

# MINNEAPOLIS CITY COUNCIL OFFICIAL PROCEEDINGS

## REGULAR MEETING OF DECEMBER 12, 2008

(Published December 20, 2008, in *Finance and Commerce*)

Council Chamber

350 South 5th Street

Minneapolis, Minnesota

December 12, 2008 - 9:30 a.m.

Council President pro tem Lilligren in the Chair.

Present - Council Members Samuels, Gordon, Hofstede, Ostrow, Schiff, Lilligren, Colvin Roy, Glidden, Remington, Benson, Goodman, Hodges, President Johnson.

Benson moved adoption of the agenda. Seconded.

Adopted upon a voice vote 12/12/2008.

Benson moved acceptance of the minutes of the regular meeting and the adjourned session of November 21, 2008, and the adjourned session of December 1, 2008. Seconded.

Adopted upon a voice vote 12/12/2008.

Benson moved referral of petitions and communications and reports of the City officers to the proper Council committees and departments. Seconded.

Adopted upon a voice vote 12/12/2008.

### PETITIONS AND COMMUNICATIONS

#### **COMMUNITY DEVELOPMENT (See Rep):**

COMMUNITY PLANNING & ECONOMIC DEVELOPMENT (273164)

38th & Chicago Redevelopment Area Plan (re 3749 Chicago Ave S): Granting of easement to Samir Abumayaleh.

Lowell Curve Redevelopment Project: Reassignment of development rights from Project for Pride in Living to Twin Cities Habitat for Humanity; extension of project completion date.

2008 Affordable Housing Trust Fund & Non-Profit Development Assistance Fund Projects: Loan & grant funding awards.

Hennepin Healthcare System, Inc (re block bounded by Nicollet, & Blaisdell Aves, W 28th & 29th Sts): Memorandum of Understanding between the City & Hennepin Healthcare System; Modification No. 21 to Model City Urban Renewal Plan.

2008 Housing Revenue Bond Entitlement: Authorizing carry forward of unused entitlement for multi-family purposes.

#### **COMMUNITY DEVELOPMENT and WAYS & MEANS/BUDGET:**

COMMUNITY PLANNING & ECONOMIC DEVELOPMENT (273166)

2% Revolving Loan Program & 2% Commercial Corridor/Commercial Node Loan Program: Year-end portfolio summary & delinquency report.

Green Institute Loan Status: Update report on loans & plans for sale of Eco-Enterprise Center.

**COMMUNITY DEVELOPMENT and WAYS & MEANS/BUDGET (See Rep):**

COMMUNITY PLANNING & ECONOMIC DEVELOPMENT (273165)

2009 Tax-Exempt Revenue Bonds: Authorizing City staff to take certain actions to utilize bond financing for City industrial/manufacturing projects.

Franklin Station Project Site Acquisition: Funding award from Metropolitan Council Land Acquisition for Affordable New Development Program; Setting aside funds from Mpls Hiawatha LRT Corridor Transit Oriented Development Program.

Metropolitan Consortium of Community Developers: Allocation of funds to extend City's partnership on small business loan programs for 2009; Allocation of funds to pilot the credit building proposal.

African Development Center: Allocation of funds to extend partnership on business loan activities in 2009.

Mpls Target Center Roof Replacement: Approve bid of Stock Roofing Company, LLC for roof replacement, including green-green vegetated roof.

**HEALTH, ENERGY AND ENVIRONMENT:**

CIVIL RIGHTS (273167)

Contract Compliance: Third Quarter Report.

**HEALTH, ENERGY AND ENVIRONMENT (See Rep):**

CIVIL RIGHTS (273168)

Small and Underutilized Business Enterprise Program: Ordinance extending Chapter 423 to December 31, 2009.

HEALTH AND FAMILY SUPPORT SERVICES (273169)

Minneapolis Advisory Committee on People with Disabilities: Approve Mayoral appointment of Michael Patrick.

Youth Violence Prevention Plan Executive Committee: Amend Youth Violence Prevention Steering Committee to change the term of appointments from one to two years; and Approve Mayoral appointments of Ed Anderson; Darlene Bailey; Peter Benson; William Green; V.J. Smith; Gary Reiersen; Efrem Smith; Sondra Samuels; William Ziegler; Eloisa Echavez; Cam Gordon; Mark Stenglein; Richard Mammen; and Frederick Huballa.

**HEALTH, ENERGY AND ENVIRONMENT and WAYS & MEANS/BUDGET (See Rep):**

HEALTH AND FAMILY SUPPORT SERVICES (273170)

Volunteer Taxpayer Assistance Services: Accept revenue of \$35,444 from Minnesota Department of Revenue from Friends of the Medica Skyway Senior Center to provide services; and Approve appropriation.

Latina Healthy Start Project: Authorize submit five-year grant application to United States Department of Health and Human Services seeking up to \$3,425,000 for infant mortality reduction services in the Minneapolis Latino community.

**INTERGOVERNMENTAL RELATIONS:**

HUMAN RESOURCES (273171)

Ethics Officer Report: Report on professional conflict of interest for the City's proposed lobbyists.

**INTERGOVERNMENTAL RELATIONS (See Rep):**

INTERGOVERNMENTAL RELATIONS (273172)

City of Minneapolis 2009 Legislative Agenda.

**PUBLIC SAFETY AND REGULATORY SERVICES (See Rep):**

LICENSES AND CONSUMER SERVICES (273173)

Arcade Convenience and Rubylicious (27 S 7th St): Revoke Confectionery and Tobacco Dealer's Licenses for Arcade Convenience; Restaurant License for Rubylicious Caribbean Cafe; and Sidewalk Food Cart Vendor's License for Rubylicious for failure to pay administrative fines for selling tobacco products to minors at Arcade Convenience.

LICENSES AND CONSUMER SERVICES (273174)

Central Ave Liquor (2538 Central Av): Grant Off-Sale Liquor License, with conditions.

B & G Wine (2201 University Av NE): Grant Off-Sale Liquor License, with conditions.

Team Liquor Wine & Spirits (19 S 7th St): Grant Off-Sale Liquor License, with conditions.

Whisky River (15 S 5th St): Grant On-Sale Liquor Class A with Sunday Sales License, with conditions.

Campus Pizza (825 Washington Av SE): Grant On-Sale Liquor Class E with Sunday Sales License, with conditions.

LICENSES AND CONSUMER SERVICES (273175)

Licenses: Applications.

LICENSES AND CONSUMER SERVICES (273176)

Noise/Liquor Licensing: Ordinances repealing Section 360.55 relating to Music not to disturb residents; amending regulations addressing content of required license applications; and establishing a requirement for qualifying licensed establishments to operate in compliance with noise standards imposed by Chapter 389 and to conduct required sound evaluation.

REGULATORY SERVICES (273177)

Noise: Ordinances amending and clarifying noise regulations, standards and definitions.

Environmental/Construction Activities: Ordinances repealing Section 47.140 relating to Abrasive Blasting Permit Required; amending and clarifying on-site remediation regulations, standards and definitions; adding a new Chapter coordinating environmental construction activities, definitions, permitting, permit requirements and enforcement; and amending those fees covered by the Director's Fee Schedule.

**PUBLIC SAFETY AND REGULATORY SERVICES and WAYS & MEANS/BUDGET (See Rep):**

FIRE DEPARTMENT (273178)

2008 Assistance to Firefighters Grant: Accept grant award of \$394,800 from United States Department of Homeland Security, Federal Emergency Management Agency, to purchase personal protective gear; and Approve

POLICE DEPARTMENT (273179)

Police Mounted Patrol: Issue Request for Proposals for 2009 horse boarding services; and Increase and extend contract with Horsemen Inc for one month or until new contract is completed to board 12 horses.

Police Detox Van Services: Execute contract with Hennepin County to provide chemical health - detox van services for 2009.

Operation NightCap Grant: Execute grant agreement with Minnesota Department of Public Safety to receive \$10,285 to pay overtime to Traffic Unit officers to increase enforcement targeting impaired drivers and increase driver safety; and Approve appropriation.

State Buffer Zone Protection Grant: Execute contract with Minnesota Department of Public Safety to accept \$182,875 to purchase tactical equipment for Police Department; and Approve appropriation.

REGULATORY SERVICES (273180)

2008 Port Security Grant Program: Accept \$250,000 from Minnesota Homeland Security for preparation of Upper Midwest port wide security plans; and Execute necessary contracts with Center for Urban & Regional Affairs at the University of Minnesota for production of plans.

**TRANSPORTATION AND PUBLIC WORKS:**

PUBLIC WORKS AND ENGINEERING (273181)  
ADA Transition Plan for Accessible Pedestrian Signals (APS): Final Draft Plan.  
Fridley Membrane Filtration Plant Project: Report

**TRANSPORTATION AND PUBLIC WORKS (See Rep):**

PUBLIC WORKS AND ENGINEERING (273182)  
Chicago Ave Phase II Reconstruction Project No 6382: Project designation.  
2009 Uniform Assessment Rates for Street Construction, Renovation, and Resurfacing.

**TRANSPORTATION AND PUBLIC WORKS and WAYS & MEANS/BUDGET (See Rep):**

PUBLIC WORKS AND ENGINEERING (273182.1)  
Downtown Business Improvement Special Service District: Ordinance establishing district;  
Comments.  
PUBLIC WORKS AND ENGINEERING (273183)  
Non-Motorized Transportation Pilot Program (NTP): Receive grant.  
Biennial Routine Maintenance Agreement with Mn/DOT.  
Advance Construction Agreement with Mn/DOT re U of M SCOOT Project.  
Security Services for Convention Center, Water Works, Impound Lot, and Emergency Mobilization:  
Contract with ABM Security Services.  
Bid: OP 7046, Collins Electrical Systems, Inc. for overhead traffic signals on Chicago Ave and 31st  
St; and Increase appropriation.  
Public Impound Towing: OP 7035, Schmit Towing, Inc (Zone 1) and S&T Transport, Inc (Zone 2);  
and Rescind Council action of 10/24/08 re Zones 1 and 2.  
Non-Motorized Transportation Pilot Program (NTP): Round 3 solicitations.

**WAYS AND MEANS BUDGET:**

FIRE DEPARTMENT (273184)  
December 2008 Monthly Budget Status Report.  
POLICE DEPARTMENT (273185)  
December 2008 Monthly Budget Status Report.

**WAYS AND MEANS BUDGET (See Rep):**

ATTORNEY (273186)  
Legal Settlement: DuAll Service Contractors, Inc., v. Michael G. Sweat et al. v. City of Minneapolis.  
Council on Crime and Justice: Contract amendment.  
BUSINESS INFORMATION SERVICES (BIS) (273187)  
AutoMon, LLC Contract: Amend contract C-22110 to provide vendor support, upgrades, licenses,  
and maintenance; and extend contract date to 2011.  
CITY CLERK (273188)  
Statement of Economic Interest: City positions required to file.  
COMMUNICATIONS (273189)  
January 2009 Utility Billing Insert: 2009 utility billing rates.  
COMMUNITY PLANNING & ECONOMIC DEVELOPMENT (273190)  
Empowerment Zone Grant Funds: Authorize application of Federal appropriation.  
Cedar Riverside Station Area Public Art: Accept grant funds from McKnight Foundation; and  
authorize execution of an agreement with Minneapolis Public Housing Authority for an easement at  
1627 6th Street South.  
Maintenance of Public Art: Accept funds from the Minneapolis Police Federation Charities, and  
the City of Ibaraki, Japan.

FINANCE DEPARTMENT (273191)

Annual Property Insurance Premium for Minneapolis Convention Center, Tallmadge Building, and Parking Ramp: a) 2009 coverage; b) XL Insurance quote; and c) terrorism coverage.

1st through 4th Quarter 2008 Gift Acceptance.

MAYOR (273192)

Victim Memorial: Designate donations to the 35W Remembrance Garden Fund at the Minneapolis Foundation.

Hiring Freeze: Resolution adopting a City policy.

**WAYS AND MEANS BUDGET and ZONING AND PLANNING (See Rep):**

COMMUNITY PLANNING & ECONOMIC DEVELOPMENT (273193)

Certified Local Government (CLG) Grant: Accept funds through Minnesota Historical Society to revise City's survey of historic properties.

**MOTIONS:**

PUBLIC WORKS AND ENGINEERING (273194)

Newsracks: Passage of Ordinances repealing Chapter 451 and adding a new Chapter 464 regulating the placement of newsracks, designating personnel to enforce the ordinance, and providing for a fee; and Ordinances amending the list of permitted uses to add Chapter 464 relating to Newsracks on Nicollet Mall; and amending the list of persons authorized to issue administrative citations to include the Departments of Regulatory Services and Public Works for Newsracks.

**FILED:**

GRANTS AND SPECIAL PROJECTS (273195)

Memorandum of Understanding between Cuernavaca, Mexico and Minneapolis, Minnesota to establish a Sister City Relationship.

*The following reports were signed by Mayor Rybak on December 15 and 16, 2008. Minnesota Statutes, Section 331A.01, Subd 10, allows for summary publication of ordinances and resolutions in the official newspaper of the city.*

**REPORTS OF STANDING COMMITTEES**

**The COMMUNITY DEVELOPMENT Committee submitted the following reports:**

**Comm Dev** - Your Committee, having under consideration the 38th and Chicago Redevelopment Area Plan, and the recommendation of the Department of Community Planning & Economic Development (CPED) to approve a grant of easement to permit protection from the elements for property at 3749 Chicago Ave S to Samir H. Abumayyaleh for \$1, now recommends passage of the accompanying resolution authorizing the granting of said easement.

Adopted 12/12/2008.

Approved by Mayor Rybak 12/15/2008.

(Published 12/16/2008)

Resolution 2008R-552, authorizing the granting of easement for Disposition Parcel No. 27, 38th and Chicago Redevelopment Area Plan, for property at 3749 Chicago Ave S to Samir Abumayyaleh, was adopted 12/12/2008 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

**RESOLUTION 2008R-552**

**By Goodman**

**Authorizing the Grant of Easement Disposition Parcel No. 27, 38th and Chicago Redevelopment Area Plan, for property at 3749 Chicago Ave S.**

Whereas, the City owns 3749 Chicago Avenue South, Disposition Parcel No. 27 in the 38th and Chicago Redevelopment Area Plan; and

Whereas, Samir H. Abumayyaleh, herein known as the Purchaser, has offered to enter into an easement agreement with the City, agreeing to pay \$1 for grant of easement; and

Whereas, pursuant to due notice thereof published in *Finance and Commerce* on November 21, 2008, a public hearing on this grant of easement was duly held on December 2, 2008, at the regularly scheduled Community Development Committee meeting of the City Council, at the Minneapolis City Hall, 350 South 5th Street, Room 317, at 1:30 p.m., in the City of Minneapolis, County of Hennepin, State of Minnesota;

Now, Therefore, Be It Resolved by The City Council of The City of Minneapolis:

That the proper City officers be authorized to execute related documents for grant of easement interest.

Adopted 12/12/2008.

Approved by Mayor Rybak 12/15/2008.

**Comm Dev** - Your Committee, having under consideration the development rights for the Lowell Curve Redevelopment Project, in the area north of W Broadway, bounded by Logan, Willow and 24th Aves N, now recommends approval of the request of Project for Pride in Living for the re-assignment a portion of their redevelopment rights to three lots on the Lowell School site (1918 Willow, 2359 Logan and 1917 - 24th Aves N) to Twin Cities Habitat for Humanity, and approval of an extension of the project completion date to December 31, 2010.

Adopted 12/12/2008.

**Comm Dev** – Your Committee, having under consideration the 2008 Affordable Housing Trust Fund (AHTF) project recommendations, now recommends approval of up to \$8,504,283 in AHTF loans for the following projects, and up to \$97,500 from the Non-Profit Development Assistance (Non-Profit) for the developers noted, and that the proper City officers be authorized to execute the necessary documents relative to the loans and grants:

a) A loan up to \$884,000 from the AHTF for Alliance Addition, 724 E 17th St, by Aeon or an affiliated entity;

b) A loan up to \$900,000 from the AHTF for Andrew Riverside Senior Housing, 415 - 8th Ave SE, by CommonBond Communities or an affiliated entity;

c) A loan up to \$1,190,413 from the AHTF and a grant up to \$30,000 from the Non-Profit for Clare Midtown, 3105 - 23rd Ave S, by Clare Housing or an affiliated entity;

d) A loan up to \$129,000 from the AHTF and a grant up to \$7,500 from the Non-Profit for Exodus Apartments, 3131 - 3133 1st Ave S, 3137 – 3139 1st Ave S, 3143 – 3145 1st Ave S, and 106 – 108 E 32nd St, by Community Housing Development Corporation or an affiliated entity;

e) A loan up to \$445,870 from the AHTF and a grant up to \$30,000 from the Non Profit for Fremont Flats, 1814, 1816 and 1820 – 22 Fremont Ave N by Project for Pride in Living (PPL) or an affiliated entity;

f) A loan up to \$997,000 from the AHTF for Gateway Lofts, 2601 W Broadway, by Alliance Housing Incorporated or an affiliated entity;

g) A loan up to \$108,000 from the AHTF for Hope Block Stabilization, 2020 Portland Ave, 616 – 618 E 22nd St, 2024 – 26 Oakland Ave S, and 2107, 2109, 2115, 2123 Portland Ave, by Hope Community, Inc or an affiliated entity;

h) A loan up to \$500,000 from the AHTF for Longfellow Station, 3815 Hiawatha Ave, by Longfellow Housing Limited Partnership or an affiliated entity;

i) A loan up to \$975,000 from the AHTF for Lyndale Green, 610 W 28th St, by Brighton Development Corporation or an affiliated entity;

j) A loan up to \$800,000 from the AHTF and a grant up to \$30,000 from the Non Profit for Riverview Apartments, 5100 E 54th St, by Plymouth Church Neighborhood Foundation and CommonBond Communities or an affiliated entity.

Your Committee further recommends approval of the sale of Fremont Avenue Flats (1814, 1816, 1820-22 Fremont Ave N) by Northside Residents Redevelopment Council to PPL and the assumption of all City existing debt in the amount of \$960,616 (reflecting both principal and accrued interest as of 12/31/08) on the project by PPL or an affiliated entity with a 30 year deferred term at 1% interest.

Adopted 12/12/2008.

**Comm Dev** - Your Committee, having under consideration the Memorandum of Understanding between the City and Hennepin Healthcare System, Inc., outlining the parameters of the relationship between Hennepin Healthcare Systems, Inc and the City in the future development of approximately 1.4 acres of the 3.05 acre site bounded by Nicollet Ave on the east, Blaisdell Ave on the west, W 28th St on the north and W 29th St on the south, now recommends approval of said Memorandum of Understanding, as set forth in the Department of Community Planning & Economic Development staff report.

Your Committee further recommends passage of the accompanying resolution approving Modification No. 21 to the Model City Urban Renewal Plan.

Adopted 12/12/2008.

Resolution 2008R-553, adopting Modification No. 21 to the Model City Urban Renewal Plan (relating to the future development of approximately 1.4 acres of the 3.05 acre site bounded by Nicollet Ave on the east, Blaisdell Ave on the west, W 28th St on the north and W 29th St on the south), was adopted 12/12/2008 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

**RESOLUTION 2008R-553**  
**By Goodman**

**Adopting Modification No. 21 to the Model City Urban Renewal Plan**

Resolved by The City Council of The City of Minneapolis:

**Section 1. Recitals**

1.1. Pursuant to Laws of Minnesota 2003, Chapter 127, Article 12, Sections 31-34, and Minneapolis Code of Ordinances, Chapter 415, the City of Minneapolis (the "City"), acting by and through its department of Community Planning and Economic Development ("CPED"), has been granted the authority to propose and implement city development districts, housing and redevelopment projects and tax increment financing districts, all pursuant to Minnesota Statutes, Sections 469.001 through 469.134, and 469.174 through 469.179, as amended, and other laws enumerated therein (collectively, the "Project Laws").

1.2. On October 23, 1970, the City Council approved the Model City Urban Renewal Plan, and subsequent modifications have been prepared and approved.

1.3. It has been proposed and the City has prepared, and this Council has investigated the facts with respect to, a proposed Modification No. 21 to the Model City Urban Renewal Plan (the "Plan"), identifying properties that may be acquired.

**Section 2. Findings for the Adoption of the Plan**

2.1. The Council hereby finds, determines and declares that the objectives and actions authorized by the Plan are all pursuant to and in accordance with the Project Laws.

2.2. The Council hereby finds, determines and declares that the Plan will afford maximum opportunity, consistent with the sound needs of the City as a whole, for the redevelopment of the Project Area by private enterprise.

2.3. The Council further finds, determines and declares that the Plan conforms to the general plan for the development or redevelopment of the City as a whole.

2.4. The Council hereby finds, determines and declares that the Project Area includes vacant and underutilized buildings that are detrimental to the community by reasons of dilapidation, obsolescence, overcrowding, faulty arrangement, lack of ventilation and structural damage. The vacant and substandard buildings undermine the value of adjacent property, are an uneconomic use of the land, and are considered a blighting condition.

2.5. The Council hereby finds, determines and declares that the land in the Project Area would not be made available for redevelopment without the financial aid and public resources to be sought.

2.6. The Council further finds, determines and declares that it is necessary and in the best interests of the City at this time to approve the Plan, identifying properties that may be acquired.

**Section 3. Approval of the Plan**

3.1. Based upon the findings set forth in Section 2 hereof, Modification No. 21 to the Model City Urban Renewal Plan, presented to the Council on this date, is hereby approved and shall be placed on file in the office of the City Clerk.

**Section 4. Implementation of the Plan**

4.1. The officers and staff of the City, and the City's consultants and counsel, are authorized and directed to proceed with the implementation of the Plan, and for this purpose to negotiate, draft, prepare and present to this Council for its consideration, as appropriate, all further modifications, resolutions, documents and contracts necessary for this purpose.

Adopted 12/12/2008.

**Comm Dev** - Your Committee recommends passage of the accompanying resolution authorizing the carryforward of \$59,467,000 of unused 2008 Tax-exempt Housing Revenue Bond entitlement for Multifamily purposes.

Adopted 12/12/2008.

