursuant to provisions of these sections, shall be guilty of a misdemeanor for each separate offense. (*See also* §92.02)

If, as the result of the violation of any provision of this code, the injury, mutilation, or death of a tree, shrub, or other plant located on city-owned property is caused, the cost of repair or replacement of such tree, shrub, or other plant shall be borne by the party in violation. The replacement value of trees and shrubs shall be determined in accordance with the latest revision of the International Society of Arboriculture/Council of Landscape Appraisers system.

Penalty, see §10.99

§33.185 APPEAL

Any person aggrieved by any ruling or order of the City Tree Board may appeal to the City Council, which shall hear the matter and make a final decision. The City Council shall have the right to review the conduct and decisions of the City Tree Board. The City Council may modify, affirm, or reverse any determination of the City Tree Board.

HARMONY ARTS COUNCIL

§33.200 HARMONY ARTS COUNCIL ESTABLISHED

It is found and determined by the City Council that the arts are indispensable to a healthy community and that the formation of a Harmony Arts Council would offer cultural enrichment and arts experiences for people of all ages, interests and abilities within our community. Therefore, the City Council hereby establishes a Harmony Arts Council. This Council shall work with the Park Board, the school district and its community education director, community groups, businesses, artists, and individuals to plan a variety of arts activities to provide cultural vitality, improve economic stability, and create a sustainable environment for the arts within our community.

§33.201 POWERS AND RESPONSIBILITIES

In order to carry out the duties provided in this ordinance, the Harmony Arts Council may:

- a) Serve as a central resource for fostering and promoting the visual and performing arts within the community of Harmony and its surrounding area. It shall use all electronic and print methods to publicize cultural activities and build on current programs;
- b) Negotiate with the Fillmore Central School District to share resources to improve the attendance at school cultural events and offer support for enhanced arts activities within the district;
- c) Assist and partner with community groups, businesses, the school, and artists to jointly apply for grants to offer increased support of arts events. The Council shall have the power to act as fiscal agent for such grants or cooperative projects;
- d) Explore and pursue cooperation with local colleges, churches, and organizations like Rochester Civic Music and SELCO to increase Harmony's exposure to arts events;
- e) Look creatively at venues and resources within Harmony (such as the Jem Theatre, roller rink, churches, and Niagara Cave) to increase the variety of cultural activities for all age groups;
- f) Cooperate with artists, galleries, and Community Education to provide adult classes, enhancement of the school arts program and a summer youth program;
- g) Develop sound communication techniques, including use of Harmony's public access television channel and e-mail, to share information about cultural events elsewhere and foster cooperative trips to such events; and
- h) Develop such other activities and cooperative ventures that will fulfill the purposes outlined in §33.200.

§33.202 MEMBERSHIP AND TERMS

The Arts Council shall consist of seven (7) members, appointed by the Mayor, with the consent of the City Council. Members shall be appointed for a term of three (3) years, (except for the initial term when two (2) shall be appointed for one year, two (2) for two years, and three

(3) for three years so that terms are rotated) and shall serve until their successors are appointed and qualified. One shall represent the Park Board, and the remaining members shall include two (2) community business people, a school representative, a member of the arts community, and two high school students, who shall serve until they graduate. All terms shall begin on January 1 and shall expire on December 31. A vacancy shall be filled for the un-expired portion of a term by Mayoral appointment with the consent of the City Council. Any member may be removed by the Mayor with the consent of the Council for cause, after a hearing. Board members shall serve without compensation. They shall, at the beginning of each fiscal year, select a chairperson, a secretary and such additional officers as the board shall determine. The secretary need not be a member of the board. A majority shall constitute a quorum for the transaction of business.

§33.203 PREPARATION OF PROGRAM

The Arts Council shall meet at least quarterly throughout the year to plan activities designed to fulfill its duties and responsibilities.

§33.204 FINANCES AND AUDIT.

For the purposes of financing expenditures authorized by this code, there shall be established in the city accounts a special fund to be called the Arts Council Fund. Into this fund shall be placed the various revenues of the board and from it shall be paid claims for the various expenditures of the board. All receipts of the board shall be deposited with the City Administrator/Clerk-Treasurer to the credit of the fund and no disbursement shall be made from this fund unless it has first been submitted to and approved for payment by the board. The accounting of the fund and the custody of the cash and the bank checking account shall be the responsibility of the City Administrator/Clerk-Treasurer, who shall file a report with the board at each meeting. An audit of the Arts Council account shall be made in conjunction with the annual audit of city funds.

§33.205 USER FEES AND SALE OF CONCESSIONS.

The Arts Council shall be authorized to establish charges or fees for attendance at arts events, and may authorize a cooperating organization to sell food or other concessions in accordance with applicable laws and regulations.

§ 33.206 REPORTS.

The Arts Council shall, through its chairperson or other designated representative, report on its activities to the City Council at least once each year. The reports shall be in such form as the City Council may direct.