Resolution 2008R-554, authorizing carryforward of unused private activity bond volume cap, was adopted 12/12/2008 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

**RESOLUTION 2008R-554  
By Goodman**

**Authorizing Carryforward of unused private activity bond volume cap.**

Whereas, the City of Minneapolis, Minnesota (the "City") is an "entitlement issuer" within the meaning of Minnesota Statutes, Section 474A.02, subd. 7; and

Whereas, the City's entitlement allocation for 2008 under Minnesota Statutes, Chapter 474A.03, subd. 2a is \$39,742,000 ("General Volume Cap"); and

Whereas, the Housing Assistance Tax Act of 2008 amended § 146 of the Internal Revenue Code of 1986, as amended (the "Code"), to provide for a temporary increase in private activity volume cap in 2008 (the "2008 Housing Act Volume Cap"); and

Whereas, the City's entitlement allocation of 2008 Housing Act Volume Cap is \$19,725,000; and

Whereas, the City has not yet issued any bonds in 2008 attributable to its General Volume Cap, but depending on market conditions, may do so prior to the end of 2008; and

Whereas, the City does not expect to issue bonds in 2008 attributable to the 2008 Housing Act Volume Cap; and

Whereas, the City may, under § 146(f) of the Internal Revenue Code of 1986, as amended, and under Minnesota Statutes, Chapter 474A, "carryforward" all or a portion of the City's unused General Volume Cap and 2008 Housing Act Volume Cap; and

Whereas, it is in the best interest of the public health, safety and welfare that the City carryforward for qualified carryforward purposes its General Volume Cap and 2008 Housing Act Volume Cap remaining unused on December 31, 2008;

Now, Therefore, Be It Resolved by The City Council of The City of Minneapolis:

1. The City hereby elects to carryforward the balance of its remaining General Volume Cap which remains unused by the end of 2008 for qualified residential rental bonds.

2. The City hereby elects to carryforward \$19,725,000 of its 2008 Housing Act Volume Cap for the purpose of issuing "qualified housing issues," as permitted by IRS Notice 2008-79. Pursuant to such Notice, "qualified housing issues" include certain single family bonds, mortgage credit certificates or qualified residential rental bonds.

3. The Director of the Department of Community Planning and Economic Development is hereby authorized and directed to execute and cause to be filed with the Internal Revenue Service separate Forms 8328 specifying the amount of General Volume Cap and 2008 Housing Act Volume Cap to be carried forward as described above. The Forms 8328 shall be filed with the Internal Revenue Service on or before February 15, 2009. The Director is further authorized to notify the Minnesota Department of Finance of such carryforward at such time and as required by Minnesota Statutes, Chapter 474A.

Adopted 12/12/2008.

**The COMMUNITY DEVELOPMENT and WAYS & MEANS/BUDGET Committees submitted the following reports:**

**Comm Dev & W&M/Budget** – Your Committee recommends that the proper City officers be authorized to take certain actions throughout 2009 in order to utilize tax-exempt revenue bond financing for various City industrial/manufacturing projects, as specifically set forth in the Department of Community Planning & Economic Development staff report.

Adopted 12/12/2008.

**Comm Dev & W&M/Budget** - Your Committee, having under consideration funding allocations for the Franklin Station Project site acquisition, now recommends:

a) Acceptance of a \$500,000 funding award from the Metropolitan Council Land Acquisition for Affordable New Development (LAAND) Program, and that the proper City officers be authorized to execute loan, subrecipient and/or disbursement and related agreements for the LAAND award;

b) Passage of the accompanying resolution increasing the Community Planning and Economic Development (CPED) Department appropriation by \$500,000 to reflect the receipt of said grant funds;

c) Approval of the set aside of \$600,000 from the Minneapolis Hiawatha Light Rail Transit Corridor Transit Oriented Development Program for property acquisition for the Franklin Station Project.

Adopted 12/12/2008.

Approved by Mayor Rybak 12/15/2008.

(Published 12/16/2008)

**RESOLUTION 2008R-555  
By Goodman and Ostrow**

**Amending the 2007 General Appropriation Resolution.**

Resolved by The City Council of The City of Minneapolis:

That the above-entitled resolution, as amended, be further amended as follows:

a) Increasing the appropriation for the Community Planning and Economic Development (CPED) Agency in the Grants-Other Fund (01600-8900220) by \$500,000;

b) Increasing the revenue source in the CPED Agency in the Grants-Other Fund (01600-8900900-321513) by \$500,000.

Adopted 12/12/2008.

Approved by Mayor Rybak 12/15/2008.

(Published 12/16/2008)

**Comm Dev & W&M/Budget** - Your Committee, having under consideration a request for funding of the partnership with the Metropolitan Consortium of Community Developers and the City for the Small Business Loan Programs, and implementation of a Credit Building Loan Program, now recommends that the proper City officers be authorized to allocate \$135,000 to the Metropolitan Consortium of Community Developers to extend the City's partnership on business loan activities for 2009.

Your Committee further recommends authorization for the expansion of the partnership in 2009 with the addition of the credit building loan proposal and authorization for an allocation of \$50,000 to the Metropolitan Consortium of Community Developers to pilot the credit building proposal in 2009.

Adopted 12/12/2008.

**Comm Dev & W&M/Budget** - Your Committee, having under consideration a request for funding of the partnership with the African Development Center and the City for the Alternative Financing Loan Program (AFLP) as part of the City's small business assistance programs, now recommends authorization for an allocation of \$35,000 to the African Development Center to extend the partnership on business loan activities in 2009.

Adopted 12/12/2008.

**Comm Dev & W&M/Budget** - Your Committee recommends acceptance of the low bid submitted to the Department of Community Planning & Economic Development (CPED) on OP No. 7023 from Stock Roofing Company, LLC, in the amount of \$5,322,922, to furnish and deliver all labor, materials, equipment, and incidentals necessary to complete roof replacement at the Minneapolis Target Center, including a green-green vegetated roof and a 20-year warranty and maintenance agreement.

Your Committee further recommends approval of the staff directive that all contractors that work on this project be prohibited from speaking to the media, without CPED approval of their communication.

Adopted 12/12/2008.

Approved by Mayor Rybak 12/15/2008.

(Published 12/16/2008)

**The HEALTH, ENERGY & ENVIRONMENT Committee submitted the following reports:**

**HE&E** – Your Committee recommends concurrence with the recommendation of the Mayor to approve the appointment of Michael Patrick, Ward 9, to the Minneapolis Advisory Committee on People with Disabilities to fill the unexpired term of Mark Seigel to expire December 31, 2008, and then for a two-year term to expire December 31, 2010.

Adopted 12/12/2008.

**HE&E** – Your Committee, having under consideration appointments to the Youth Violence Prevention Plan Executive Committee, now recommends the following:

a. Passage of the accompanying resolution amending Resolution 2008R-297 which amended Resolution 2006R-571 entitled "Recognizing Youth Violence as a Public Health Problem and Establishing a Youth Violence Prevention Steering Committee", passed July 25, 2008 to change the term of appointment from one year to two years.

b. Concurrence with the recommendation of the Mayor to approve the following appointments to the Youth Violence Prevention Plan Executive Committee for two-year terms to expire December 31, 2010:

Ed Anderson, Ward 5 (work), business representative  
Darlene Bailey, Ward 10, academic representative  
Peter Benson, Ward 3 (work), academic representative  
William Green, Ward 1 (work), public schools representative  
V.J. Smith, Ward 8, community organizer representative  
Gary Reiersen, Ward 8 (work), faith communities representative  
Efred Smith, Ward 5 (work), faith communities representative  
Sondra Samuels, Ward 5, community organizer representative  
William Ziegler, Ward 9 (work), community organizer representative

Eloisa Echavez, Ward 9 (work), community organizer representative  
Cam Gordon, Ward 2, elected official representative  
Mark Stenglein, Ward 1, elected official representative  
Richard Mammen, Ward 12 (work), parks & rec representative  
Frederick Huballa, Ward 4, student representative.

Benson moved that the report be amended by adding the following paragraph:

“Your Committee further recommends that the residency requirement be waived, pursuant to Section 14.180 of the Minneapolis Code of Ordinances, for those appointees who are not residents of the City of Minneapolis.” Seconded.

Adopted by unanimous consent.

The report, as amended, was adopted 12/12/2008.

Declining to vote – Samuels.

Resolution 2008R-556, amending Resolution 2008R-297 which amended Resolution 2006R-571 entitled “Recognizing Youth Violence as a Public Health Problem and Establishing a Youth Violence Prevention Steering Committee”, passed July 25, 2008, was adopted 12/12/2008 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

**RESOLUTION 2008R-556**

**By Benson**

**Amending Resolution 2008R-297 which amended Resolution 2006R-571 entitled “Recognizing Youth Violence as a Public Health Problem and Establishing a Youth Violence Prevention Steering Committee”, passed July 25, 2008.**

Resolved by The City Council of The City of Minneapolis:

That Resolution 2008R-297 be amended to change the following Resolved Clause to reflect that appointment terms will be for a period of two years, to read as follows:

“That the Mayor nominates and the City Council approves up to 17 members, for ~~one~~ two year terms. Membership will include representatives from the following communities/sectors: Financial/Business, Health Care, Academic, Minneapolis Public Schools, Minneapolis Park and Recreation Board, Law Enforcement, Foundation Community, Faith Communities, Community Organizer, Elected Officials, and Students. In addition, the Minneapolis Public Health Advisory Committee will assign a liaison to the Executive Committee. The Executive Committee will:

Oversee the general implementation of the Youth Violence Prevention Blueprint for Action.

Provide advice and recommendations on high level strategic and policy issues including the objectives and priorities of the Blueprint for Action.

Serve as a decision making body on recommendations offered by Policy Committees and the Citizen Advisory Committee.

Review the need for and recommend the establish of specialized work groups.

Develop strategic partnerships and leverage resources to achieve the goals of the Blueprint for Action.

Promote and engage a cross section of community stakeholders in the implementation of the plan.”

Adopted 12/12/2008.

Declining to vote – Samuels.

**HE&E** – Your Committee, to whom was referred an ordinance amending Title 16, Chapter 423 of the Minneapolis Code of Ordinances relating to *Planning and Development: Small and Underutilized Business Enterprise Program*, extending the expiration of Chapter 423 to December 31, 2009.

Adopted 12/12/2008.

Ordinance 2008-Or-093 amending Title 16, Chapter 423 of the Minneapolis Code of Ordinances relating to *Planning and Development: Small And Underutilized Business Program*, amending Section 423.80 to extend the expiration of Chapter 423 to December 31, 2009, was adopted 12/12/2008 by the City Council. A complete copy of this ordinance is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized ordinance.

**ORDINANCE 2008-Or-093**  
**By Benson**  
**Intro & 1st Reading: 11/21/2008**  
**Ref to: PS&RS**  
**2nd Reading: 12/12/2008**

**Amending Title 16, Chapter 423 of the Minneapolis Code of Ordinances relating to Planning and Development: Small And Underutilized Business Enterprise Program.**

The City Council of The City of Minneapolis do ordain as follows:

Section 1. That Section 423.80 of the above-entitled ordinance be amended to read as follows.

**423.80. Expiration of Chapter 423.** This chapter of the Minneapolis Code of Ordinances, Chapter 423, shall expire and, absent other action by the city council based on an analysis of the continuing need for the Small and Underutilized Business Enterprise Program, the Small and Underutilized Business Enterprise Program shall cease all operations on December 31, ~~2008~~ 2009.

Adopted 12/12/2008.

**The HEALTH, ENERGY & ENVIRONMENT and WAYS & MEANS/BUDGET Committees submitted the following reports:**

**HE&E & W&M/Budget** – Your Committee recommends that the proper City officers be authorized to accept revenue in the amount of \$35,444 from the Minnesota Department of Revenue from the Friends of the Medica Skyway Senior Center for the provision of volunteer taxpayer assistance services. Further, passage of the accompanying Resolution appropriating \$35,444 to the Department of Health & Family Support.

Adopted 12/12/2008.

**RESOLUTION 2008R-557**  
**By Benson and Ostrow**

**Amending The 2008 General Appropriation Resolution.**

Resolved by The City Council of The City of Minneapolis:

That the above-entitled Resolution, as amended, be further amended by increasing the appropriation for the Department of Health & Family Support Agency in the Grants – Other Fund (01600-8600112) by \$35,444 and increasing the Revenue Source (01600-8600112 – Source 372001) by \$35,444.

Adopted 12/12/2008.

**HE&E & W&M/Budget** – Your Committee recommends that the proper City officers be authorized to submit a five-year grant application to the United States Department of Health and Family Support seeking up to \$3,425,000 during the period from June 1, 2009 through May 31, 2014 for infant mortality reduction services in the Minneapolis Latino community (community outreach, health education, psychosocial risk screening and case management services to pregnant Latina women and their infants up to 2 years of age).

Adopted 12/12/2008.

**The INTERGOVERNMENTAL RELATIONS Committee submitted the following reports:**

**IGR** - Your Committee recommends approval of the City of Minneapolis 2009 Legislative Agenda regarding Local Government Finance, Capital Bonding, Public Safety, Pension Sustainability, Transportation, Affordable Housing, Municipal Governance, City Livability, Environment and Jobs and Economic Development, as set forth and described in Petn No 273172.

Gordon moved to amend the Transportation section of the City of Minneapolis 2009 Legislative Agenda to add the following language under "Minneapolis supports":

"Amending bicycle operation requirements concerning stop signs or traffic control signals."

Seconded.

Schiff moved that Gordon's motion be referred to the Intergovernmental Relations Committee.

Seconded.

Adopted upon a voice vote.

The report was adopted 12/12/2008.

**IGR** - Your Committee recommends that the City's Fiscal Year 2009 Federal Legislative Agenda, adopted February 29, 2008, be amended by including the following language in the Policy Initiative Section:

**"Prisoner Treatment, Torture and Cruelty: Support for an Executive Order.**

The City of Minneapolis has been since 1985 the home of the Center for Victims of Torture. The center has worked with many victims of torture and abuse who have made Minneapolis and its surrounding communities home.

The City is concerned about the use of torture and recommends that the President of the United States issue an Executive Order. The Order should state that the United States:

- Will not use methods of interrogation that would not be used on Americans
- Will have a national standard for use in the interrogation and treatment of prisoners
- Will acknowledge that all prisoners will have the opportunity to prove their innocence in ways that conform to American principles of fairness
- Will commit to ending the use of torture and cruelty in the world
- Will provide the Congress and Judiciary with access to information regarding our detention and interrogation policies."

Glidden moved to amend the report by deleting the sentence, "Will not use methods of interrogation that would not be used on Americans," and inserting in lieu thereof, "Will not use methods of interrogation that we would not find acceptable if used against Americans." Seconded.

Adopted upon a voice vote.

The report, as amended, was adopted 12/12/2008.

Declining to vote - Ostrow.

**The PUBLIC SAFETY & REGULATORY SERVICES Committee submitted the following reports:**

**PS&RS** - Your Committee, to whom was referred an ordinance amending Title 15, Chapter 389 of the Minneapolis Code of Ordinances relating to *Offenses—Miscellaneous: Noise*, amending and clarifying noise regulations, standards and definitions, now recommends that said ordinance be given its second reading for amendment and passage.

Adopted 12/12/2008.

Yeas, 11; Nays, 1 as follows:

Yeas - Samuels, Gordon, Hofstede, Schiff, Colvin Roy, Remington, Benson, Goodman, Hodges, Johnson, Lilligren.

Nays - Ostrow.

Absent - Glidden.

Ordinance 2008-Or-094 amending Title 15, Chapter 389 of the Minneapolis Code of Ordinances relating to *Offenses—Miscellaneous: Noise*, amending Sections 389.10, 389.15, 389.20, 389.30, 389.45, 389.60, 389.65, 389.70, 389.80, 389.90, 389.100, 389.105, 389.110, 389.120, 389.170, 389.180, 389.200, and 389.210 to amend and clarify noise regulations, standards and definitions, was adopted 12/12/2008 by the City Council. A complete copy of this ordinance is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized ordinance.

**ORDINANCE 2008-Or-094**  
**By Gordon**  
**Intro & 1st Reading: 11/7/2008**  
**Ref to: PS&RS**  
**2nd Reading: 12/12/2008**

**Amending Title 15, Chapter 389 of the Minneapolis Code of Ordinances relating to Offenses—Miscellaneous: Noise.**

The City Council of The City of Minneapolis do ordain as follows:

Section 1. That Section 389.10 (h) of the above-entitled ordinance be amended to read as follows:

**389.10. Findings.**

(h) Certain short term easing of noise restrictions is essential to allow the construction, maintenance and continuation of structures, infrastructure, and other elements necessary for the physical and commercial vitality of the city.

Section 2. That Section 389.15 of the above-entitled ordinance be amended to read as follows:

**389.15. Incorporation by reference.** Minnesota Rules, Chapter 7030, is and A Guide to Noise Control in Minnesota, as adopted and revised from time to time by the Minnesota Pollution Control Agency are hereby incorporated by reference, except to the extent specifically inconsistent with this chapter, and made a part hereof as if fully set forth herein. The provisions thereof shall be supplemental to provisions of the Minneapolis Code of Ordinances and shall not preempt such provisions unless such preemption is required by law into this chapter and made a part hereof.

Section 3. That Section 389.20 of the above-entitled ordinance be and is hereby repealed.

**389.20. Other remedies preserved.** The provisions of this article shall be in addition to and shall not disturb either the right of the city, if such, or the right of individuals affected by the violation, to pursue any other remedy for the abatement of a nuisance, or any other remedy which might or could be available under the law.

Section 4. That Section 389.30 of the above-entitled ordinance be amended to read as follows:

**389.30. Definitions.** The following terms whenever used in this article shall have the following respective meanings:

*Ambient noise level:* The sound level which exists at a point of measurement in the absence of the sound from the noise source of which is measured, being the total effect of all other sounds coming from near and far. The total of all noise in the environment, other than the noise from the source of interest. This term is used interchangeably with background noise.

*ANSI:* The American National Standards Institute.

*Attenuation:* The reduction of sound intensity by various means (e.g., air, humidity porous materials).

*A-weighted sound level:* A measure of sound pressure level designed to reflect the acuity of the human ear, which does not respond equally to all frequencies. The ear is less efficient at low and high frequencies than at medium or speech-range frequencies. To describe a sound containing a wide range of frequencies in a manner representative of the ear's response, it is necessary to reduce the effects of the low and high frequencies with respect to the medium frequencies. The resultant sound level is said to be A-weighted, and the units are dB(A). The A-weighted sound level is also called the noise level. Sound level meters have an A-weighting network for measuring A-weighted sound level. The specific

weighting characteristics and tolerances are those given in American National Standards Institute S 1.4-1983, section 5.1:

*Audible:* Heard or perceived by the human ear.

*Background noise:* The total of all noise in a system or situation, independent of the presence of the desired signal. In acoustical measurements, strictly speaking, the term "background noise" means electrical noise in the measurement system. The term background noise is often used to mean the noise in the environment, other than the noise from the source of interest.

*Band:* Any segment of the frequency spectrum.

*Calibrator (acoustical):* A device which produces a known sound pressure on the microphone of a sound level measurement system, and is used to adjust the system to standard specifications.

*Central business district:* The geographic area bounded by and including the Mississippi River southeasterly to Interstate 35; Interstate 35 southerly to Interstate 94; Interstate 94 westerly and northerly to Glenwood Avenue; Glenwood Avenue easterly to North Ninth Street; North Ninth Street northerly to Second Avenue North, and Second Avenue North to the Mississippi River.

*Commercial power maintenance equipment:* Any equipment or device rated at more than five (5) horsepower and used for the repair of buildings and structures, or the maintenance of buildings, structures or properties, excluding "outdoor implements" as defined and regulated by section 389.80.

*Continuous:* Continuing without intermission and seemingly without end.

*Construction:* Any site preparation, assembly, erection, repair, alteration or similar action, including demolition of buildings or structures.

*Construction equipment:* Any vehicle or device used for the purposes of construction, or used to transport equipment, materials, supplies or debris to or from a construction site, including, but not limited to a jackhammer, hammerdrill, bulldozer, dump truck, front end loader, bobcat, crane or backhoe.

*Cycles per second:* A measure of frequency numerically equivalent to hertz.

*Daytime:* Those hours from 7:00 a.m. to 10:00 p.m. of the same day.

*dB(A):* Composite abbreviation for decibel and A-weighted sound level. The weighted sound pressure level by the use of the A metering characteristic and weighting specified in ANSI Specification of Sound Level Meters, S1.4-1983. dB(A) is used as a measure of human response to sound.

*dB(C):* Composite abbreviation for decibel and C-weighted sound level.

*Decibel:* A unit of sound pressure level, abbreviated as dB.

*Demolition:* Any dismantling, destruction or removal of buildings, structures, roadways or other similar structures.

*Demolition equipment:* Any vehicle or device used for the purposes of demolition, or used to transport equipment, materials, supplies or debris to or from a demolition site.

*Disturbing, excessive or offensive noise:* Any sound or noise conflicting with the criteria or levels set forth in this article.

*Equivalent A-weighted sound level (Leq):* The constant sound level that, in a given time period, would convey the same sound energy as the actual time-varying A-weighted sound level.

*Hearing:* The subjective human response to sound.

*Hearing level:* A measured threshold of hearing at a specified frequency, expressed in decibels relative to a specified standard of normal hearing. The deviation in decibels of an individual's threshold from the zero reference of the audiometer.

*Hertz (Hz):* Unit of measurement of frequency, numerically equal to cycles per second.

*Impact sound:* The sound produced by the collision of two (2) solid objects. Typical sources are footsteps, dropped objects, etc., on an interior surface (wall, floor, or ceiling) of a building.

*Impulsive noise:* Impulsive noise means a sound of short duration, usually one second or less with abrupt onset and rapid decay. Impulsive noises include but are not limited to metal impacts, hammers, gunshots, explosions, and drop forge impacts.

*Intensity:* The sound energy flow through a unit area in a unit time.

*L10:* The sound level, expressed in dB(A), which is exceeded ten (10) percent of the time for a one hour survey, as measured by test procedures approved by the commissioner of the Minnesota Pollution Control Agency.

*L50*: The sound level, expressed in dB(A), which is exceeded fifty (50) percent of the time for a one hour survey, as measured by test procedures approved by the commissioner of the Minnesota Pollution Control Agency:

*Leq*: Equivalent continuous sound level or time-averaged sound level. A single-number value that expresses the time-varying sound level for the specified period as though it were a constant sound level with the same total sound energy as the time-varying level.

*Large block event*: A large block event as defined and limited in Chapter 455 of this Code.

*Level*: The logarithm of the ratio of a quantity to a reference quantity of the same kind. The base of the logarithm, the reference quantity, and the kind of level must be specified.

*Logarithm*: The exponent that indicates the power to which a number must be raised to produce a given number. For example, for the base ten (10) logarithm, used in acoustics, two (2) is the logarithm of one hundred (100):

*Loudness*: The subjective judgment of intensity of a sound by humans. Loudness depends upon the sound pressure and frequency of the stimulus. Over much of the frequency range it takes about a threefold increase in sound pressure, a tenfold increase in acoustical energy, or, ten (10) dB(A) to produce a doubling of loudness.

*Loudness level*: Measured in phones it is numerically equal to the median sound pressure level (dB) of a free progressive one thousand (1,000) Hz wave presented to listeners facing the source, which in a number of trials is judged by the listeners to be equally loud.

*Masking*:

1. The process by which the threshold of audibility for a sound is raised by the presence of another (masking) sound.
2. The amount by which the threshold of audibility of a sound is raised by the presence of another (masking) sound.

*Masking noise*: A noise that is intense enough to render inaudible or unintelligible another sound that is also present.

*Medium*: A substance carrying a sound wave.

*Mobile refrigeration unit*: A refrigeration chiller powered by an auxiliary engine or electric motor that is mounted on a truck body or a trailer container for the purpose of providing chilled air to the contents of the truck container or trailer.

*Nighttime*: Those hours from 10:00 p.m. to 7:00 a.m.

*Noise*: Any sound which is unwanted, or does not occur in the natural environment (e.g., aircraft, highways, industrial, commercial, residential), or has an erratic, intermittent, or statistically random oscillation.

*Noise area classification or noise classification area*: The noise area classifications are based on the land use activity at the location of the receiver and determine the noise standards applicable to that land use activity unless an exception applies. The noise area classifications, activities and exceptions are included in Minnesota Rules, Chapter 7030, administered by the Minnesota Pollution Control Agency, except where specifically altered herein.

*Noise level*: The sound level. For airborne sound, unless specified to the contrary, it is the A-weighted sound level.

*Noisy or unruly assembly*: For the purposes of sections 389.65(e)(1) and 389.65(e)(2) 389.65(a)(1) and 389.65(a)(2), the term "noisy or unruly assembly" shall mean a gathering of more than one person in a residentially zoned or used area or building between the hours of 10:00 p.m. and 6:00 a.m. whose noisy or illegal conduct would be likely to cause significant discomfort or annoyance to a reasonable person of normal sensitivities present in the area considering the time of day and the residential character of the area. Noisy or unruly assemblies may include, but are not limited to, those involving excessive noise, obstruction of public ways by crowds or vehicles, consumption of alcohol by minors, provision of alcohol to minors, fighting, disturbing the peace, disorderly conduct, littering, and public urination or defecation.

*Non-impulsive noise*: All noise not included in the definition of impulsive noise.

*Octave*: The interval between two sounds having a frequency ratio of two (2). There are eight (8) octaves on the keyboard of a standard piano.

*One-third (1/3) octave band:* A frequency band whose cutoff frequencies have a ratio of 2 to the one-third power, which is approximately 1.26. The cutoff frequencies of 891 Hz and 1112 Hz define the 1000 Hz third-octave band in common use.

*Peak sound pressure:* The maximum absolute value of the instantaneous sound pressure in a specific time interval. Note: In the case of a periodic wave, if the time interval considered is a complete period, the peak sound pressure becomes identical with the maximum sound pressure.

*Person:* Any human being, any municipality or other governmental or political subdivision or other public department or agency, any public or private corporation, any partnership, firm, association or other organization, any receiver, trustee, assignee, agency, legal entity, other than a court of law, or any legal representative of any of the foregoing.

*Points of habitation:* Any point inside a dwelling and any deck, patio, or other outdoor area that contains seating or cooking areas designed for the use of the occupants and within thirty (30) feet of the adjoining dwelling. Outdoor areas are a point of habitation only during the period between April 15 and November 15.

*Property line:* The real or imaginary line and its vertical extension which separates real property owned or controlled by any person from contiguous real property owned or controlled by another person and separates real property from the public premise.

*Premise:* Any building, structure, land, utility or portion thereof, including all appurtenances, and shall include yards, lots, courts, inner yards and real properties without buildings or improvements, owned or controlled by a person.

*Publicly owned and controlled property:* Any land owned and controlled by a government or quasi-government agency including, but not limited to, the City of Minneapolis, Minneapolis Park and Recreation Board, Minneapolis School Board, Hennepin County, State of Minnesota, Metropolitan Sports Commission, University of Minnesota, and the United States of America.

*Pure tone:* A sound for which the sound pressure is a simple sinusoidal function of the time, and characterized by its singleness of pitch.

*Reasonable and necessary actions:* Those actions that would firmly convince a reasonable person that the frequency and severity of future noisy or unruly assemblies, as defined in this section and applied in section 389.65 of this Code, would be substantially reduced.

*Residentially used area:* Any building or portion thereof designed or used exclusively for human habitation, including single-family, two-family, and multiple-family dwellings without regard to their size or location within the city plus any area within five hundred (500) feet of such building or portion thereof which is so used. Residentially used area shall include any mixed use building which contains a dwelling unit as defined in section 522.40 of this Code plus any area within five hundred (500) feet of such dwelling unit. Residentially used area shall not be established by the locations of buildings which are principally hotels, motels, or rooming houses.

*Residentially zoned area:* Any property or area which is located in a zoning district intended for any kind of residential use and with an "R" designation of any kind pursuant to the Minneapolis Zoning Code and the associated official zoning map.

*Reverberation:* The persistence of sound in an enclosed space, as a result of multiple reflections, after the sound source has stopped.

*Shielding:* The attenuation of a sound, achieved by placing barriers between a sound source and the receiver.

*Sound:*

1. An oscillation in pressure, stress, particle displacement, particle velocity, etc., in an elastic or partially elastic medium, or the superposition of such propagated alterations.
2. An auditory sensation evoked by the oscillation described above. Not all sound waves can evoke an auditory sensation (e.g., ultrasound).

*Sound level:* A quantity measured with a sound level meter and expressed in decibels. The weighted sound level meter and frequency weighting network, such as A, B, C as specified in ANSI specifications for sound level meters (ANSI S1.4-1983, or the latest approved revision). If the frequency weighting employed is not indicated, the A-weighting is implied.

*Sound level meter:* An instrument or combination of instruments, which meets or exceeds the requirements for a type S1A or S2A sound level meter as specified in American National Standards

Institute specification for sound level meters S1.4-1983, or its latest revision. It is comprised of a microphone, amplified, output meter, and frequency-weighting networks which is used for the measurement of noise and sound levels:

*Sound pressure level:* In decibels, means twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure to the reference pressure. The reference pressure shall be twenty (20) micronewtons per square meter.

*Spectrum:* The description of a sound wave's resolution into its components of frequency and amplitude.

*Steady-state sound:* Sounds whose average characteristics remain relatively constant in time. A practical example of a steady-state sound source is an air conditioning unit.

*Threshold of audibility:* The minimum sound pressure level at which a person can hear or detect a specified frequency of sound over a specified number of trials.

*Threshold of pain:* The minimum sound pressure level of a sound outside the ear that will produce a transition from discomfort to definite pain.

*Tone:* A sound of definite pitch. A pure tone has a sinusoidal wave form which changes from discomfort to pain.

*Vibration:* An oscillatory motion of solid bodies described by displacement, velocity, of acceleration with respect to a given reference point.

*Wave:* A disturbance that travels through a medium by virtue of the elastic properties of that medium.

*Wavelength:* For a periodic wave (such as sound in air), the distance between analogous points on any two (2) successive waves. The wavelength of sound in air or in water is inversely proportional to the frequency of the sound.

*Weighting:* Prescribed frequency filtering provided in a sound level meter.

*Windscreen:* A porous device used to cover the microphone of a sound level measurement system which is designed to minimize the effects of winds and wind gusts on the sound levels being measured. Typically made of open-cell polyurethane foam and spherically shaped.

Section 5. That Chapter 389 of the Minneapolis Code of Ordinances be amended by adding thereto a new Section 389.45 to read as follows:

**389.45. Measurement of noise levels.** All sound level measurements shall be taken using written procedures approved by the assistant city coordinator of regulatory services or the assistant city coordinator's designee. The written procedures shall conform to applicable law and shall be made available to the public upon request.

Section 6. That Section 389.60 of the above-entitled ordinance be amended to read as follows:

**389.60. What constitutes violation.** (a) During the daytime within a multi-tenant building, multi-unit dwelling or such structures that have more than one (1) tenant, lease holder or legal residence, any activity, not expressly exempted by section 389.50 or this section which generates sound regardless of frequency that is more than ten (10) decibels (A scale) above the ambient noise level when measured within the unit occupied by the complainant. All measurements applying to the above shall be made indoors with the doors closed, and within the unit occupied by the complainant. Activities generating sound that is ten (10) dB(C) Leq or more above the ambient noise level during the daytime or five (5) dB(C) Leq or more above the ambient noise level during the nighttime when measured within a building occupied by the complainant. All measurements pursuant to this subsection shall be made using the C-weighted network, and taken indoors with the doors and windows closed, and within the unit occupied by the complainant. If separation of low frequency noise cannot be determined with the meter using dB(C) and low frequency tones are clearly audible, a sound level measurement in terms of one-third (1/3) octave band frequencies shall be utilized. If this approach is required, a ten (10) dB(C) increase over ambient levels in any one-third (1/3) octave band due to the amplified music shall be considered a violation of this chapter.

(b) During the nighttime within a multi-tenant building, multi-unit dwelling or such structures that have more than one (1) tenant, lease holder or legal residence, any activity not expressly exempted by section 389.50 or this section which generates sound regardless of frequency that is more than five (5) decibels (A) scale above the ambient noise level when measured within the unit occupied by the

complainant. All measurements applying to the above shall be made indoors with the doors closed, and within the unit occupied by the complainant.

(e)(b) Any sound measured outside in excess of the limits as set forth in Minnesota Rules, Chapter 7030 provided that such sound is five (5) dB(A) or more above ambient noise levels for sounds measured during the daytime or three (3) decibels or more above ambient noise levels for sounds measured during the nighttime.

(d) Sound in excess of the limitations for any noise classification area, as determined pursuant to paragraph (c), as measured in that noise classification area, are a violation of this section, whether the sound originates in that noise classification area or any other noise classification area. The noise area classification of the receiving noise classification area rather than that of the generating noise classification area determine the appropriate noise area classification for the purposes of this section. Measurement of sound must be made at or within the applicable noise area classification at the point of human activity which is nearest to the noise source. All measurements shall be made outdoors.

(e)(c) Sounds emanating from the operation of the following are exempt from the provisions of this section and section 389.65(a):

- (1) Motor vehicles on traffic ways of the city.
- (2) Aircraft in flight.
- (3) Outdoor implements, such as power lawn mowers, leaf blowers, snow blowers, power hedge clippers and power saws.
- (4) Pile drivers, jackhammers, cranes, scrapers, dump trucks, backhoes, bulldozers and other construction equipment.
- (5) ~~Lawful and properly permitted organized athletic activities on school grounds, and officially designated playgrounds used for recreation by children under supervision, and parks or places wherein athletic contests take place between the hours of 8:00 a.m. and 9:00 p.m. Official athletic activities at outdoor stadiums owned or operated by the University of Minnesota or the Minnesota Ballpark Authority.~~
- (6) ~~Rail traffic. Lawful and properly permitted organized athletic activities on school grounds, and officially designated playgrounds used for recreation by children under supervision, and parks or places wherein athletic contests take place between the hours of 7:00 a.m. and 10:00 p.m.~~
- (7) ~~Repairs and maintenance of utility structures when the utility structures pose a clear and immediate danger to life or health or significant loss of property, and the repairs and maintenance are necessary for the safety and commercial vitality of the city: Rail traffic.~~
- (8) ~~Repairs and maintenance of utility structures when the utility structures pose a clear and immediate danger to life or health or significant loss of property, and the repairs and maintenance are necessary for the safety and commercial vitality of the city.~~
- (9) ~~Sounds created by bells, chimes, carillons or sounds associated with religious worship no more than ten (10) minutes in any one hour and no more than sixty (60) minutes in a 24-hour period, between the hours of 7:00 a.m. and 10:00 p.m.~~
- (f)(10) Sounds emanating from amplifying equipment that is in full compliance with a permit issued pursuant to section 389.105 are exempt from the provisions of this section.

(g) At no point on the boundary of a residence or business district shall the sound pressure level of any operation within the I1, I2, I3 districts, or any use regardless of present zoning which is first a permitted use in the I1, I2, I3 districts, exceed the decibel limits in the octave bands designated below:

TABLE INSET:

Maximum Permitted Sound Level (decibels)

Octave Band Frequency (cycles per second)	Along Residence District Boundaries	Along Business District Boundaries
—0—75	72	79
—75—150	67	64
—150—300	59	66
—300—600	52	59
—600—1200	46	53

1200—2400	40	47
2400—4800	34	41
Over 4800	32	39

(h)(d) No noise shall be prohibited or restricted under the authority of this section which substantially burdens a person's exercise of religion unless it is demonstrated that application of the burden to the person is:

- (1) In furtherance of a compelling governmental interest.
- (2) The least restrictive means of furthering that compelling governmental interest.
- (3) Consistent with Article I, Section 16 of the Minnesota Constitution.

(f)(e) No noise shall be prohibited or restricted under the authority of this section which substantially limits speech unless such a prohibition or restriction:

- (1) Serves a significant governmental interest as applied in a particular case.
- (2) As applied in the particular case there are other ample alternative channels for communication of the information.
- (3) Application of the regulation in the particular case promotes a substantial government interest that would be achieved less effectively absent application of the regulation.

Section 7. That Section 389.65 of the above-entitled ordinance be amended to read as follows:

**389.65. Public nuisance noise Prohibited acts.** (a) It shall be unlawful for any person to make, continue, permit, or cause to be made or continued within the city, any loud, disturbing or excessive noise which would be likely to cause significant discomfort or annoyance to a reasonable person of normal sensitivities present in the area. The following acts are violations of this section, subject to enforcement through criminal, civil and administrative means:

(b) The characteristics and conditions which shall be considered in determining whether a noise is loud, disturbing, or excessive for the purposes of paragraph (a) of this section, shall include, but not be limited to the following:

- (1) Whether the nature of the noise is usual or unusual.
- (2) Whether the origin of the noise is natural or unnatural.
- (3) The proximity of the noise to sleeping facilities.
- (4) The land use, nature, and zoning of the area from which the noise emanates and the area where it is received.
- (5) The time of day or night when the noise occurs.
- (6) The duration of the noise.
- (7) Whether the noise is recurrent, intermittent, or constant.
- (8) Whether the noise is produced by a commercial or noncommercial activity.
- (9) Whether or not noise abatement measures are possible and whether or not they are used to reduce the sound level.
- (10) The number of people and their activities that are affected by the noise.
- (11) The sound peak pressure level of the noise on the A scale, if known.
- (12) The A scale level of ambient noise, if known.
- (13) The nature of any communicative content of the noise shall not be considered, for the purpose of this section, except:

a. No noise shall be prohibited or restricted by this section which substantially burdens a person's exercise of religion unless it is demonstrated that application of the burden to the person is:

1. in furtherance of a compelling governmental interest.
2. the least restrictive means of furthering that compelling governmental interest.
3. consistent with Article I, Section 16 of the Minnesota Constitution.

b. No noise shall be prohibited or restricted by this section which substantially limits speech unless such a prohibition or restriction:

1. serves a significant governmental interest as applied in a particular case.
2. as applied in the particular case there are other ample alternative channels for communication of the information.
3. application of the regulation in the particular case promotes a substantial government interest that would be achieved less effectively absent application of the regulation.

(c) *Activities which constitute a public nuisance.* The following acts are violations of this section, subject to enforcement through criminal, civil and administrative means, without reference to the standards of paragraphs (a) and (b) of this section, with the exception of section 389.65(b)(13), namely:

(1) *Noisy or unruly assembly.* Participating in, conducting, visiting, or remaining at a gathering knowing or having reason to know that the gathering is a noisy or unruly assembly, as defined in section 389.30, except person(s) who have come to the gathering for the sole purpose of abating the disturbance.

a. The premises at which a noisy or unruly assembly occurs shall additionally be subject to a notice of noisy or unruly assembly as further described in this section.

b. A notice of noisy or unruly assembly shall be sent within ten (10) business days via first class mail to the owner and/or rental license holder of record of any premises at which a noisy or unruly assembly is determined to have taken place by the Minneapolis Police Department. The Minneapolis Police Department may, upon determining that the issuance of a notice would be contrary to public policy, refrain from such issuance when emergency services were summoned by a person taking part in the noisy or unruly assembly, or when the noisy or unruly assembly was created primarily by the occurrence of an incident of domestic abuse, as that term is defined in Minnesota Statute Section 518B.01, or wholly through the actions of uninvited guests or trespassers.

1. Each notice of noisy or unruly assembly shall state that a noisy or unruly assembly has occurred on the premises; the date, time and nature of the noisy or unruly assembly; and that the owner, rental license holder or landlord may be issued an administrative citation should police respond to any additional noisy or unruly assemblies within one hundred eighty (180) days of the date of the noisy or unruly assembly which triggered the notice. Each notice shall further state the date of expiration for the notice, which shall be one hundred eighty (180) days from the date of the noisy or unruly assembly which triggered the notice. The notice shall direct the owner, rental license holder or landlord to take steps to ensure that the premises are not used for additional noisy or unruly assemblies.

2. Right to contest issuance of notice. An owner, rental license holder or landlord who receives a notice may contest its issuance by requesting an administrative hearing pursuant to Chapter 2 of this Code. The hearing shall proceed pursuant to and be governed by the administrative hearing procedures of Chapter 2. At the hearing, the city shall bear the burden of proving by a preponderance of the evidence that a noisy or unruly assembly occurred and that the issuance of the notice was justified pursuant to the provisions of this chapter. Should the owner, rental license holder or landlord of the property affirmatively demonstrate that the issuance was based wholly upon the actions of uninvited guests or trespassers, the notice shall be deemed invalid and rescinded. An owner, rental license holder or landlord who receives a notice, may at any time petition the designated agent of the Minneapolis Police Department for a written order rescinding the notice on the grounds that he or she has taken reasonable and necessary actions, as defined in section 389.30, to prevent the occurrence of subsequent noisy or unruly assemblies. The designated agent of the Minneapolis Police Department may grant or deny the request for good cause. A denial of such a request may be contested by requesting an administrative hearing pursuant to Chapter 2 of this Code. At the hearing, the petitioner shall bear the burden of proving by a preponderance of the evidence that the petitioner has taken reasonable and necessary actions to prevent subsequent noisy or unruly assemblies at the premises. Each notice of noisy or unruly assembly shall contain a recitation of these appeal rights. In any event, the notice shall be rescinded upon the presentation of adequate verification to the Minneapolis Police Department of the final

- departure from the unit that triggered the notice of every resident living in that unit at the time of the incident that formed the basis for the notice.
3. The criminal, civil or administrative enforcement of this section shall not preclude any additional enforcement or application of any other provisions of this Code, including but not limited to section 244.2020, Conduct on licensed premises or section 244.1940, Denial; non-renewal; revocation; suspension.
- c. Administrative enforcement. When the police department, fire department or other emergency response personnel respond to a noisy or unruly assembly at the same premises within one hundred eighty (180) days of the date of any previous noisy or unruly assembly for which a notice of noisy or unruly assembly was served and remains valid, the owner, rental license holder or landlord of the premises shall be issued an administrative citation pursuant to Chapter 2 of this Code in an amount as specified in the schedule of civil fines as adopted by resolution of the city council. However, in no case shall any such citation be issued pursuant to this section for any noisy or unruly assembly occurring within twenty-one (21) days of the mailing of the notice.
  - d. Applicability to multiple dwellings and duplexes. Notwithstanding subdivision (c)(1)(c) of this section, when a noisy or unruly assembly occurs on a premises on which any multiple dwelling, defined in section 244.40, or duplex is located, an administrative citation shall be issued pursuant to this section only if one (1) the following circumstances has occurred:
    1. A previous notice of noisy or unruly assembly has been served and remains valid for an incident occurring in the same dwelling unit in which the incident occurred that forms the basis for the administrative citation;
    2. A previous notice of noisy or unruly assembly has been served and remains valid for an incident in which any resident or guest of a resident participated, and that same resident or guest of a resident also participated in the incident that forms the basis for the administrative citation; or
    3. A previous notice of noisy or unruly assembly has been served and remains valid for an incident occurring in any nondwelling structure, common area, outdoor area, or other nondwelling area of the premises, and the incident that forms the basis for the administrative citation also occurred in any one (1) of these areas.
- (2) *Permitting noisy or unruly assembly.* Knowingly permitting real estate under one's care or control to be used for a noisy or unruly assembly, as defined in section 389.30.
  - (3) *Horns and other signal devices.* The sounding of any horn or signal device on an automobile, motorcycle, bus or other vehicle ~~while not in motion~~, except as a danger signal or traffic warning.
  - (4) *Keeping animals or birds.* ~~The keeping of any animal or bird which causes long, frequent, and/or continuous noise which would be likely to cause significant discomfort or annoyance to a reasonable person of normal sensitivities present in the area.~~
  - (5)(4) *Operation of vehicles.* The use of any automobile, pickup truck, motorcycle, or other vehicle which is not reasonably maintained and which causes noise which would be likely to cause significant discomfort or annoyance to a reasonable person of normal sensitivities present in the area.
  - (6)(5) *Amplified sound from vehicles.* Except as provided in section 389.105, ~~the playing or operation, or permitting the playing, use or operation;~~ of any radio, tape player, disc player, loud speaker, or other electronic device used for the amplification of music or other entertainment, which is located within a motor vehicle being operated on a public street or alley, or in commercial or residential parking facilities, which is audible by any person from a distance of fifty (50) feet or more from the vehicle. When sound violating this section is produced ~~or reproduced by any such device that is located in a motor vehicle;~~ the motor vehicle's owner, if present when the violation occurs, is in violation of this section. If the motor vehicle's owner is not present at the time of the

violation, the person in charge or control of the vehicle at the time of the violation is in violation of this section. In addition to an owner or a driver, any person who controls or assists with the production of sound violating this section is in violation of this section. Violation of this subsection is a misdemeanor. A first violation of this subsection is punishable by a fine not to exceed five hundred dollars (\$500.00), a second violation is punishable by a fine not to exceed seven hundred dollars (\$700.00), and a third violation is punishable by a fine to the maximum amount.

~~(7)(6)~~ Amplified sound. The playing or operation, or permitting the playing, use or operation, of any radio tape player, loud speaker or other of any electronic device used for the amplification of sound (except as specifically permitted under section 389.105) located inside or outside, the sound of which carries to points of habitation on measures five (5) dB(A) or more above ambient levels on adjacent properties, and is audible above the level of conversational speech at a distance of fifty (50) feet or more from the point of origin of the amplified sound including the public right-of-way.

(7) Alarms. Operating any electronic theft or burglar alarm which sounds an audible signal without an automatic shutoff device to prohibit the audible signal from sounding continually for more than five (5) minutes or the intentional sounding or permitting the sounding outdoors of any fire, burglar, or civil defense alarm, siren, whistle, or similar stationary emergency signaling device except in the following circumstances:

- a. Existence of an emergency.
- b. Testing the device, not to exceed four (4) minutes in an hourly period, unless approved by the director when there is no reasonable alternative to exceeding four (4) minutes of testing and the testing is required by state or federal laws, rules or regulations.
- c. The sounding of a properly maintained car alarm subject to paragraph (6) of this section.

(8) Solid waste collection. The loading or unloading of a solid waste compacting vehicle, solid waste processing vehicle, solid waste collection vehicle, or recycling collection vehicle outside of an insulated building in any residentially used area except during the hours of 6:00 a.m. and 10:00 p.m.

(9) Sweeping and snow plowing. The operation of a parking lot sweeping equipment in any residentially zoned area except between the hours of 6:00 a.m. and 10:00 p.m. year round. The operation of any snow and ice control equipment in any residentially zoned area except between the hours of 6:00 a.m. and 10:00 p.m. during an official snow emergency or after winter precipitation events that cause icing or snow pack conditions that must be treated or plowed to provide for public safety. The Minneapolis Department of Public Works, Minneapolis Park & Recreation Board, and Hennepin County may operate snow and ice control equipment on public streets and other public areas at any time, as it is the judgment of the city engineer that such activities are in the public interest.

(10) Noise control device. Removing or rendering inoperative any noise control device or the design of a product having those devices, by any person other than for purposes of maintenance, repair or replacement.

(b) No noise shall be prohibited or restricted under the authority of this section which substantially burdens a person's exercise of religion unless it is demonstrated that application of the burden to the person is:

- (1) In furtherance of a compelling governmental interest.
- (2) The least restrictive means of furthering that compelling governmental interest.
- (3) Consistent with Article I, Section 16 of the Minnesota Constitution.

(c) No noise shall be prohibited or restricted under the authority of this section which substantially limits speech unless such a prohibition or restriction:

- (1) Serves a significant governmental interest as applied in a particular case.
- (2) As applied in the particular case there are other ample alternative channels for communication of the information.

(3) Application of the regulation in the particular case promotes a substantial government interest that would be achieved less effectively absent application of the regulation.

Section 8. That Section 389.70 of the above-entitled ordinance be and is hereby repealed.

**389.70. Construction, demolition and commercial power maintenance equipment.** (a) Except as hereinafter provided, no construction, demolition or commercial power maintenance equipment shall be operated within the city between the hours of 6:00 p.m. and 7:00 a.m. on weekdays or during any hours on Saturdays, Sundays and state and federal holidays, except under specific permit from the assistant city coordinator for regulatory services or their designee, for the purpose of a specified project or activity only, as provided below and no such equipment shall be operated at any time if the sound level from such operation exceeds ninety (90) decibels measured at fifty (50) feet or more away from the source; provided further, however, that such equipment, the operation of which fully conforms and in the reasonable opinion of the assistant city coordinator for regulatory services or their designee is likely to fully conform to the provisions of sections 389.50, 389.60, 389.65, 389.90, and 389.100 of this chapter shall be permitted to operate during the above-prohibited hours and days after obtaining the permit required by this section:

(b) No internal-combustion engine or any other power unit when operated in connection with construction, demolition or commercial power maintenance equipment shall be operated at any time other than at the times as above set forth in this section and any sound emitted from any such engine or power unit shall not exceed ninety (90) decibels measured at fifty (50) feet or more away from the source:

(c) No exhaust system of such an internal-combustion engine shall be altered, modified or repaired in such a way that the noise emitted by the engine is increased above that emitted by said engine as originally equipped from the manufacturer:

(d) If an emergency situation exists or if the assistant city coordinator for regulatory services or their designee determines that substantial loss or inconvenience would result to any party in interest unless allowed additional hours of equipment operation, the assistant city coordinator for regulatory services or their designee may grant permission for extended hours of operation of such construction or demolition equipment and internal-combustion engine or power units subject to such conditions or restrictions as the assistant city coordinator for regulatory services determines to be necessary and appropriate and in the public interest:

(e) The fees for an extended hours-of-operation permit issued pursuant to paragraph (d) hereof, shall be as established in the director's fee schedule pursuant to section 91.70 for each Saturday, Sunday, and legal holiday on which work is performed and each calendar day on which work is performed after 6:00 p.m. or before 7:00 a.m. of the following day. The fee for an extended hours-of-operation permit for a public works project, issued pursuant to paragraph (f) hereof, shall be as established in the director's fee schedule pursuant to section 91.70. Permits shall be obtained in advance of the proposed extended hours of operation. If the permit has not been applied for in advance, the fee will be doubled for the days of operation prior to the date of application if the permit is issued:

(f) The department of public works may construct, repair or rehabilitate any highway, road or bridge or other public infrastructure after 6:00 p.m. or before 7:00 a.m. on weekdays, or on Saturdays, Sundays or state or federal holidays when, in the judgment of the city engineer it is determined that the expeditious construction, repair or rehabilitation of any highway, road or bridge or other public infrastructure necessitates the operation of pile drivers, jackhammers, engines, power units or any other construction equipment:

(g) No after hours work permit may be issued to a site within five hundred (500) feet of the property line of a hospital, clinic, licensed health care facility or other similar business except under authority of 389.70(d):

- (h) Each applicant for an after hours work permit must provide the following information:
- (1) Verification that the applicant has notified all immediate property occupants and owners of their proposed activity;
  - (2) The applicant's requested hours of operation;
  - (3) The nature of the activity that will be occurring;
  - (4) The site and address where the activity will take place;
  - (5) A contact and phone number for the site activities;

- (6) A company name, a company contact, a mailing address and phone number;
- (7) Payment of the permit fee; and
- (8) Any other information the city deems necessary in order to determine whether a permit should be issued.

(i) An after hours work permit shall not have a start time before 7:00 a.m. or end time past 10:00 p.m. for weekdays. An after hour work permit shall not have a start time before 9:00 a.m. or end time past 6:00 p.m. on weekends or state or federal holidays except under authority of 389.70(d).

(j) A permit request may be rejected or modified from the after hours work times identified in 389.70(h) if:

- (1) The activity is not compatible with the zoning of the property where the activity is requested;
- (2) The activity is not compatible with adjacent parcels within a five hundred (500) foot radius of the property; or
- (3) If substantiated complaints of excessive noise, dust or nuisance conditions have occurred from similar activities at the site or by the applicant within the past year.

(k) An approved permit may be canceled or modified if:

- (1) The activity is found to be incompatible with the zoning of the property where the activity is occurring;
- (2) The activity is found to be incompatible with adjacent parcels within a five hundred-foot radius of the property;
- (3) Substantiated complaints of excessive noise, dust or nuisance conditions result from site activities; or
- (4) The activity is found to be in violation of the conditions of the permit.

(l) After hours work may be suspend[ed] by the Minneapolis Police or the assistant city coordinator for regulatory services or their designee if a valid permit is not present on site for review or under authority of 389.70(k).

Section 9. That Section 389.80 of the above-entitled ordinance be amended to read as follows:

**389.80. Outdoor implements.** Except as hereinafter provided, any Any outdoor implement such as a power lawn mower, snow blower, power hedge clipper, power saw, leaf blower, or trimmer, or such other implement, designed primarily for outdoor use, shall be operated within the city only between the hours of 9:00 a.m. and 9:00 p.m. on any day 7:00 a.m. and 10:00 p.m. No leaf blowers shall be operated by any person in the city without a muffler nor shall a leaf blower be operated in the city that causes sound in excess of seventy (70) dB(A) measured at fifty (50) feet away. A snow blower may be operated between the hours of 6:00 a.m. and 9:00 a.m. or between the hours of 9:00 p.m. and 10:00 p.m. if operation during such hours is reasonably necessary for an owner, occupant or other person having responsibility under section 445.20 and/or section 225.680(e) to meet their responsibilities for snow removal under those sections without undue hardship at any time during the pendency of an official snow emergency and at any time within twenty-four (24) hours following a snowfall of one (1) inch or greater.

Section 10. That Section 389.90 of the above-entitled ordinance be and is hereby repealed.

**389.90. Temporary crushing activities.** ~~(a) Definition and purpose.~~ Temporary crushing activities include on-site crushing, grinding or pulverizing of razed building or structural materials performed in an open area by use of portable crushing machinery.

The purpose of the ordinance is to reduce the impacts and costs associated with the demolition of primarily commercial and industrial structures while protecting the public health, safety and welfare by addressing concerns relating to the transitory effect of noise, dust, stormwater run-off and related environmental impacts resulting from temporary crushing activities.

~~(b) Requirements.~~ Temporary crushing activities must comply with the following:

- 1. The performance standards in sections 542.490 to 542.540 of the zoning code; chapters 46, 47, 48, 117 and 389 of the code of ordinances; and state rules and statutes as determined applicable by the director of inspections when issuing the wrecking permit required by section 117.10 of this code.
- 2. Materials crushed, ground or pulverized on-site shall originate only from demolition activities conducted on the site and shall not include any materials conveyed to the site from a different location.

3. Temporary crushing activities shall not exceed one hundred twenty (120) consecutive calendar days from the date of issuance of a required permit.
4. A temporary sign, three (3) feet by four (4) feet, indicating the name, address and phone number(s) of the person(s) or agent(s) of the company conducting the temporary on-site crushing activities shall be placed within ten (10) feet of all public rights-of-way adjacent to the project site. The company conducting the temporary crushing activities shall ensure that an agent responsible for the activities conducted on-site is available on-site or by phone on a twenty-four (24) hour basis.

Section 11. That Section 389.100 of the above-entitled ordinance be and is hereby repealed.

**389.100. Prohibited acts.** (a) The following acts are not allowed in the city and the causing thereof are prohibited:

- (1) Intentionally sounding or permitting the sounding outdoors of any fire, burglar, or civil defense alarm, siren, whistle, or similar stationary emergency signaling device except in the following circumstances:
  - a. Existence of an emergency.
  - b. Testing the device, not to exceed four (4) minutes in an hourly period, unless approved by the director when there is no reasonable alternative to exceeding four (4) minutes of testing and the testing is required by state or federal laws, rules or regulations.
  - c. The sounding of a properly maintained car alarm subject to paragraph (6) of this section.
- (2) No person shall load or unload a solid waste compacting vehicle, solid waste processing vehicle, solid waste collection vehicle, or recycling collection vehicle outside of an insulated building in any residentially used area between the hours of 10:00 p.m. and 6:00 a.m.
- (3) No person shall operate a parking lot sweeper or commercial snow plowing equipment in any residentially zoned and used area between the hours of 10:00 p.m. and 6:00 a.m. Snow plowing of off-street parking areas and adjoining walkways with reasonably maintained and proficiently operated equipment in residentially zoned and used areas is allowed between 10:00 p.m. and 6:00 a.m. during an official snow emergency which has been declared by the proper city officials. The Minneapolis Department of Public Works may plow and otherwise remove snow from public streets and other public areas between the hours of 10:00 p.m. and 6:00 a.m. whenever, in the judgment of the city engineer, such plowing or otherwise removing snow is in the public interest.
- (4) Removing or rendering inoperative any noise control device or the design of a product having those devices, by any person other than for purposes of maintenance, repair or replacement.
- (5) It shall be unlawful for any person to be in control of and allow operation of an electronic theft or burglar alarm which sounds an audible signal without an automatic shutoff device to prohibit the audible signal from sounding continually for more than five (5) minutes.

Section 12. That Section 389.105 of the above-entitled ordinance be amended to read as follows:

**389.105. Permits for sound amplifying equipment.** Except as provided in section 389.60(e)(5), no person shall use or maintain any outside sound amplifying equipment except under specific permit from the assistant city coordinator for regulatory services or their designee. The fees for this permit shall be as established in the director's fee schedule pursuant to section 91.70 for each calendar day; ~~Saturday, Sunday or legal holiday~~ for which amplified sound is played or operated subject to the following conditions:

- (1) A daytime permit is required for outside sound amplifying equipment used between the hours of 7:00 a.m. and 10:00 p.m. ~~The hours when outside sound amplifying equipment may be used, pursuant to a permit, can only be extended if: An extended hours permit shall be required for outside sound amplifying equipment used outside of the hours specified in this subsection and may be issued only if: (A) outside amplified sound equipment is being used as part of a large block event and is explicitly~~

allowed by the terms of the large block event permit issued pursuant to Chapter 455 of this code; or (B) outside amplified sound equipment is being used on publicly owned and controlled property in the Central Business District, or (C) approved by the assistant city coordinator for regulatory services or the assistant city coordinator's designee.

- (2) Amplification that does not meet the limits of section 389.60 shall be limited to twelve (12) hours in any one (1) day, twenty-four (24) hours in any seven (7) day period and thirty-six (36) hours in any twenty-eight-day period for the same property. The assistant city coordinator for regulatory services, or their designee, may permit amplified sound in excess of these limitations if, and only if, the outside amplified sound equipment is being used on publicly owned and controlled property in the Central Business District.
- (3) Sound measured at fifty (50) feet from the source shall not exceed ninety (90) dB(A).
- (4) Sound measured off the property where the equipment is allowed under the permit shall never be more than fifteen (15) dB(A) above the ambient noise level.
- (5) Compliance with section 389.65 (a) and (b).

A permit shall be issued only after the applicant gives a written promise to comply with these conditions and reasonably demonstrates that the activity will comply with these conditions. The terms of the permit, may be expanded, or the fee waived or reduced, when it is deemed necessary, upon a proper showing, for the purpose of complying with section 389.65(b)(13), which is incorporated herein.

Permits shall be obtained in advance of the proposed extended hours of operation. If the permit has not been applied for in advance, the fee will be doubled for the days of operation prior to the date of application if the permit is issued.

Section 13. That Section 389.110 of the above-entitled ordinance be and is hereby repealed.

**389.110. Advertising by public address systems.** No person shall maintain and operate in any building a radio device or musical instrument where the sound therefrom is cast directly upon a public street and where such device is maintained and operated for advertising purposes or for the purpose of attracting the attention of the passing public. Nothing herein contained shall prohibit the playing of records in a record shop where the sounds created, emitted or transmitted therefrom are not audible for a distance of more than twenty-five (25) feet from the building in which the record shop is located.

Section 14. That Section 389.120 of the above-entitled ordinance be amended to read as follows:

**389.120. Penalties.** (a) Any person who violates sections 389.60(a), 389.60(c), 389.60(g), 389.65(a), 389.65(c)(4), 389.65(c)(5), or 389.65(c)(7) shall receive either a verbal or written order to cease or abate the noise immediately or within a reasonable time period specified in the order, except that after 10:00 p.m. and until 6:00 a.m. any person designated to enforce this chapter need not issue an order to cease or abate the noise before charging any person with a violation of any of these sections. Provided further that no warning shall be required for any violation of 389.60(a), 389.60(c), or 389.60(g) when the activity, sound, or operation producing the sound is primarily created by heaters, air conditioners, fans, machinery, equipment, implements, manufacturing processes, construction processes, demolition processes or primarily created as the result of impact(s) or explosion(s).

(b) If an order to cease or abate the noise is required by subparagraph (a) and not complied with, or is complied with and then violated again within one hundred eighty (180) days of receipt of the verbal or written order to cease or abate the noise required by subparagraph (a), the person or persons responsible for the subject noise may be charged with violation of an appropriate section of this chapter with penalties as provided by section 1.30(a) of this code, except as otherwise specifically provided in this chapter. In all other cases, any violation of this chapter may be immediately charged in the manner provided by law and without any prior order to cease or abate the noise. Each day a violation of this chapter is committed or permitted to continue shall constitute a separate offense and may be punished separately.

In addition to any penalties specifically provided for by the terms of this chapter, violations of the provisions of this chapter may be enforced by any one, all, or any combination of the following penalties and remedies:

- (1) Violations shall be punishable as criminal offenses as stated in section 1.30 of the Minneapolis Code of Ordinances.

- (2) Violations may be enforced as administrative offenses pursuant to chapter 2 of the Minneapolis Code of Ordinances.
- (3) This chapter may also be enforced by injunction, abatement, mandamus, or any other appropriate remedy in any court of competent jurisdiction.
- (4) The failure to comply with the terms of this chapter by the holder of any license, provisional license or permit issued pursuant to this Code shall constitute good cause for adverse action against such license, provisional license or permit.

Section 15. That Section 389.170 of the above-entitled ordinance be amended to read as follows:

**389.170. Light vehicles.** No person shall operate, nor shall its owner permit the operation of a light vehicle with a manufacturer's gross vehicle weight rating of ten thousand (10,000) pounds or less, or any auxiliary device attached to or required for the operation of said vehicle, on any traffic way in such a manner that it emits noise at levels in excess of the limits specified in Table A-1 or A-2, as applicable.

TABLE A-1

NOISE LEVEL LIMITS FOR LIGHT VEHICLES  
OPERATED IN MINNEAPOLIS BEFORE  
JANUARY 1, 1977

TABLE INSET:

Posted Speed Limit	Measurement Distance	Measurement Distance	Measurement Distance
	25 feet	50 feet	200 feet
25 MPH or less	77 dB(A)	75 dB(A)	69 dB(A)
30	79	77	71
35	81	79	73
40	83	81	75
45	85	83	77
50	87	85	79
55	89	87	81
60 MPH or more	91	89	83

TABLE A-2

NOISE LEVEL LIMITS FOR LIGHT VEHICLES  
OPERATED IN MINNESOTA ON OR  
AFTER JANUARY 1, 1977

TABLE INSET:

Posted Speed Limit	Measurement Distance	Measurement Distance	Measurement Distance
	200 <del>25</del> feet	25 50 feet	50 200 feet
25 MPH or less	69 db(A)	67 db(A)	61 db(A)
30	71	69	63
35	73	71	65
40	75	73	67
45	77	75	69
50	79	77	71
55	81	79	73
60 MPH or more	83	81	75

Section 16. That Section 389.180 of the above-entitled ordinance be amended to read as follows:

**389.180. Heavy vehicles.** (a) No person shall operate, nor shall its owner permit the operation of, a heavy vehicle with a manufacturer's gross vehicle weight rating of more than ten thousand (10,000) pounds, or any auxiliary device attached to or required for the operation of said vehicle, on any trafficway in such a manner that it emits noise at levels in excess of the limits specified in Table B-1, B-2 or B-3 as applicable.

TABLE B-1

NOISE LEVEL LIMITS FOR HEAVY VEHICLES EFFECTIVE  
BETWEEN JANUARY 1, 1972 AND DECEMBER 31, 1973

TABLE INSET:

Posted Speed Limit	Time Periods When Applicable	Measurement Distance		
		20 Feet	25 Feet	50 Feet
35 mph or less	Daytime	94 db(A)	92 db(A)	86 db(A)
	Evening	92	90	84
	Night, holiday, Sunday	81	79	73
	All	94	92	86

TABLE B-2  
NOISE LEVEL LIMITS FOR HEAVY VEHICLES EFFECTIVE AFTER JANUARY 1, 1974

TABLE INSET:

Posted Speed Limit	Time Periods When Applicable	Measurement Distance		
		20 Feet	25 Feet	50 Feet
35 mph or less	Daytime	92 db(A)	90 db(A)	84 db(A)
	Evening	92	90	84
	Night, holiday, Sunday	81	79	73
	All	92	90	84

TABLE B-3  
NOISE LEVEL LIMITS FOR HEAVY VEHICLES OPERATED IN MINNEAPOLIS ON OR AFTER JANUARY 1, 1977

TABLE INSET:

Posted Speed Limit	Time Periods When Applicable	Measurement Distance		
		20 Feet	25 Feet	50 Feet
35 mph or less	Daytime	83 db(A)	81 db(A)	75 db(A)
	Evening	75	73	67
	Night, holiday, Sunday	73	71	65
	All	83	71	75

Section 17. That Section 389.200 of the above-entitled ordinance be and is hereby repealed.

**389.200. Measurement of noise levels.** (a) Persons who measure noise levels for the purpose of enforcing these regulations shall be trained in the techniques of sound measurement and qualified in the use of the instruments required to make such measurements:

(b) A sound level meter shall be used in measuring noise levels, except that:

- (1) The B and C weighting networks and the "slow" meter dynamic response characteristic need not be incorporated; and
- (2) A "hold" network may be incorporated.

(c) Measurements shall be made in accordance with good professional practice. In particular:

- (1) The "A" weighting network shall be used.
- (2) The "fast" meter response characteristic shall be used when measuring vehicular noise levels.
- (3) Sound level calibrators of the auxiliary closed-coupler type specified in ANSI Standard S1.4-1971, or its most recent revision, shall be used.
- (4) Windscreens shall be used whenever appropriate.
- (5) Where measurements are made of vehicles in motion, the trafficway surface near the point of measurement shall normally be dry, of concrete or asphalt, free of extraneous loose material and free of sharp bumps, chuck-holes, wide cracks and patches needing repair.

- (6) Measurements shall normally not be used for enforcement unless the noise level at a point of measurement while a vehicle is operated is three (3) or more decibels greater than the ambient noise level.
- (7) The ambient noise level may be estimated from sound levels measured before and/or after the passage of a moving vehicle or by sound levels measured at one or more points near the point of measurement.

Section 18. That Chapter 389 of the Minneapolis Code of Ordinances be amended by adding thereto a new Section 389.210 to read as follows:

**389.210. Sound attenuation required in Industrial Living Overlay Districts.** New construction or remodeling that involves fifty (50) percent or more of a structure located in an Industrial Living Overlay District shall require installation of sound attenuating materials for all interior occupied space. The level of sound attenuation shall be such that the measured interior sound levels will, at the time of completion of the project, be at or below the levels specified in Table A:

TABLE A

Permissible occupied interior noise levels measured with all doors and windows closed

Daytime

Nighttime

L<sub>50</sub>  
60 dBA

L<sub>10</sub>  
65 dBA

L<sub>50</sub>  
50 dBA

L<sub>10</sub>  
55 dBA

Adopted 12/12/2008.

Yeas, 11; Nays, 1 as follows:

Yeas – Samuels, Gordon, Hofstede, Schiff, Colvin Roy, Remington, Benson, Goodman, Hodges, Johnson, Lilligren.

Nays – Ostrow.

Absent – Glidden.

**PS&RS** – Your Committee, to whom was referred the following ordinances amending the Minneapolis Code of Ordinances relating to abrasive blasting and temporary crushing activities, coordinating construction activity requirements, and amending fee requirements contained in the Director’s Fee schedule, now recommends that said ordinances be given their second reading for amendment and passage:

a. amending Title 3 relating to *Air Pollution and Environmental Protection*:

1. Chapter 47 relating to *Air Pollution*, repealing Section 47.140 relating to *Abrasive Blasting Permit Required*.

2. Chapter 48 relating to *Minneapolis Water Management Authority*, amending and clarifying on-site remediation regulations, standards and definitions.

3. Adding a new Chapter 59 relating to *Construction Activities*, coordinating environmental construction activities, definitions, permitting, permit requirements and enforcement.

b. amending Title 5, Chapter 91 relating to *Building Code: Permit Fees*, amending those fees covered by the Director’s Fee Schedule.

Adopted 12/12/2008.

Absent – Glidden.

Ordinance 2008-Or-095 amending Title 3, Chapter 47 of the Minneapolis Code of Ordinances relating to *Air Pollution and Environmental Protection: Air Pollution*, repealing Section 47.140 relating to *Abrasive Blasting Permit Required*, was adopted 12/12/2008 by the City Council. A complete copy of this ordinance is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized ordinance.

**ORDINANCE 2008-Or-095**  
**By Gordon**  
**Intro & 1st Reading: 11/7/2008**  
**Ref to: PS&RS**  
**2nd Reading: 12/12/2008**

**Amending Title 3, Chapter 47 of the Minneapolis Code of Ordinances relating to Air Pollution and Environmental Protection: Air Pollution.**

The City Council of The City of Minneapolis do ordain as follows:

Section 1. That Section 47.140 of the above entitled ordinance be and hereby is repealed.

**47.140. Abrasive blasting permit required.** No person shall abrasively blast any building, structure, or other architectural surface without having first received a permit from the department of regulatory services. Permit costs shall be as established in the director's fee schedule pursuant to section 91.70.

- (1) Applications for abrasive blasting permits shall be in such form as prescribed by the department of regulatory services. Every application for a permit to abrasively blast a building, structure, or architectural surface four (4) stories in height or less shall be accompanied by a sworn statement that the applicant will notify at least forty-eight (48) hours prior to the commencement of any abrasive blasting all the occupants of every residential building of less than ten (10) dwelling units and the owners, managing agent, or occupants of every residential building of ten (10) or more dwelling units and every nonresidential structure located within a seventy-five-foot radius of the surface to be sandblasted. With respect to surfaces more than four (4) stories in height, environmental management, giving due consideration to the public interest, shall determine the radius of the notice. This notification shall be in writing and shall be by mail or electronic mail and shall include the following information:
  - a. Return address from the applicants last known permanent address.
  - b. Address of the location to be abrasively blasted.
  - c. The estimated date(s) of the abrasive blasting operations.
  - d. The estimated time period of the entire abrasive blasting operation.
  - e. The type of blasting material, and material to be abrasively blasted, including lead and all material considered a hazardous waste under Minnesota Rules.
  - f. Analytical results of testing for material to be abrasively blasted for lead content. If results are not submitted with application the permit will not be issued until the city has tested material. The city has up to five (5) days to conduct this testing.
- (2) Rescheduling abrasive blasting operation. In the event the applicant cannot perform the abrasive blasting on the estimated date(s) contained in the application or within seventy-two (72) hours thereafter the applicant shall notify environmental services and the owners of the property or occupants twenty-four (24) hours prior to the commencement of the rescheduled abrasive blasting operation.
- (3) All required testing shall be performed by qualified staff from lead hazard control as designated by the Department of Regulatory Services.

Adopted 12/12/2008.

Absent – Glidden.

Ordinance 2008-Or-096 amending Title 3, Chapter 48 of the Minneapolis Code of Ordinances relating to *Air Pollution and Environmental Protection: Minneapolis Watershed Management Authority*, amending Sections 48.10 and 48.240 to amend and clarify on-site remediation regulations, standards and definitions, was adopted 12/12/2008 by the City Council. A complete copy of this ordinance is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized ordinance.

**ORDINANCE 2008-Or-096**  
**By Gordon**  
**Intro & 1st Reading: 11/7/2008**  
**Ref to: PS&RS**  
**2nd Reading: 12/12/2008**

**Amending Title 3, Chapter 48 of the Minneapolis Code of Ordinances relating to Air Pollution and Environmental Protection: Minneapolis Watershed Management Authority.**

The City Council of The City of Minneapolis do ordain as follows:

Section 1. That Section 48.10 of the above entitled ordinance be amended to read as follows:

**48.10. Definitions.** (a) The words used in this chapter shall have the meanings given in Minnesota Statutes and Minnesota Rules, except where the context clearly shows otherwise. Wherever the word "agency" or "Minnesota Pollution Control Agency" is used in Minnesota Rules as incorporated into this chapter by section 48.20, it shall be held to mean the City of Minneapolis. Wherever the word "commissioner" is used in Minnesota Rules, as incorporated into this chapter by section 48.20, it shall be held to mean the assistant city coordinator of regulatory services or the assistant city coordinator's authorized agent. State definitions shall include, but shall not be limited to the following:

*Remediation* means cleanup or any other set of actions, methods, or controls, such as biological, chemical, thermal or physical, used to treat, remove, contain, stabilize, cap, isolate or substantially reduce the amounts of toxic materials in water, air, soil, or other media.

Section 2. That Section 48.240 of the above entitled ordinance be amended to read as follows:

**48.240. On-site remediation.** (a) No person shall conduct or perform any on-site remediation of ~~any soil, concrete, asphalt, rock, brick, cement, dirt, compost, water, or air~~ as defined in 48.10 without having obtained an on-site remediation permit from the authority. On-site remediation may include, but is not limited to: ~~crushing, as defined by city ordinance section 389.90, grinding, pulverizing, excavation, removal, excavation and removal of contamination,~~ grading, ~~outdoor storage,~~ thermal evaporation treatment, closed chamber burning, microbial treatments, thin spreading, soil venting, soil capping, soil burning, or other substance recovery or disposal systems.

To apply for an on-site remediation permit from the authority, person(s) shall pay the authority all permit fee(s) required by 48.310, and submit a plan that details the proposed action for the on-site remediation. For sites considered contaminated by the Minnesota Pollution Control Agency, or sites suspected of being contaminated, a copy of the state-approved remediation plan must be submitted. If the remediation system will be discharging to the sanitary sewer a copy of the Metropolitan Council discharge permit must be provided. In addition, any information deemed necessary by the authority must be provided. ~~For those sites participating in the Minnesota Pollution Control Agency administered Voluntary Investigation and Cleanup Program, the fee is not required, if the participating party did not cause any of the contamination.~~

The authority shall review the plan and may require the applicant to perform modifications to the on-site treatment remediation system to assure conformity to city ordinance, in so far as such modifications are not in conflict with state or federal requirements. On-site remediation permits shall be issued by the authority pursuant to a review of the following information, as appropriate to the site, contained in the plan:

- (1) The objectives of the remediation.
- (2) Descriptions of the contaminated site, including topographic and geologic characteristics, the presence of utilities and structures on the site, and relative location of human populations at risk.
- (3) The types, amounts, and extent of the contamination and its potential for mobility from the site.
- (4) Descriptions of how the remediation will be implemented, its compatibility with the contaminants including the potential to generate hazardous secondary chemical species such as flammable or explosive vapors, and estimates of contaminant

amounts that will be emitted to the air, discharged to the waters of the state, or excavated, treated on-site and/or transported off-site for treatment and/or disposal.

- (5) The measures being implemented that will protect the exposed treatment area or contaminated storage areas from weather conditions that may cause hazardous substances to migrate or be released.
- (6) Designs for run-off collection systems.
- (7) The adequacy of the emergency response plan to address accidental discharges, leaks, or spills of extracted toxins or other toxic materials to the environment.
- (8) Capacity limitations for all equipment, machinery, storage vessels, or any other materials involved in the remediation operations to prevent injury to workers and accidental releases of toxins to the environment.
- (9) Time requirements for the remediation to be completed.
- (10) Projected public concerns and how they will be addressed.
- (11) Actions taken to ensure that the remediation-site and all its equipment and structures will remain physically secure from intruders to prevent exposure to harmful contaminants, accidental releases of toxic substances, or unauthorized acts of third persons.
- (12) Names and contact information for all persons conducting the remediation activities, including contact information for an individual or company available to respond on a twenty-four (24) hour basis.

(b) Emergency contact information shall be posted on-site in an area clearly visible from the public right of way. The sign should be outside of any locked buildings or other structures. The listed contact shall be an individual or company available to respond on a twenty-four (24) hour basis.

(c) Issuance of an on-site treatment permit does not eliminate the need for additional permits required by this Code or other governmental agencies. These additional permits may include, but are not limited to: fire, electrical, erosion control, work, demolition, new construction, well installation, tank installation and removal, and water discharge permits.

(d) The city or authorized personnel may inspect remediation-sites prior to, during, and at the close of all remediation activities. If at any time over the course of the remediation the city or authorized personnel identifies problems with the remediation activities including, but not limited to, potential environmental impacts or public health and safety concerns, the city shall have the power to require additional permits and/or remediation at the site. Notification of city required changes shall be submitted in writing to the person(s) indicated as responsible for remediation activities on the permit application.

(e) If upon inspection by city authorized personnel, remediation activities are found to pose an immediate and substantial threat to the environment and/or public health and safety, the authority shall have the power to immediately suspend operations until the Minnesota Pollution Control Agency can be consulted and the threat has been addressed.

(f) Applicant(s) must pay to the authority the annual registration fee(s) required by section 48.310.

(g) Any alterations or additions required by the city shall not conflict or detrimentally effect the operation of any remediation activity required by the Minnesota Pollution Control Agency or the United States Environmental Protection Agency.

Adopted 12/12/2008.

Absent – Glidden.

Ordinance 2008-Or-097 amending Title 3 of the Minneapolis Code of Ordinances relating to *Air Pollution and Environmental Protection* by adding a new Chapter 59 relating to *Construction Activities* to coordinate environmental construction activities, definitions, permitting, permit requirements and enforcement, was adopted 12/12/2008 by the City Council. A complete copy of this ordinance is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized ordinance.

**ORDINANCE 2008-Or-097**  
**By Gordon**  
**Intro & 1st Reading: 11/7/2008**  
**Ref to: PS&RS**  
**2nd Reading: 12/12/2008**

**Amending Title 3 of the Minneapolis Code of Ordinances relating to Air Pollution and Environmental Protection by adding a new Chapter 59 relating to Construction Activities.**

The City Council of The City of Minneapolis do ordain as follows:

Section 1. That the Minneapolis Code of Ordinances be amended by adding thereto a new Chapter 59 to read as follows:

**CHAPTER 59. CONSTRUCTION ACTIVITIES**

**59.10. Purpose.** The purpose of this chapter is to protect the public health and the environment by reducing the effects to the public and environment from construction activities.

**59.20. Definitions.** The following terms whenever used in this article shall have the following respective meanings:

*Abrasive blasting* is the cleaning or preparation of a surface by forcibly propelling a stream of abrasive material against a surface. It is also the appropriate term for but not limited to the following activities: bead blasting, sand blasting, sand carving, soda blasting, shot blasting, pressure washing, wet abrasive blasting, hydro blasting, vacuum blasting, and dry abrasive blasting.

*ASTM* was originally known as the American Society for Testing and Materials and is an international standards organization that develops and publishes voluntary consensus technical standards for a wide range of materials, products, systems, and services.

*Construction activity* includes abrasive blasting, temporary crushing, demolition, maintenance, site preparation, assembly, erection, repair, alteration or similar action, including demolition of buildings or structures with the use of construction equipment, maintenance equipment and temporary crushing equipment.

*Construction equipment* is any powered vehicle, powered device or mobile device used to supply power used for construction activities or to transport equipment, materials, supplies or debris to or from a construction site. Such equipment includes but is not limited to backhoes, bobcats, bulldozers, compressors, cranes, dump trucks, front end loaders, generators, hammer drills, jackhammers, mobile crushers, pressure washers, sand blasters, and any maintenance equipment.

*Construction site* is the property where the construction activity is taking place.

*EPA* shall mean the United States Environmental Protection Agency.

*HUD* shall mean the United States Department of Housing and Urban Development.

*Lead based paint* is defined as 1 milligram per squared centimeter (1 mg/cm<sup>2</sup>) which can be measured using a portable XRF or laboratory analysis, or 5,000 micrograms per gram (µg/g) which can only be measured by laboratory analysis.

*Maintenance equipment* is any equipment or device rated at more than five (5) horsepower and used for the repair of buildings and structures, or the maintenance of buildings, structures or properties.

*Temporary crushing* activities include the crushing, grinding, pulverizing or milling of razed or demolished buildings, structural materials, roadway or other similar materials when performed in an open area by use of portable crushing machinery.

*Temporary crushing equipment* is any powered vehicle or powered device used for the purposes of crushing, grinding, pulverizing or milling of razed or demolished buildings, structural materials, roadways or other similar materials.

*XRF* shall mean X-ray fluorescence analyzer used to provide rapid, non-destructive testing of lead and other metal alloys.

**59.30 After hours work permit required.** (a) Operation of construction equipment without a permit is allowed only on Monday through Friday from 7:00 a.m. to 6:00 p.m., not including federal holidays. Operation of construction equipment outside of these hours and days without a permit from the assistant city coordinator for regulatory services or their designee is prohibited.

(b) The fees for an after hours work permit issued pursuant to paragraph 59.30(a) shall be established in the director's fee schedule pursuant to section 91.70. The fee for an after hours work permit for a Department of Public Works project, other government agency project or projects of their agents shall be as established in the director's fee schedule pursuant to section 91.70. Permits shall be obtained in advance of the proposed activity.

(c) Parties applying for an after hours work permit must provide a general notice of their activity to all occupants where the construction activity will occur and to the building owners and their tenants of all adjacent properties. The notice must include contact information for the party performing the construction activity, brief description of the proposed work, intended dates and times and identify that complaints regarding the construction activity will be received by Minneapolis Information and Services by dialing 311 in Minneapolis or 612-673-3000 from cell phones and phones outside of Minneapolis.

(d) Applications for an after hours work permit shall be in such form as prescribed by the Department of Regulatory Services. A copy of the written notice required by 59.30(c) must be submitted with the permit application.

(e) Exemption from permit requirements:

- (1) A property owner or tenants of a residentially used property may conduct construction activities on their residentially used property on Saturdays, Sundays and federal holidays from 9 a.m. – 6 p.m.;
- (2) A party using construction equipment in an enclosed and insulated building that does not share a common wall with another building or occupant; or
- (3) A project for which the city engineer has determined that the expeditious construction, repair or rehabilitation of any highway, road or bridge or other public infrastructure necessitates the operation of pile drivers, jackhammers, engines, power units or any other construction equipment and has so certified in writing.

**59.40. Temporary crushing permit required.** (a) No person may begin operation of temporary crushing activities except under specific permit from the assistant city coordinator for regulatory services or their designee.

(b) The fees for a temporary crushing permit issued pursuant to paragraph 59.40 (a) shall be established in the director's fee schedule pursuant to section 91.70. Permits shall be obtained in advance of the proposed activity.

(c) Parties applying for a temporary crushing permit must provide a general notice of their activity to all occupants where the construction activity will occur and to the building owner and their tenants of all adjacent properties. The notice must include contact information for the party performing the construction activity, a brief description of the proposed work, the intended dates and times and must identify that complaints regarding the construction activity will be received by Minneapolis Information and Services by dialing 311 in Minneapolis or 612-673-3000 from cell phones and phones outside of Minneapolis.

(d) A permit shall not be issued for the operation of temporary crushing equipment unless the following requirements as applicable are met:

- (1) The performance standards in chapters 46, 47, 48, 50, 117 and 389 of the Minneapolis code of ordinances; and state rules and statutes as determined applicable by the assistant city coordinator for regulatory services or their designee when issuing the wrecking permit required by section 117.10 of this code;
- (2) Materials crushed, ground, pulverized or milled must originate on the site where the temporary crushing activity is occurring unless the assistant city coordinator for regulatory services or their designee determines that it is to the public benefit to transport to an off site location;
- (3) Temporary crushing activities shall not exceed one hundred twenty (120) consecutive calendar days from the date of issuance of a required permit; and
- (4) A temporary sign, three (3) feet by four (4) feet, indicating the name, address and telephone number(s) of the person(s) or agent(s) of the company conducting the temporary crushing activities be placed within ten (10) feet of all public rights-of-way adjacent to the project site. The company conducting the temporary crushing activities shall ensure that an agent responsible for the activities being conducted is available on site or by phone on a twenty-four (24) hour basis.

(e) Applications for temporary crushing permit shall be in such form as prescribed by the department of regulatory services. A copy of the written notice required by 59.40(c) must be submitted with the permit application.

**59.50. Abrasive blasting permit required.** (a) No person shall abrasively blast the interior or exterior of any building, structure, or other architectural surface except under specific permit from the assistant city coordinator for regulatory services or their designee.

(b) The fees for an abrasive blasting permit issued pursuant to paragraph 59.50(a) shall be as established in the director's fee schedule pursuant to section 91.70. Permits shall be obtained in advance of the proposed activity.

(c) Parties applying for an abrasive blasting permit must provide forty-eight (48) hours in advance a general notice of their construction activity to all occupants of the building, structure or architectural surface where the construction activity will occur and to all building owners and their tenants within a seventy-five (75) foot radius of the building, structure or architectural surface to be abrasively blasted. The notice must include contact information for the party performing the construction activity, brief description of the proposed work, intended dates and times and identify that complaints regarding the construction activity will be received by Minneapolis Information and Services by dialing 311 in Minneapolis or 612-673-3000 from cell phones and outside Minneapolis.

(d) All painted surfaces to be abrasively blasted must be tested for lead content following EPA, HUD or ASTM protocols.

(e) All abrasive blasting activity shall meet the following performance standards:

- (1) Standards established in Chapters 46, 47, 48, 50, and 389 of this Code;
- (2) Standards established in Minnesota Rule Part 7025 if laboratory analysis indicates the presence of lead based paint;
- (3) Dust generated by the activity must be contained on site; and

(f) Applications for an abrasive blasting permit shall be in such form as prescribed by the department of regulatory services. A copy of the written notice required by 59.50(c) and analytical results required by 59.50(d) must be submitted with the permit application. If analytical results as required by 59.50(d) are not submitted with the application, the permit will not be issued until the city has tested the painted surface.

(g) In the event the applicant cannot perform the abrasive blasting on the scheduled date(s) contained in the application the applicant shall provide notification to environmental services, the owners of the property, and as required in 59.50(c)(3) twenty-four (24) hours prior to the commencement of the rescheduled abrasive blasting operation.

**59.60. Rejection, modification, or denial of a permit request.** A permit request submitted under 59.30, 59.40 or 59.50 may be rejected, modified or canceled if:

- (1) The construction activity may cause unreasonable noise, dust or odor interfering with the property use(s);
- (2) The construction activity may cause unreasonable noise, dust or odor interfering with adjacent property use(s); or
- (3) Violations of City Ordinance have occurred from similar construction activities where the permit is requested or by the applicant within the past year.

**59.70. On site suspension and or modification of a permitted construction activity.** A permit issued under authority of 59.30, 59.40 or 59.50 may be modified or suspended by the Minneapolis Police or the assistant city coordinator for regulatory services or their designee if:

- (1) The construction activity is causing unreasonable noise, dust or odor interfering with the property use(s);
- (2) The construction activity cause unreasonable noise, dust or odor interfering with adjacent property use(s);
- (3) The construction activity is a violation City Ordinance; or
- (4) The construction activity is in violation of conditions of the permit.

**59.80. On site suspension of unpermitted construction activity.** Construction activity that would require a permit under authority of 59.30, 59.40 or 59.50 may be ordered to be suspended by the Minneapolis Police or by the assistant city coordinator for regulatory services or their designee if a valid permit for the construction activity is not present on site for review.

**59.90. Violations of this code.** (a) Any person who violates any provision of this chapter shall be guilty of an ordinance violation and subject to the punishment and penalties of section 1.30(a), 1.40 and Chapter 2 of this Code.

(b) License revocation. Any owner or operator of land, buildings, or structures who possesses a city license to conduct business, in addition to the fine, may have his or her license revoked for failure to comply with this chapter.

(c) Each day of failure to obtain a permit or maintain compliance with an issued permit constitutes a separate violation of this Code.

Adopted 12/12/2008.

Absent – Glidden.

Ordinance 2008-Or-098 amending Title 5, Chapter 91 of the Minneapolis Code of Ordinances relating to *Building Code: Permit Fees*, amending Section 91.70 to amend those fees covered by the Director's Fee Schedule, was adopted 12/12/2008 by the City Council. A complete copy of this ordinance is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized ordinance.

**ORDINANCE 2008-Or-098**  
**By Gordon**  
**Intro & 1st Reading: 11/21/2008**  
**Ref to: PS&RS**  
**2nd Reading: 12/12/2008**

**Amending Title 5, Chapter 91 of the Minneapolis Code of Ordinances relating to Building Code: Permit Fees.**

The City Council of The City of Minneapolis do ordain as follows:

Section 1. That Section 91.70 (a) of the above entitled ordinance be amended to read as follows:

**91.70. Unit based permit fee adjustment; director's fee schedule.** (a) The minimum fee as shown in section 91.40 and certificate, permit, service or other fees calculated on a unit item or other basis, as shown in sections ~~46.50, 47.240, 47.340, 46.40,~~ 48.310, 50.70, 56.110, ~~59.30, 59.40, 59.50,~~ 91.15, 91.20, 91.35, 91.55, 91.105, 91.115, 91.120, 91.150, 91.190, 91.220, 91.270, 91.380, 91.390, 91.410, 91.460, 91.465, 91.610, 91.620, 91.740, 91.750, 91.770, 91.780, 91.900, 108.30, 249.80, ~~389.70~~ and 389.105 shall be subject to automatic adjustment based on annual increases in the construction cost index (CCI) for the City of Minneapolis as published quarterly by the Engineering News Record. Such adjustment, rounded off to the nearest one (1) percent, shall be effective on April first of each year based on the construction cost index for the period ending December 31 of the preceding calendar year. Thereafter the director's fee schedule shall be subject to automatic annual adjustment pursuant to the terms of subsection (a) and shall be made available to the public at least thirty (30) days prior to going into effect.

Adopted 12/12/2008.

Absent – Glidden.

**PS&RS** – Your Committee, to whom was referred the following ordinances amending the Minneapolis Code of Ordinances relating to noise requirements relating to liquor licensing, now recommends that said ordinances be given their second reading for amendment and passage:

a. amending Title 14 relating to *Liquor & Beer*.

1. Chapter 360 relating to *In General*, repealing Section 360.55 relating to *Music not to disturb residents* and

2. Chapter 362 relating to *Liquor Licenses*, amending regulations addressing content of required license application.

b. amending Title 13, Chapter 259 relating to *Licenses and Business Regulations: In General*, establishing a requirement for qualifying licensed establishments to operate in compliance with noise

standards imposed by Chapter 389 and to conduct required sound evaluation.

Adopted 12/12/2008.

Absent – Glidden.

Ordinance 2008-Or-099 amending Title 14, Chapter 360 of the Minneapolis Code of Ordinances relating to *Liquor & Beer: In General*, repealing Section 360.55 relating to *Music not to disturb residents*, was adopted 12/12/2008 by the City Council. A complete copy of this ordinance is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized ordinance.

**ORDINANCE 2008-Or-099**  
**By Hofstede**  
**Intro & 1st Reading: 10/24/2008**  
**Ref to: PS&RS**  
**2nd Reading: 12/12/2008**

**Amending Title 14, Chapter 360 of the Minneapolis Code of Ordinances relating to Liquor and Beer: In General.**

The City Council of The City of Minneapolis do ordain as follows:

Section 1. That Section 360.55 of the above-entitled ordinance be and is hereby repealed.

~~**360.55. Music not to disturb residents.** No on-sale establishment or bottle club licensed under this title which uses any form of live or recorded music shall allow noise to emanate beyond the confines of the premises so that it disturbs the peace and quiet of the residents of any dwelling unit. Every licensee shall be responsible for taking measures to comply with this section, including closing doors and windows where necessary. Failure to comply with this section shall be grounds for downgrading any license, prohibiting the use of all live or recorded music, or imposing restrictions as to the hours during which and the areas of the premises where live or recorded music may be played.~~

Adopted 12/12/2008.

Absent – Glidden.

Ordinance 2008-Or-100 amending Title 14, Chapter 362 of the Minneapolis Code of Ordinances relating to *Liquor & Beer: Liquor Licenses*, amending Section 362.120 to address content of required license application, was adopted 12/12/2008 by the City Council. A complete copy of this ordinance is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized ordinance.

**ORDINANCE 2008-Or-100**  
**By Hofstede**  
**Intro & 1st Reading: 10/24/2008**  
**Ref to: PS&RS**  
**2nd Reading: 12/12/2008**

**Amending Title 14, Chapter 362 of the Minneapolis Code of Ordinances relating to Liquor and Beer: Liquor Licenses.**

The City Council of The City of Minneapolis do ordain as follows:

Section 1. That Section 362.120 of the above-entitled ordinance be amended by adding thereto a new subdivision (z) to read as follows:

**362.120. Contents of application.** In addition to the information which may be required by the state liquor control commissioner's form, the application shall contain the following:

(z) A business plan which shall include the following information:

- (1) hours of operation for the licensed premises;
  - (2) a copy of the menu;
  - (3) description of the alcohol server awareness program training that the applicant will provide;
  - (4) description of the type of entertainment, if any, that the applicant intends to offer on the premises;
  - (5) a security plan that describes the security features, including personnel and equipment, that the applicant will employ and how they will be utilized;
  - (6) description of how the applicant will maintain the orderly appearance and operation of the premises with respect to litter and noise; and
  - (7) such other reasonable and pertinent information as the city council may require.
- An applicant shall promptly notify the director, in writing, of any amendment to the submitted business plan.

Adopted 12/12/2008.

Absent – Glidden.

Ordinance 2008-Or-101 amending Title 13, Chapter 259 of the Minneapolis Code of Ordinances relating to *Licenses and Business Regulations: In General*, amending Sections 259.30 and 259.250 to establish a requirement for qualifying licensed establishments to operate in compliance with noise standards imposed by Chapter 389 and to conduct required sound evaluation, was adopted 12/12/2008 by the City Council. A complete copy of this ordinance is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized ordinance.

**ORDINANCE 2008-Or-101**  
**By Hofstede**  
**Intro & 1st Reading: 10/24/2008**  
**Ref to: PS&RS**  
**2nd Reading: 12/12/2008**

**Amending Title 13, Chapter 259 of the Minneapolis Code of Ordinances relating to Licenses and Business Regulations: In General.**

The City Council of The City of Minneapolis do ordain as follows:

Section 1. That Section 259.30 of the above-entitled ordinance be amended by adding thereto a new subdivision (d) to read as follows:

**259.30. Applications for licenses; issuance of licenses.**

(d) The director of licenses and consumer services may designate license applications that require the submission of a business plan containing the information required in section 362.120(z) of this Code.

Section 2. That Section 259.250 (1) of the above-entitled ordinance be amended to read as follows:

**259.250. Business license management responsibilities.** The following minimum standards and conditions shall be met in order to hold a license, provisional license or permit under Titles 10, 13 and 14 of this Code. Failure to comply with any of these standards and conditions shall be adequate grounds for the denial, refusal to renew, revocation or suspension of said license or permit.

(1) It shall be the responsibility of the licensee to take appropriate action to prevent further violations following conduct by any persons on the business premises, including parking areas, in violation of any of the following statutes or ordinances:

- a. Minnesota Statutes, Sections 609.75 through 609.76, which prohibit gambling.
- b. Minnesota Statutes, Sections 609.321 through 609.324, which prohibits prostitution and acts relating thereto.
- c. Minnesota Statutes, Sections 152.01 through 152.025 or Section 152.027 subdivisions 1 and 2, which prohibit the unlawful sale or possession of controlled substances.

- d. Minnesota Statutes, Sections 617.23 through 617.241, which prohibits indecent exposure and the exhibition and distribution of obscene materials or performances.
- e. Minnesota Statutes, Section 609.33 or Section 385.170(b)(1) of this Code, which prohibit owning, operating, managing, maintaining or conducting a disorderly house, and inviting or attempting to invite others to visit or remain in a disorderly house.
- f. ~~Section~~ Chapter 389.65 of this Code, which ~~prohibits noisy assemblies~~ regulates noise.
- g. Minnesota Statutes, Sections 97B.021, 97B.045, 609.66 through 609.67 and 624.712 through 624.716 and Section 393.40, 393.50, 393.70, 393.80, 393.90 and 393.150 of this Code, which prohibits the unlawful possession, transportation, sale or use of a weapon.
- h. Minnesota Statutes, Section 609.72 and Section 385.90 of this Code, which prohibits disorderly conduct.
- i. Sections 385.80 and 385.50 of this Code, which prohibit lurking and loitering.
- j. Minnesota Statutes, Sections 609.74 and 609.745, which prohibit public nuisance and permitting a public nuisance.
- k. Minnesota Statutes, Sections 609.50, which prohibits obstructing legal process, arrest, or firefighting.
- l. Any other criminal activity arising out of the conduct of the business.

Adopted 12/12/2008.

Absent – Glidden.

**PS&RS** - Your Committee recommends passage of the accompanying resolution granting the application of Central Ave Liquor, 2538 Central Av, for an Off-Sale Liquor License, subject to conditions.

Adopted 12/12/2008.

Absent – Glidden.

Approved by Mayor Rybak 12/15/2008.

(Published 12/16/2008)

Resolution 2008R-558, granting the application of Central Ave Liquor, 2538 Central Av, for an Off-Sale Liquor License, subject to conditions, was adopted 12/12/2008 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

**RESOLUTION 2008R-558**

**By Samuels**

**Granting the application of Central Ave Liquor, 2538 Central Av, for an Off-Sale Liquor License, subject to conditions.**

Resolved by The City Council of The City of Minneapolis:

That it grants the application submitted by McCleary Wine & Spirits LLC, dba Central Ave Liquor, 2538 Central Av, for an Off-Sale Liquor License (new ownership from PCF 25 Corp) to expire October 1, 2009, subject to the following conditions:

1. The business will not allow any customer to pay for a purchase with more than \$2.50 in change or coins.
2. The business will not sell beer in singles unless the container holds more than sixteen (16) ounces.
3. The business will not sell wine or distilled spirits in quantities of 100 milliliters or less.
4. The business will clean the property of litter and trash daily, including the area within 100 feet of the property lines.

5. All windows on the business will have it so that signs, or other items, only cover 30% of the windows; 70% must be clear, in accordance with Section 530.110 of the Minneapolis Code of Ordinances. Merchandise on shelves will be kept low to ensure proper surveillance of the store interior by clerks.

6. final inspection and compliance with all provisions of applicable codes and ordinances.

Adopted 12/12/2008.

Absent – Glidden.

Approved by Mayor Rybak 12/15/2008.

**PS&RS** - Your Committee recommends passage of the accompanying resolution granting the application of B & G Wine and Liquor, 2201 University Av NE, for an Off-Sale Liquor License, subject to conditions.

Adopted 12/12/2008.

Absent – Glidden.

Approved by Mayor Rybak 12/15/2008.

(Published 12/16/2008)

Resolution 2008R-559, granting the application of B & G Wine and Liquor, 2201 University Av NE, for an Off-Sale Liquor License, subject to conditions, was adopted 12/12/2008 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

**RESOLUTION 2008R-559**

**By Samuels**

**Granting the application of B & G Wine and Liquor, 2201 University Av NE, for an Off-Sale Liquor License, subject to conditions.**

Resolved by The City Council of The City of Minneapolis:

That it grants the application submitted by Brothers Image LLC, dba B & G Wine & Spirits, 2201 University Av NE, for an Off-Sale Liquor License (change in ownership from V & Y Inc, dba Dom's Liquor) to expire October 1, 2009, subject to the following conditions:

1. The business will purchase and implement an identification card scanner by January 15, 2009 to prevent sales of alcohol and tobacco to underage purchasers.

2. The business will not sell beer in singles unless the container holds more than sixteen (16 ounces).

3. The business will not sell wine or distilled spirits in quantities of 100 milliliters or less.

4. The business will clean the property of litter and trash daily, including the area within 100 feet of the property lines.

5. All windows on the business will have it so that signs, or other items, only cover 30% of the windows; 70% must be clear, in accordance with Section 530.110 of the Minneapolis Code of Ordinances. Merchandise on shelves will be kept low to ensure proper surveillance of the store interior by clerks.

6. The business will not allow any customer to pay for a purchase with more than \$2.50 in change or coins.

7. final inspection and compliance with all provisions of applicable codes and ordinances.

Adopted 12/12/2008.

Absent – Glidden.

Approved by Mayor Rybak 12/15/2008.

**PS&RS** - Your Committee recommends passage of the accompanying resolution granting the application of Team Liquor Wine & Spirits, 19 S 7th St, for an Off-Sale Liquor License, subject to conditions.

Adopted 12/12/2008.

Absent – Glidden.

Resolution 2008R-560, granting the application of Team Liquor Wine & Spirits, 19 S 7th St, for an Off-Sale Liquor License, subject to conditions, was adopted 12/12/2008 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

**RESOLUTION 2008R-560**

**By Samuels**

**Granting the application of Team Liquor Wine & Spirits, 19 S 7th St, for an Off-Sale Liquor License, subject to conditions.**

Resolved by The City Council of The City of Minneapolis:

That it grants the application submitted by Team Liquor Inc, dba Team Liquor Wine & Spirits, 19 S 7th St, for an Off-Sale Liquor License to expire October 1, 2009, subject to the following conditions:

1. The applicant shall not sell fortified wines of a nature which are other than premium brands.
2. The applicant shall endeavor to operate the premises in a manner that will discourage panhandling in and around the premises and shall cooperate with the City of Minneapolis in the implementation of measures designed to discourage panhandling and loitering.
3. The applicant shall not sell any liquor or wine in quantities smaller than one (1) pint or the metric equivalent from any display that is visible through the windows from the sidewalk or upon walk-up approach to the cash register counter. The applicant will implement an in-store policy and may choose to refuse a transaction if not paid by check or credit card.
4. The applicant shall not sell single cans or bottles of beer or malt liquor unless the container holds more than 16 ounces.
5. The applicant shall not accept change in excess of \$2.50 for any one purchase.
6. The business will clean the property of litter and trash daily including the area within 100 feet of the property lines.
7. final inspection and compliance with all provisions of applicable codes and ordinances.

Adopted 12/12/2008.

Absent – Glidden.

**PS&RS** - Your Committee recommends passage of the accompanying resolution granting the application of Whisky River, 15 S 5th St, for an On-Sale Liquor Class A with Sunday Sales License, subject to conditions.

Adopted 12/12/2008.

Absent – Glidden.

Resolution 2008R-561, granting the application of Whisky River, 15 S 5th St, for an On-Sale Liquor Class A with Sunday Sales License, subject to conditions, was adopted 12/12/2008 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

**RESOLUTION 2008R-561**

**By Samuels**

**Granting the application of Whisky River, 15 S 5th St, for an On-Sale Liquor Class A with Sunday Sales License, subject to conditions.**

Resolved by The City Council of The City of Minneapolis:

That it grants the application submitted by Minneapolis 0052 LLC, dba Whisky River, 15 S 5th St, for an On-Sale Liquor Class A with Sunday Sales License (upgrade from Class B with Sunday Sales and change in dba from Lodge Bar) to expire July 1, 2009, subject to the following conditions:

1. The establishment may not operate as a sexually orientated use as is defined in Chapter 549.340 of the Minneapolis Code of Ordinances.
2. The applicant will not allow any activities to occur on its premises which include or involve nude or semi-nude dancing, revealing or inappropriate employee attire, mud wrestling, wet T-shirt contests, employee wrestling with customers or sexually suggestive touching, or other similar types of activities as defined in State Statutes 617.23 and 617.241 and Minneapolis Ordinance 385.160.
3. Violation of the terms of conditions 1 and 2 above shall provide a basis for revocation of the City's consent for the applicant to operate the Class A Liquor License.
4. The applicant will abide by any conditions set forth in the Police Department's Security Plan as signed by Sgt E.T. Nelson, MPD, and the applicant.
5. 16+/all age events will not take place at this establishment.
6. During an 18+ events, identification for each patron will be visually inspected by security staff prior to the patron entering the establishment. Any patron under the age of 21 with any detectable presence of alcohol in his/her system shall be refused admittance into the establishment. Any patron under the age of 21 who is found to have alcohol in their system shall be immediately removed from the premises.
7. No VIP wristbands or similar symbol indicating the patron is permitted or allowed to consume beverages will be extended to any person without first verifying legal age to consume alcoholic beverages. When in use, any VIP area within the establishment will be staffed at all times with at least one employee of the licensee who has received alcohol server training.
8. The business shall at all times keep an accurate occupancy count and immediately share such figures upon the request of any official or officer of the City of Minneapolis. The business shall not let more patrons into the establishment than is legally allowed.
9. Noise from the establishment will be kept to a minimum by taking appropriate measures as required by Minnesota State Rules or Laws. Noise coming from patrons of the establishment will be managed consistent with the requirements of Chapter 389 of the Minneapolis Code of Ordinances.
10. The licensee will, on a daily basis, collect and properly dispose of all litter, including handbills and cigarette butts, within 100 feet of the exterior of the building housing the licensed premises.
11. Final inspection and compliance with all provisions of applicable codes and ordinances.

Adopted 12/12/2008.

Absent – Glidden.

**PS&RS** - Your Committee recommends passage of the accompanying resolution granting the application of Campus Pizza, 825 Washington Av SE, for an On-Sale Liquor Class E with Sunday Sales License, subject to conditions.

Samuels moved that condition #7 contained in the resolution be amended to read as follows:

"7. Campus Pizza will provide snack mix type items (such as peanuts, snack mix, crackers, etc) at the bar area for patrons to consume with any alcoholic beverage that is served at the bar. The snack items will be served according to the Health Code serve alcohol only with food. For example, Campus

Pizza can provide snack type food items for patrons to consume with any alcoholic beverage that is served." Seconded.

Adopted by unanimous consent.

Absent – Glidden.

The report was adopted 12/12/2008.

Declining to Vote - Colvin Roy.

Absent - Glidden.

Resolution 2008R-562, granting the application of Campus Pizza, 825 Washington Av SE, for an On-Sale Liquor Class E with Sunday Sales License, subject to conditions, was adopted 12/12/2008 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

**RESOLUTION 2008R-562**

**By Samuels**

**Granting the application of Campus Pizza, 825 Washington Av SE, for an On-Sale Liquor Class E with Sunday Sales License, subject to conditions.**

Resolved by The City Council of The City of Minneapolis:

That it grants the application submitted by Rosvold Enterprises Inc, dba Campus Pizza, 825 Washington Av SE, for an On-Sale Liquor Class E with Sunday Sales License (new business) to expire April 1, 2009, subject to the following conditions:

1. Campus Pizza will not have a bar area that has more than 10% of the total customer seating, per Minneapolis Ordinance 362.395. For example, if the total seating is 104, the bar area shall not exceed 10 seats.

2. Campus Pizza will comply with a minimum standard of gross sales revenue during each fiscal year from the sale of food and beverages not containing alcohol in an amount of not less than 60% of its total gross revenue. The licensee will report this for the first three months after the upgrade is in effect.

3. Campus Pizza will end all happy hour drink specials before Midnight. The licensee will also offer food specials to compliment drink specials.

4. Campus Pizza will collect all litter within 100 feet of the exterior of the building housing the licensed premises on a daily basis.

5. Campus Pizza will not advertise hard liquor on the outside of the building.

6. Campus Pizza will not advertise hard liquor happy hour specials on the outside of its building.

7. Campus Pizza will serve alcohol only with food. For example, Campus Pizza can provide snack type food items for patrons to consume with any alcoholic beverage that is served.

8. final inspection and compliance with all provisions of applicable codes and ordinances.

Adopted 12/12/2008.

Declining to Vote - Colvin Roy.

Absent - Glidden.

**PS&RS** - Your Committee recommends passage of the accompanying resolution granting applications for Liquor, Wine and Beer Licenses.

Adopted 12/12/2008.

Absent – Glidden.

Resolution 2008R-563, granting applications for Liquor, Wine and Beer Licenses, was adopted 12/12/2008 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

**RESOLUTION 2008R-563**

**By Samuels**

**Granting Liquor, Wine and Beer Licenses.**

Resolved by The City Council of The City of Minneapolis:

That the following applications for liquor, wine and beer licenses be granted, subject to final inspection and compliance with all provisions of applicable codes and ordinances (Petn No 273175):

**Off-Sale Liquor, to expire January 1, 2010**

Haskell's Inc, dba Haskell's, 81 S 9th St

U B Liquors LLC, dba Merwin Liquors, 700 W Broadway

**On-Sale Liquor Class A with Sunday Sales, to expire January 1, 2010**

Kierans Irish Pub LLC, dba Kierans Irish Pub, 330 2nd Av S

**On-Sale Liquor Class A with Sunday Sales, to expire October 1, 2009**

Epic Entertainment LLC, dba Epic, 110 5th St N

Hilton Hotels Corporation, dba Minneapolis Hilton, 1001 Marquette Av (new corporate officer and new corporate shareholder)

**On-Sale Liquor Class B with Sunday Sales, to expire January 1, 2010**

Lymar Inc, dba Lyon's Pub, 16 S 6th St, ground floor

CSM Depot LLC, dba Renaissance by Marriott, 225 3rd Av S

**On-Sale Liquor Class C-1 with Sunday Sales, to expire January 1, 2010**

8th Street Garage Inc, dba 8th Street Grill & Tavern, 800 Marquette Av

**On-Sale Liquor Class C-1 with Sunday Sales, to expire October 1, 2009**

Stasiu's Inc, dba Stasiu's, 2500 University Av NE

**On-Sale Liquor Class E with Sunday Sales, to expire January 1, 2010**

McCormick & Schmick Restaurant Corp, dba M & S Grill, 50 S 6th St

Brinda Companies Inc, dba Pracna on Main, 117 Main St SE

OSF International Inc, dba Old Spaghetti Factory, 233 Park Av

**On-Sale Liquor Class E with Sunday Sales, to expire April 1, 2009**

HJH Inc, dba Roat Osha, 2650 Hennepin Av (expansion of premises and change of dba from Uptown ThaiChili)

**Liquor Catering Services, to expire August 1, 2009**

Prom Catering, dba Prom Catering, 3300 Central Av NE

**On-Sale Wine Class D with Strong Beer, to expire April 1, 2009**

Henpecked LLC, dba Kings, 4555 Grand Av S (new business).

Adopted 12/12/2008.

Absent – Glidden.

**PS&RS** - Your Committee recommends passage of the accompanying resolution granting applications for Business Licenses.

Adopted 12/12/2008.

Absent – Glidden.

Resolution 2008R-564, granting applications for Business Licenses, was adopted 12/12/2008 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

**RESOLUTION 2008R-564**

**By Samuels**

**Granting applications for Business Licenses.**

Resolved by The City Council of The City of Minneapolis:

That the following applications for business licenses (including provisional licenses) as per list on file and of record in the Office of the City Clerk under date of December 12, 2008 be granted, subject to final inspection and compliance with all provisions of the applicable codes and ordinances (Petn No 273175):

Amusement Devices; Asphalt Shingles & Roofing Manufacturer; Fire Extinguisher Servicing – Class A; Caterers; Confectionery; Food Distributor; Food Manufacturer; Restaurant; Short-Term Food Permit; Seasonal Short Term Food; Gasfitter Class A; Heating, Air Conditioning & Ventilating Class A; Heating, Air Conditioning & Ventilating Class B; Hotel/Motel; Juke Box – Musical; Motor Vehicle Dealer – Used Only; Motor Vehicle Dealer – Additional Lot; Motor Vehicle Repair Garage; Towing Class B; Towing Class D; Commercial Parking Lot Class A; Plumber; Refrigeration Systems Installer; Rental Halls; Residential Specialty Contractor; Secondhand Goods Class B; Antique Mall Operator Class B; Sign Hanger; Suntanning Facility; Taxicab Limited; Taxicab Vehicle; Taxicab Vehicle Non-Transferable; Tobacco Dealer; Combined Trades; Wrecker of Buildings Class A; Wrecker of Buildings Class B.

Adopted 12/12/2008.

Absent – Glidden.

**PS&RS** - Your Committee recommends passage of the accompanying resolution granting applications for Gambling Licenses.

Adopted 12/12/2008.

Absent – Glidden.

Resolution 2008R-565, granting applications for Gambling Licenses, was adopted 12/12/2008 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

**RESOLUTION 2008R-565**

**By Samuels**

**Granting applications for Gambling Licenses.**

Resolved by The City Council of The City of Minneapolis:

That the following applications for gambling licenses be granted, subject to final inspection and compliance with all provisions of applicable codes and ordinances (Petn No 273175):

**Gambling Exempt**

NSHMBA Minneapolis St. Paul Chapter, dba NSHMBA Minneapolis St Paul Chapter, 5144 Abercrombie Dr, Edina (Raffle November 7, 2008 at University of Minnesota, McNamara Alumni Center, 200 Oak St SE)

Gildas Club Twin Cities, dba Gildas Club Twin Cities, 5115 Excelsior Blvd #448 (Raffle November 8, 2008 at Saks Fifth Avenue Off 5th, 655 Nicollet Mall)

All Saints Catholic Church, dba All Saints Catholic Church, 435 5th St NE (Bingo November 23, 2008)

Junior League of Minneapolis Inc, dba Junior League of Minneapolis, 410 Oak Grove St (Raffle December 30, 2008 at Windows on Minnesota, 710 Marquette Av)

Pope John Paul II Catholic Church, dba Pope John Paul II Catholic Church, 1630 4th St NE (Raffle February 7, 2009).

Adopted 12/12/2008.

Absent – Glidden.

**PS&RS** - Your Committee recommends passage of the accompanying resolution approving License Settlement Conference recommendations relating to the On-Sale Liquor License held by Black Bamboo, 333 S 7th St.

Adopted 12/12/2008.

Absent – Glidden.

Resolution 2008R-566, approving License Settlement Conference recommendations relating to the On-Sale Liquor License held by Black Bamboo, 333 S 7th St, was adopted 12/12/2008 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

**RESOLUTION 2008R-566**

**By Samuels**

**Approving License Settlement Conference recommendations relating to the On-Sale Liquor License held by Black Bamboo, 333 S 7th St.**

Whereas, the Licenses & Consumer Services Division held a License Settlement Conference hearing on November 18, 2008 with the licensee; and

Whereas, the Public Safety & Regulatory Services Committee received Findings of Fact, Conclusions and Recommendations that concluded that the licensee violated the Minneapolis Code of Ordinances by allowing entertainment above the approved entertainment class of license; by not applying for or receiving the proper licensing or permitting for the event held on October 10, 2008, nor for any of the previous events that were held in the atrium of the building housing the licensed premises; and operating outside of the allowed hours of operation for an establishment holding a liquor license;

Now, Therefore, Be It Resolved by The City Council of The City of Minneapolis:

That the following recommendations be adopted, as more fully set forth in said Findings on file in the Office of the City Clerk and made a part of this report by reference:

1. The owner shall reimburse the City of Minneapolis a total of \$500 reflective of actual staff costs expended on the inspection as well as cost recovery pertaining to this agreement. This amount is due upon the signing of the agreement.

2. A \$1,500 administrative fine be imposed and stayed for two years as long as the licensee does not engage in offering entertainment outside of their approved license class, host events without first obtaining City of Minneapolis approval, or operate outside of the legal hours of operation. Should the licensee be found violating any terms or conditions of this agreement by City staff, the stay will be immediately lifted and the fine amount will be due immediately.

3. The licensee shall submit an amended business plan addressing how future events will be hosted in the atrium of the building, including types of entertainment and hours of operation.

4. The licensee shall complete all of the requirements as set forth by the Fire Department in order to obtain authorization to use the atrium as an A-2 occupancy.

5. The licensee may only expand the premises (indoor or outdoors) 12 days per calendar year.

6. The licensee shall apply with the Licensing & Consumer Services Office at least five work days prior to any temporary expansion of premises. Applications made less than five work days prior will not be accepted and expansions may not occur.

Adopted 12/12/2008.

Absent – Glidden.

**PS&RS** - Your Committee recommends passage of the accompanying resolution approving License Settlement Conference recommendations relating to the Motor Vehicle Repair Garage License held by Intermaco, 2943 Park Av S.

Adopted 12/12/2008.

Absent – Glidden.

Resolution 2008R-567, approving License Settlement Conference recommendations relating to the Motor Vehicle Repair Garage License held by Intermaco, 2943 Park Av S, was adopted 12/12/2008 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

**RESOLUTION 2008R-567**

**By Samuels**

**Approving License Settlement Conference recommendations relating to the Motor Vehicle Repair Garage License held by Intermaco, 2943 Park Av S.**

Whereas, the Licenses & Consumer Services Division held a License Settlement Conference hearing on October 31, 2008 with the licensee; and

Whereas, the Public Safety & Regulatory Services Committee received Findings of Fact, Conclusions and Recommendations that concluded that the licensee violated the Minneapolis Code of Ordinances for failure to obtain the required permits for exterior signage resulting in six administrative citations; and failure to pay the administrative citations;

Now, Therefore, Be It Resolved by The City Council of The City of Minneapolis:

That the following recommendations be adopted, as more fully set forth in said Findings on file in the Office of the City Clerk and made a part of this report by reference:

1. Intermaco, Inc will remove the "Auto Care Center" and "Motor Craft" signs by November 10, 2008.
2. Intermaco, Inc will paint over the old signs to match the building color by November 10, 2008.
3. Intermaco, Inc will submit fees for the new sign permit and install them by November 10, 2008.
4. The Zoning Department agreed to reduce the amount of the administrative citations from \$7,260 to \$2,750. Intermaco, Inc agrees to pay these citations to the Zoning Office by November 10, 2008.

Adopted 12/12/2008.

Absent – Glidden.

**PS&RS** – Your Committee, having under consideration the Confectionery and Tobacco Dealer's Licenses held by McHie-Eddins Alliance of Trust, dba Arcade Convenience, 27 S 7th St; the Restaurant License held by Rubylicious Inc, dba Rubylicious Caribbean Cafe, 27 S 7th St; and the Sidewalk Food Cart Vendor's License held by Rubylicious Inc, dba Rubylicious, 27 S 7th St; and a license hearing having been held to determine whether the licensee failed to pay administrative fines in the amount of \$1,350 for selling tobacco products to minors at Arcade Convenience; and the Department of Licenses & Consumer Services having recommended that said licenses be revoked, now recommends that said license revocation recommendation be **sent forward without recommendation**.

Samuels moved that the report be amended by deleting the language "sent forward without recommendation" and inserting in lieu thereof "approved, and that the Findings of Fact, Conclusions of Law and Recommendation for Adverse License Action as drafted by the City Attorney's Office be adopted." Seconded.

Adopted by unanimous consent.

Absent – Glidden.

The report, as amended, was adopted 12/12/2008.

Absent - Glidden.

**The PUBLIC SAFETY & REGULATORY SERVICES and WAYS & MEANS/BUDGET Committees submitted the following reports:**

**PS&RS & W&M/Budget** - Your Committee recommends that the proper City officers be authorized to:

- a. Issue a Request for Proposals for boarding services for the Police Mounted Patrol during calendar year 2009.
- b. increase the current contract with Horsemen, Inc by \$25,000 and extend the contract period by one month to March 31, 2009, or until the new contract is completed, to board 12 Mounted Patrol horses.

Adopted 12/12/2008.

Absent – Glidden.

**PS&RS & W&M/Budget** - Your Committee recommends that the proper City officers be authorized to execute a contract with Hennepin County, for an estimated amount of \$177,695, to provide chemical health - police detox van services for 2009.

Adopted 12/12/2008.

Absent – Glidden.

Approved by Mayor Rybak 12/15/2008.

(Published 12/16/2008)

**PS&RS & W&M/Budget** – Your Committee recommends that the proper City officers be authorized to execute the 2009 Operation NightCAP grant agreement with the Minnesota Department of Public Safety, State Patrol Division, to accept \$10,285 for overtime to Traffic Unit officers to increase enforcement targeting impaired drivers and increased driver safety. Further, passage of the accompanying resolution appropriating \$10,285 to the Police Department.

Adopted 12/12/2008.

Absent – Glidden.

**RESOLUTION 2008R-568**

**By Samuels and Ostrow**

**Amending The 2008 General Appropriation Resolution.**

Resolved by The City Council of The City of Minneapolis:

That the above-entitled Resolution, as amended, be further amended by increasing the appropriation for the Police Department Agency in the Grants – Federal Fund (01300-4002735-321032) by \$10,285.

Adopted 12/12/2008.

Absent – Glidden.

**PS&RS & W&M/Budget** – Your Committee recommends that the proper City officers be authorized to execute a contract with the Minnesota Department of Public Safety, Division of Homeland Security and Emergency Management, to accept \$182,875 under the HSEM Buffer Zone Protection Program 2007 to purchase tactical equipment for the Police Department. Further, passage of the accompanying resolution appropriating \$182,875 to the Police Department.

Adopted 12/12/2008.

Absent – Glidden.

**RESOLUTION 2008R-569**

**By Samuels and Ostrow**

**Amending The 2008 General Appropriation Resolution.**

Resolved by The City Council of The City of Minneapolis:

That the above-entitled Resolution, as amended, be further amended by increasing the appropriation for the Police Department Agency in the Grants – Federal Fund (01300-40023750-321010) by \$182,875.  
Adopted 12/12/2008.  
Absent – Glidden.

**PS&RS & W&M/Budget** – Your Committee recommends that the proper City officers be authorized to accept the 2008 Assistance to Firefighters grant, in the amount of \$394,800 for the purchase of personal protective gear (pants and coats). Further, passage of the accompanying resolution appropriating \$394,800 to the Police Department.  
Adopted 12/12/2008.  
Absent – Glidden.

**RESOLUTION 2008R-570  
By Samuels and Ostrow**

**Amending The 2008 General Appropriation Resolution.**

Resolved by The City Council of The City of Minneapolis:  
That the above-entitled Resolution, as amended, be further amended by increasing the appropriation for the Fire Department Agency in the Grants – Federal Fund (01300-2800700) by \$394,800 and increasing the Revenue Source (01300-2800700 – Source 321002) by \$394,800.  
Adopted 12/12/2008.  
Absent – Glidden.

**PS&RS & W&M/Budget** – Your Committee recommends that the proper City officers be authorized to accept \$250,000 from the Minnesota Homeland Security 2008 Port Security Grant Program for the preparation of Upper Midwest Port wide security plans; and to enter into the necessary contracts with the Center for Urban & Regional Affairs at the University of Minnesota for the production of these plans.  
Adopted 12/12/2008.  
Absent – Glidden.

**The TRANSPORTATION & PUBLIC WORKS Committee submitted the following reports:**

T&PW - Your Committee, having under consideration Uniform Assessment Rates for street construction, street renovation, and street resurfacing improvements for the 2009 calendar year, now recommends:

- a) Passage of the accompanying resolution establishing the 2009 Assessment Rates;
  - b) Approval of the consolidation of the assessment rate structure to consist of Residential and Non-Residential categories; and
  - c) Approval of the continuation of the mixed-use property calculation, as adopted by the City Council on February 13, 2004.
- Adopted 12/12/2008.  
Absent - Glidden.

Resolution 2008R-571, establishing Uniform Assessment Rates for street construction, street renovation and street resurfacing improvements for the 2009 calendar year, was adopted 12/12/2008 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

**RESOLUTION 2008R-571**  
**By Colvin Roy**

**Establishing uniform assessment rates for street construction, street renovation and street resurfacing improvements for the 2009 calendar year.**

Whereas, the City Council adopted a policy on October 31, 1980 establishing yearly uniform assessment rates for similar improvements at various locations; and

Whereas, the City Council adopted assessment policies on May 22, 1998 and June 12, 1998 relating to residential and non-residential properties and relating to Local and Other streets;

Whereas, the City Council adopted a policy on February 15, 2008 establishing the street resurfacing program and assessment policy relating to residential and non-residential properties; and

Whereas, the City Engineer has submitted the recommended 2009 Uniform Assessment Rates, all as contained in Petn No 273182 on file in the office of the City Clerk;

Now, Therefore, Be It Resolved by The City Council of The City of Minneapolis;

That the following rates are hereby established as the 2009 uniform assessment rates and are to be applied in determining the assessments for the benefited parcels for certain types of work to be constructed in the 2009 calendar year:

Construction (street paving, curb and gutter, and other street paving related improvements) - appropriate rate is applied to the land area of benefited parcels located within the street influence zone along the improved street:

\$1.82/sq ft - Non-Residential;

\$0.69/sq ft - Residential;

Renovation (mill and overlay of street surface and selected curb and gutter and street construction as needed) - appropriate rate is applied to the land area of benefited parcels located within the street influence zone along the improved street:

\$0.91/sq ft - Non-Residential;

\$0.35/sq ft - Residential;

Resurfacing (mill and overlay of street surface only) – appropriate rate is applied to the land area of benefited parcels located within the street influence zone along the improved street:

\$0.46 - Non-Residential;

\$0.18 - Residential.

Adopted 12/12/2008.

Absent - Glidden.

**T&PW** - Your Committee recommends passage of the accompanying resolution designating the locations and streets to be improved in the Chicago Ave Street Reconstruction Project (Phase II), Special Improvement of Existing Street No 6382 (Franklin Ave to 25th St E and 26th St E to 28th St E).

Adopted 12/12/2008.

Absent - Glidden.

Resolution 2008R-572, designating the Chicago Ave Street Reconstruction Project (Phase II) Special Improvement of Existing Street No 6382, was adopted 12/12/2008 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

**RESOLUTION 2008R-572**

**By Colvin Roy**

**CHICAGO AVE STREET RECONSTRUCTION PROJECT (PHASE II)  
SPECIAL IMPROVEMENT OF EXISTING STREET NO 6382**

**Designating the improvement of certain existing streets at the locations described hereinafter.**

Resolved by The City Council of The City of Minneapolis:

That the following existing streets within the City of Minneapolis are hereby designated to be improved, pursuant to the provisions of Chapter 10, Section 6 of the Minneapolis City Charter, by paving with plant mix asphalt with concrete curb and gutter all on a stabilized base and including other street paving related improvements as needed:

Chicago Ave from Franklin Ave to 25th St E and from 26th St E to 28th St E.

Adopted 12/12/2008.

Absent - Glidden.

**T&PW** - Your Committee, having received a cost estimate of \$5,420,000 for street reconstruction improvements and a list of benefited properties for certain locations in the Chicago Ave Street Reconstruction Project (Phase II), Special Improvement of Existing Street No 6382, as designated by Resolution 2008R-572, passed December 12, 2008, now recommends that the City Engineer be directed to prepare a proposed Street Reconstruction Special Improvement Assessment against the list of benefited properties by applying the 2009 Uniform Assessment Rates as per Resolution 2008R-571, passed December 12, 2008.

Your Committee further recommends that a public hearing be held on January 27, 2009 in accordance with Chapter 10, Section 6 of the Minneapolis City Charter and Section 24.180 of the Minneapolis Code of Ordinances, to consider approving the reconstruction of the above-designated street locations, and to consider the amount proposed to be assessed to each benefited property and the amount to be funded by the City.

Adopted 12/12/2008.

Absent - Glidden.

**The TRANSPORTATION & PUBLIC WORKS and WAYS & MEANS/BUDGET Committees submitted the following reports:**

**T&PW & W&M/Budget** - Your Committee, to whom was referred an ordinance amending Title 17 of the Minneapolis Code of Ordinances relating to *Streets and Sidewalks*, by adding thereto a new Chapter 465, establishing the Downtown Business Improvement Special Service District, and having held a public hearing thereon, now recommends:

a) That said ordinance be given its second reading for amendment and passage;

b) That the proper City officers be authorized to negotiate and execute a contract with the Minneapolis Downtown Council, its subsidiary, or an approved assignee (District Entity) for the management and service provision in the proposed District, which shall include language that allows the City to submit proposals to provide services to the District, and which shall include a requirement that the District Entity adopt responsible vendor bidding policies; and

c) That the proper City officers be authorized to negotiate a Memorandum of Understanding with the District Entity regarding the current level of City services provided in downtown Minneapolis.

Colvin Roy moved to amend the report to adopt Findings of Fact regarding a determination on written objections to the proposed Downtown Business Improvement Special Service District, pursuant to Minn. Stat. § 428A.02, subd. 4. Seconded.

Adopted by unanimous consent.

The report, as amended, was adopted 12/12/2008.  
Approved by Mayor Rybak 12/15/2008.  
(Published 12/16/2008)

Ordinance 2008-Or-102, amending Title 17 of the Minneapolis Code of Ordinances relating to *Streets and Sidewalks*, by adding a new Chapter 465, *Downtown Business Improvement Special Service District*, was adopted 12/12/2008 by the City Council. A complete copy of this ordinance is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized ordinance.

**ORDINANCE 2008-Or-102**  
**By Goodman**  
**Intro & 1st Reading: 11/7/2008**  
**Ref to: T&PW & W&M/Budget**  
**2nd Reading: 12/12/2008**

**Amending Title 17 of the Minneapolis Code of Ordinances relating to Streets and Sidewalks, by adding a new Chapter 465 relating to Downtown Business Improvement Special Service District.**

The City Council of the City of Minneapolis do ordain as follows:

Section 1. That the Minneapolis Code of Ordinances be amended by adding thereto a new Chapter 465 to read as follows:

**CHAPTER 465. DOWNTOWN BUSINESS IMPROVEMENT  
SPECIAL SERVICE DISTRICT**

**465.10. Establishment.** Pursuant to the authority granted by Minnesota Statutes, Chapter 428A, sections 428A.01 through 428A.10, there is hereby established a Downtown Business Improvement Special Service District (otherwise referred to herein as the "district") wherein services may be furnished of a kind or to a degree not required or performed elsewhere in the city. The district shall consist of the following area:

That part of Section 22, 23, 26 and 27 in Township 29 North, Range 24 West of the 4th Principal Meridian, City of Minneapolis, Hennepin County, Minnesota, described as follows:

Beginning at the intersection of the centerline of 2nd Avenue North right-of-way and the centerline of 2nd Street North right-of-way; thence southeasterly along said centerline of 2nd Street North, to the centerline of Hennepin Avenue right-of-way; thence southwesterly along said centerline of Hennepin Avenue to the intersection of the northwesterly extension of the northeasterly line of Lot 108, Block 6, of Auditors Subdivision No. 137 according to the plat thereof on file at the County Records office, Hennepin County, Minnesota; thence southeasterly along the extension of said northeasterly line of Lot 108 and its southeasterly extension to the centerline of Marquette Avenue right-of-way; thence northeasterly along said centerline of Marquette Avenue to the intersection of the northwesterly extension of the northeasterly line of Block 12; thence southeasterly along the extension of said northeasterly line of Block 12 and its southeasterly extension to the centerline of 2nd Avenue South right-of-way; thence northeasterly along said centerline of 2nd Avenue South, to the centerline of 2nd Street South right-of-way; thence southeasterly along said centerline of 2nd Street South, to the centerline of Portland Avenue right-of-way; thence southwesterly along said centerline of Portland Avenue to a line 30.00 feet northeast and parallel with the centerline of Washington Avenue South right-of-way; thence southeasterly along previously described said parallel line to the centerline of Chicago Avenue right-of-way; thence southwesterly along said centerline of Chicago Avenue and along the centerline of Centennial Place right-of-way to the centerline of 10th Street South right-of-way; thence northwesterly along said centerline of 10th Street South, to the centerline of 4th Avenue South right-of-way; thence southwesterly and southerly along said centerline of 4th Avenue South, to the centerline

of 12th Street South right-of-way; thence westerly and northwesterly along said centerline of 12th Street South, to the centerline of 2nd Avenue South right-of-way; thence southwesterly along said centerline of 2nd Avenue South, to the centerline of Grant Street East right-of-way; thence westerly along said centerline of Grant Street East, to the centerline of Nicollet Avenue; thence north along said centerline of Nicollet Avenue to the centerline of Grant Street West right-of way; thence westerly along said centerline of Grant Street West, to the centerline of LaSalle Avenue right-of-way; thence northerly and northeasterly along said centerline of LaSalle Avenue to the centerline of 12th Street South right-of-way; thence northwesterly along said centerline of 12th Street South, to the centerline of Yale Place right-of-way; thence southwesterly along said centerline of Yale Place to the centerline of Spruce Place right-of-way; thence northwesterly along said centerline of Spruce Place to the centerline of Hennepin Avenue right-of-way; thence northeasterly along said centerline of Hennepin Avenue to the centerline of 11th Street North right-of-way; thence northwesterly along said centerline of 11th Street North, to the easterly right-of-way line of Interstate Highway No. 394; thence northerly and northwesterly along said easterly right-of-way line of Interstate Highway 394 to the centerline of Glenwood Avenue right-of-way; thence easterly along said centerline of Glenwood Avenue to the centerline of 10th Street North right-of-way; thence northeasterly to the intersection of the centerline of 9th Street North right-of-way and the centerline of 2nd Avenue North right-of-way; thence northeasterly along said centerline of 2nd Avenue North, to the point of beginning.

**465.20. Special services to be performed; operating plan; service agreement.** (a) The special services to be furnished within the district may include:

- (1) Clean and safe programs, including, but not limited to, sweeping, litter pick up, trash removal, sidewalk cleaning, graffiti abatement, snipe and poster bill removal, snow services, security services, closed circuit television (CCTV) systems and monitoring, etc;
- (2) Marketing/promotion/special events, including, but not limited to, event programming, websites, newsletters, etc, district area business recruitment and retention programs, coordination of street markets and street vendors within the district, etc;
- (3) Physical enhancements, including, but not limited to, hanging baskets, landscape planters, trash receptacles, etc;
- (4) Maintenance of enhanced streetscape components above city standard, including, but not limited to, fixtures, sidewalks, electrical and irrigation systems, landscaping, fountains, etc; and
- (5) Management and oversight services and administrative services, including usual and customary start-up and on-going administrative costs.

(b) Each year, prior to imposition of any service charge, the city council will adopt by resolution an operating plan that describes with particularity the special services to be performed. Any physical enhancements to be installed by the district shall be maintained by the district, and to the extent they are not maintained, the city shall have the right to remove them. The district shall not be obligated to maintain any physical enhancements installed by parties other than the district unless and until said maintenance is included in the adopted operating plan. The operating plan, and any amendments that may be made from time to time by subsequent resolution, is hereby incorporated into this ordinance. The special services to be furnished in the district may not include a service that is ordinarily provided throughout the city unless an increased level of the service is provided in the district.

(c) The special services described in the operating plan will be furnished by the Minneapolis Downtown Council, its subsidiary or an approved assignee (the "District Entity"), in accordance with a service agreement to be entered between the District Entity and the city. Notwithstanding any other ordinance provision, the service agreement provided for in this section is hereby exempt from the requirements of the following provisions of the Minneapolis Code of Ordinances: section 18.200 (equal benefits provisions in contracts); section 24.220 (prevailing wage); section 139.50 (non-discrimination and affirmative action provisions in contracts); and Chapter 423 (small and underutilized business enterprise program). Provided, however, that the service agreement shall contain provisions that require the District Entity to do the following:

- (1) When the District Entity seeks competitive bids for special services in the district, in addition to any other bids sought, it shall seek bids from, but not limited to, vendors on

- a list of small and underutilized businesses provided by the city;
- (2) The District Entity shall have a Modified Affirmative Action Plan that meets City Ordinance section 139.50;
  - (3) The District Entity shall notify and extend any benefits offered to its employees based on marital status to employees with domestic partners registered as such pursuant to Minneapolis Code of Ordinances: section 142.30 and shall require its contractors and subcontractors to notify and extend the same benefits to any of their employees providing services to the district; and
  - (4) The District Entity shall apply the prevailing wage provisions of section 24.220 to any construction work that requires funding from more than one (1) year's assessment cycle.

**465.30. Service charge.** The city council hereby finds and determines that the annual costs of providing the services specified in section 465.20 hereof will provide benefits primarily to properties located within the district, rather than to the city as a whole, and that the costs of said services may be recovered by the city by the imposition of service charges to be assessed against properties located within the district pursuant to Minnesota Statutes, sections 428A.01 through 428A.10, and as authorized by any applicable charter, special law, or statutory authority including Minnesota Statutes, Chapter 429, and Laws of Minnesota, 1969, Chapter 499.

**465.40. Notice of veto power.** Within five (5) days after adoption of this chapter the city clerk shall mail a summary of this chapter to the owner of each parcel included in the district and any individual or business organization subject to a service charge. The notice must meet the requirements of Minnesota Statutes, section 428A.09.

**465.50. Imposition of service charge; levy.** The service charges shall be levied annually prior to November thirtieth upon properties within the district, in an aggregate sum, which, combined with any property tax levied under section 465.60 hereof, will equal the estimated total costs of the city in providing the services referred to in section 465.20 for the next ensuing calendar year; provided, however, that service charges may be levied in the year 2010 for services rendered or to be rendered during the calendar years 2009 and 2010 and/or services rendered in 2009 may be invoiced by the city finance department in 2009 and then subsequently levied in 2010 for amounts not paid by property owners in 2009. Prior to imposing the service charges for each year, a public hearing shall be held with respect thereto at which all interested persons may appear and be heard. Notice of the public hearing shall be given as required by the applicable notice provisions of Minnesota Statutes, Chapter 428A. The notice of public hearing shall include:

- (1) a statement that all interested persons will be given an opportunity to be heard at the hearing regarding a proposed service charge;
- (2) the estimated cost of improvements to be paid for in whole or in part by service charges imposed under this section, the estimated cost of operating and maintaining the improvements during the first year and upon completion of the improvements, the proposed method and source of financing the improvements, and the annual cost of operating and maintaining the improvements;
- (3) the proposed rate or amount of the proposed service charge to be imposed in the district during the calendar year and the nature and character of special services to be rendered in the district during the calendar year in which the service charge is to be collected;
- (4) a statement that the petition requirements of Minnesota Statutes, section 428A.08 have either been met or do not apply to the proposed service charge; and
- (5) a statement that an owner may appeal an assessment of the service charge to district court including the procedure for appeal.

Within six (6) months of the public hearing, the city may adopt a resolution imposing a service charge within the district not exceeding the amount or rate expressed in the notice issued under this section.

**465.60. Assessment of service charges.** Except as otherwise provided herein, the service charges imposed under sections 465.30 and 465.40 shall be assessed against parcels of real estate within the district in the manner and subject to the procedures provided in Minnesota Statutes, sections 429.061, 429.071 and 429.081; provided that each assessment shall be payable in a single tax year. Pursuant to the provisions of said statutes, within thirty (30) days after the adoption of the assessment,

any person aggrieved may appeal to the district court by serving a notice of appeal upon the mayor or city clerk; provided that no appeal may be taken unless the person appealing shall have filed a signed, written, objection with the city clerk prior to the assessment hearing or shall have presented it to the presiding officer at the hearing, unless a reasonable cause shall exist for such person's failure to do so.

**465.70. Ad valorem property tax.** The city may, in each calendar year, levy a tax on taxable property in the district based upon the assessed value of the property and such tax shall be assessed and collected in the same manner as other property taxes on property located within the district. The tax shall be levied at a rate that will raise an aggregate sum, which, when combined with any service charges levied in the district, will equal the total costs of the city in providing the services specified in this chapter for the next ensuing calendar year; provided, however, that taxes may be levied in the year 2010 for services rendered and to be rendered in the calendar years 2009 and 2010. Prior to the levy of such a tax a public hearing shall be held. The requirements for the public hearing and the notice of public hearing shall be the same as specified in section 465.40 with respect to the levy of special service charges, and the tax may be levied not later than six (6) months after the public hearing by a majority vote of all of the members of the city council.

For purposes of determining the appropriate tax rate, taxable property or value shall be determined under Minnesota Statutes. Property exempt from taxation by Minnesota Statute shall be exempt from such tax.

**465.80. Revenue surplus or deficit.** In the event that the cost of services rendered in the district in any calendar year exceed the total taxes and service charges levied and collected with respect to such calendar year, an amount necessary to recoup the excess costs shall be levied as taxes, service charges, or both within the next two (2) years; to the extent that the total taxes and service charges exceed the cost of services, the next ensuing year's levy of taxes and service charges shall be decreased by a corresponding amount.

**465.90. Limitation.** Taxes and service charges may be levied pursuant to this chapter to finance special services ordinarily provided by the city only if the services are provided in the district at an increased level and, then, only in an amount sufficient to pay for the increase.

**465.100. Petitions and notices.** Petitions and notices required for hearings, petitions, or notices under this chapter, and for the resolution setting any service charges, fees, or rates, shall be in compliance with any applicable petition and notice requirements imposed pursuant to Minnesota Statutes, sections 428A.01 through 428A.10. Except as otherwise provided in Minnesota Statutes Chapter 428A, within five (5) days of adoption of the ordinance or any resolution setting rates or fees, in accordance with Minnesota Statutes, sections 428A.01 through 428A.10, a summary of the ordinance or resolution must be mailed to the owner of each parcel included in the district and any individual or business organization subject to a service charge in the same manner that notice is mailed under Minnesota Statutes, section 428A.02. The mailing must include notice that owners subject to the service charge have a right to veto the ordinance by filing the required number of objections with the city clerk before the effective date of the ordinance or resolution and that a copy of the ordinance or resolution is on file with the city clerk for public inspection.

**465.110. Annual reports.** During the term of the services agreement referenced in section 465.20, the District Entity shall submit to the city finance officer as soon as practical after each calendar year end but prior to adoption of the next year's budget, an annual report of services activity and an independent audit of financial activity for each calendar year in which services are performed in the district.

**465.120. Definitions and construction.** The terms used herein shall be defined as provided in Minnesota Statutes, sections 428A.01 through 428A.10 and said statute shall in all respects govern the creation, existence and operation of the district and the manner imposing service charges therein and this chapter shall be construed consistently therewith.

**465.130. Notice to Commissioner of Revenue.** Within thirty (30) days after adoption of this chapter, the city clerk shall send a copy of this chapter to the Commissioner of Revenue.

**465.140. Exemption of certain properties from taxes and service charges.** Only property that is classified under Minnesota Statute section 273.12 and used for commercial, industrial, or public utility purposes, or is vacant land zoned or designated on a land use plan for commercial or industrial

use and located in the district may be subject to the charges imposed on the district. Property exempt from taxation by Minnesota Statute, section 272.02 is exempt from any service charges based on net tax capacity imposed under this ordinance.

**465.150. Expiration of district.** The district shall expire five (5) years after the effective date of this chapter unless it is renewed by following the procedure as set forth in Minnesota Statutes, section 428A or as permitted by applicable law.

**465.160. Effective date.** This chapter shall become effective forty-five (45) days from and after its date of publication in the official newspaper of the City of Minneapolis.

Adopted 12/12/2008.

Approved by Mayor Rybak 12/15/2008.

**T&PW & W&M/Budget** - Your Committee recommends passage of the accompanying resolution authorizing the proper City officers to execute a Biennial Routine Maintenance Agreement (No 91446) between the State of Minnesota, Department of Transportation, and the City of Minneapolis, effective July 1, 2007 through June 30, 2009, to provide routine maintenance of state trunk highways within the City limits.

Adopted 12/12/2008.

Absent - Glidden.

Approved by Mayor Rybak 12/15/2008.

(Published 12/16/2008)

Resolution 2008R-573, Authorizing the proper City officers to enter into a routine maintenance agreement with the Minnesota Department of Transportation, was adopted 12/12/2008 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

**RESOLUTION 2008R-573**  
**By Colvin Roy and Ostrow**

**Authorizing the proper City officers to enter into a routine maintenance agreement with the Minnesota Department of Transportation.**

Resolved by The City Council of The City of Minneapolis:

That the City of Minneapolis enter into Agreement No 91446 with the State of Minnesota, Department of Transportation, to provide routine maintenance by the City on State Trunk Highways, Bridges, and the Hiawatha Tunnel, as defined in said Agreement.

Be It Further Resolved that the Director of Public Works/City Engineer and the Finance Officer are authorized to execute the agreement.

Adopted 12/12/2008.

Absent - Glidden.

Approved by Mayor Rybak 12/15/2008.

**T&PW & W&M/Budget** - Your Committee, having under consideration federal aid to improve signal operations at 39 intersections in the University of Minnesota East Campus area (SCOOT Project), now recommends passage of the accompanying resolution appointing the Commissioner of Transportation as agent of the City and authorizing the execution of an agreement with the Commissioner of Transportation prescribing the terms and conditions of said federal aid participation.

Adopted 12/12/2008.

Absent - Glidden.

Resolution 2008R-574, appointing the Commissioner of Transportation as agent of the City of Minneapolis and entering into an agreement to accept federal aid funds for eligible transportation-related projects, was adopted 12/12/2008 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

**RESOLUTION 2008R-574**  
**By Colvin Roy and Ostrow**

**RESOLUTION FOR AGENCY AGREEMENT**

**Appointing the Commissioner of Transportation as agent of the City of Minneapolis and entering into an agreement to accept federal aid funds for eligible transportation-related projects.**

Resolved by The City Council of The City of Minneapolis:

That pursuant to Minnesota Statute Sec 161.36, the Commissioner of Transportation be appointed as Agent of the City of Minneapolis to accept as its agent federal aid funds which may be made available for eligible transportation-related projects.

Be It Further Resolved that the proper City officers are hereby authorized and directed, for and on behalf of the City of Minneapolis, to execute and enter into an agreement with the Commissioner of Transportation prescribing the terms and conditions of said federal aid participation, as set forth and contained in "Minnesota Department of Transportation Agency Agreement No 93633," a copy of which said agreement was before the City Council and which is made a part hereof by reference.

Adopted 12/12/2008.

Absent - Glidden.

**T&PW & W&M/Budget** - Your Committee recommends that the proper City officers be authorized to negotiate and enter into a contract with ABM Security Services to provide security services for:

- a) Minneapolis Convention Center, at an estimated annual cost of \$1,300,000 (payable from Convention Center Fund 01760/MCC);
- b) City Impound Lot, at an estimated annual cost of \$700,000 (payable from PW Fund 07500/6850 800); and
- c) Minneapolis Water Works/City Emergency Mobilization, at an estimated annual cost of \$600,000 (payable from PW Fund 07400/6900 200).

The contract will be effective January 1, 2009, for an initial one-year period, with two one-year renewal options.

Adopted 12/12/2008.

Absent - Glidden.

Approved by Mayor Rybak 12/15/2008.

(Published 12/16/2008)

**T&PW & W&M/Budget** - Your Committee, having under consideration the Chicago Avenue and 31st Street Overhead Traffic Signal Indication Project, now recommends passage of the accompanying resolution increasing the appropriation for the project by \$436,000, to be reimbursed in the amount of \$311,000 by federal funds, and by reallocating \$125,000 from the completed Bus Priority System Phase 4 Project.

Your Committee further recommends acceptance of the low bid submitted to the Public Works Department on OP No 7046 from Collins Electrical Systems, Inc., in the amount of \$682,197, to furnish all labor, materials, equipment, and incidentals necessary to complete the installation of overhead traffic signal indications on Chicago Avenue and 31st Street, and authorizing and directing the proper City officers to execute a contract for said service in accordance with City specifications and contingent upon approval of the Civil Rights Department.

Adopted 12/12/2008.

Absent - Glidden.

**RESOLUTION 2008R-575**  
**By Colvin Roy and Ostrow**

**Amending The 2008 Capital Improvement Appropriation Resolution.**

Resolved by The City Council of The City of Minneapolis:

That the above-entitled resolution, as amended, be further amended by:

- a) Increasing the appropriation for the PW-Transportation Capital Agency in the Capital Improvement Fund (4100-943-9440 - CTR807SG084) by \$436,000;
- b) Increasing the revenue source (4100-943-9440 - Source 3220) by \$311,000, to be reimbursed by federal funds; and
- c) Decreasing the appropriation in the PW-Transportation Capital Agency in the Capital Improvement Fund (4100-943-9440 - B1678010) by \$125,000.

Adopted 12/12/2008.

Absent - Glidden.

**T&PW & W&M/Budget** - Your Committee, having under consideration Official Publication No 7035, bids to furnish and deliver the towing of vehicles from public or private property for Tow Districts A and B, Tow Zones 1-6, and towing outside the City limits, now recommends the following:

a) That the City rescind its October 24, 2008 acceptance of low responsive bids made by Shorty's Heavy Duty for Zones 1 and 2;

b) That, in lieu of its October 24, 2008 acceptance of the foregoing, the City now accept the low responsive bidders as indicated below, for a total estimated annual expenditure of \$276,349 to furnish and deliver towing of vehicles from public or private property for Tow Zones 1 & 2:

Schmit Towing, Inc Zone 1 Price per tow: \$114.60

S & T Transport Inc Zone 2 Price per tow: \$130.00;

c) That the proper City officers be authorized and directed to execute contracts for these services in accordance with City specifications and contingent upon approval of the Civil Rights Department, becoming effective January 1, 2009 for an initial term ending on June 30, 2010; and

d) That all contracts for this service provide the City with an option to extend up to two times for a two-year period from July 1, 2010 through June 30, 2012 and again from July 1, 2012 through June 30, 2014.

Adopted 12/12/2008.

Absent - Glidden.

**T&PW & W&M/Budget** - Your Committee recommends that the proper City officers be authorized to enter into agreements with the Minnesota Department of Transportation to accept a \$325,000 federal grant award from the Non-Motorized Transportation Pilot Program (NTP) for the Fillmore Street/6th Avenue Bike Walk Street.

Your Committee further recommends passage of the accompanying resolutions:

a) Increasing the appropriation for the project by \$325,000 to reflect the receipt of said grant funds; and

b) Appointing the Commissioner of Transportation to act as agent of the City in accepting the federal grant.

Adopted 12/12/2008.

Absent - Glidden.

**RESOLUTION 2008R-576**  
**By Colvin Roy and Ostrow**

**Amending The 2008 Capital Improvement Appropriation Resolution.**

Resolved by The City Council of The City of Minneapolis:

That the above-entitled resolution, as amended, be further amended by increasing the appropriation for the PW -Transportation Capitol Agency in the Grants - Federal Fund (01300-9010000) by \$325,000 and increasing the revenue source (01300-9010000 - Source 321012) by \$325,000.

Adopted 12/12/2008.

Absent - Glidden.

Resolution 2008R-577, appointing the Commissioner of Transportation as agent of the City of Minneapolis and entering into an agreement to accept federal aid funds for eligible transportation-related projects, was adopted 12/12/2008 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

**RESOLUTION 2008R-577**  
**By Colvin Roy and Ostrow**

**RESOLUTION FOR AGENCY AGREEMENT**

**Appointing the Commissioner of Transportation as agent of the City of Minneapolis and entering into an agreement to accept federal aid funds for eligible transportation-related projects.**

Resolved by The City Council of The City of Minneapolis:

That pursuant to Minnesota Statute Sec 161.36, the Commissioner of Transportation be appointed as Agent of the City of Minneapolis to accept as its agent federal aid funds which may be made available for eligible transportation-related projects.

Be It Further Resolved that the proper City officers are hereby authorized and directed, for and on behalf of the City of Minneapolis, to execute and enter into an agreement with the Commissioner of Transportation prescribing the terms and conditions of said federal aid participation, as set forth and contained in "Minnesota Department of Transportation Agency Agreement No 93496," a copy of which said agreement was before the City Council and which is made a part hereof by reference.

Adopted 12/12/2008.

Absent - Glidden.

**T&PW & W&M/Budget** - Your Committee, having under consideration the subject matter of the Non-Motorized Transportation Pilot Program (NTP) - Round 3 Solicitation and the submittal of "*Letter(s) of Intent for Capital Projects as Demonstration Innovations*" to Transit for Livable Communities (TLC) as part of the NTP Round 3 Solicitation, now recommends:

**T&PW -**

a) That Public Works staff continue to work with TLC to define the Round 1, Round 2, and Planning Study project lists, and return to the Transportation & Public Works Committee on January 13, 2009, and that City staff be directed as follows:

- To begin their discussion with TLC with projects identified for modification in Attachment D of the staff report (Petr 273183);
- To prioritize the 'South Connection' to Richfield in their discussions with TLC;
- To emphasize investment in pedestrian projects;
- To emphasize geographic equity; and

b) That Public Works staff be authorized to submit a "*Letter of Intent for Capital Projects as Demonstration Innovations*" to TLC for the Bike Share Program for an amount up to \$1,750,000.

**W&M/Budget** - That said subject matter be sent forward without recommendation.

Colvin Roy moved that the report be amended by approving the Transportation & Public Works Committee recommendation and deleting the Ways & Means/Budget Committee recommendation. Seconded.

Adopted by unanimous consent.

Majority Leader Benson assumed the Chair.

Lilligren moved that paragraph (b) of the report be amended to read as follows:

b) That Public Works staff be authorized to submit a "*Letter of Intent for Capital Projects as Demonstration Innovations*" to TLC for the Bike Share Program for an amount up to \$1,750,000.

1. The City of Minneapolis will not be an owner of the bike share now or in the future;
2. The City of Minneapolis will not provide ongoing operating expenses for a bike share program;
3. The City of Minneapolis recommends that Transit for Livable Communities, in the event that NTP funds are directed to the bike share program, establish a threshold amount of operating funds to be secured for the program for both start up and out ten years, before releasing capital funds;
4. The City of Minneapolis recommends that Transit for Livable Communities establish a match structure if NTP funds are allocated to the bike share program and that the NTP funds will only be released if matching funds are secured;
5. The City of Minneapolis recommends that the proposed bike share providers be required to plan and implement a comprehensive community outreach program to build community support and membership if NTP funds are allocated to the program. Seconded.

Hodges moved to substitute the following language for the Lilligren amendment. Seconded.

b) That Public Works staff be authorized to submit a "*Letter of Intent for Capital Projects as Demonstration Innovations*" to TLC for the Bike Share Program for an amount up to \$1,750,000.

1. The City of Minneapolis will not be an owner of the bike share now or in the future;
2. The City of Minneapolis will not provide ongoing operating expenses for a bike share program. However, this provision would not prohibit the City from providing subscriptions for City Employees nor prohibit participation in wellness programs for City Employees;
3. The City of Minneapolis recommends that Transit for Livable Communities, in the event that NTP funds are directed to the bike share program, establish a threshold amount of operating funds to be secured for the program for ~~both~~ start up ~~and out ten years~~, before releasing capital funds;
4. The City of Minneapolis recommends that Transit for Livable Communities establish a match structure if NTP funds are allocated to the bike share program and that the NTP funds will only be released if matching funds are secured. Match structure is defined as private sector contributions of at least 25% of capital dollars;
5. The City of Minneapolis recommends that the proposed bike share providers be required to plan and implement a comprehensive community outreach program to build community support and membership if NTP funds are allocated to the program.

The Hodges substitute amendment was adopted upon a voice vote.

Absent - Samuels, Schiff.

Remington moved to amend paragraph (b) of the substituted amendment to read as follows:

b) That Public Works staff be authorized to submit a "*Letter of Intent for Capital Projects as Demonstration Innovations*" to TLC for the Bike Share Program for an amount ~~up to~~ of \$1,750,000.

Seconded.

Adopted. Yeas, 7; Nays, 6 as follows:

Yeas - Gordon, Hofstede, Schiff, Remington, Goodman, Hodges, Johnson.

Nays: Samuels, Ostrow, Colvin Roy, Glidden, Benson, Lilligren.

Lilligren resumed the Chair.

The report, as amended, was adopted 12/12/2008. Yeas, 11; Nays, 1 as follows:

Yeas - Samuels, Gordon, Hofstede, Ostrow, Schiff, Glidden, Remington, Benson, Goodman, Hodges, Johnson.

Nays - Colvin Roy.

Declining to vote - Lilligren.

Approved by Mayor Rybak 12/15/2008.

(Published 12/16/2008)

**The WAYS & MEANS/BUDGET Committee submitted the following reports:**

**W&M/Budget** - Your Committee recommends passage of the accompanying resolution authorizing the settlement of legal matters, as recommended by the City Attorney.

Adopted 12/12/2008.

Resolution 2008R-578, authorizing settlement of *DuAll Service Contractors, Inc. v. Michael G. Sweat et al. v. City of Minneapolis*, was adopted 12/12/2008 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized resolution.

**RESOLUTION 2008R-578**

**By Ostrow**

**Authorizing legal settlement.**

Resolved by The City Council of The City of Minneapolis:

That the City Attorney is authorized to proceed with the settlement of *DuAll Service Contractors, Inc. v. Michael G. Sweat et al. v. City of Minneapolis*, by payment of \$23,144.53 to Michael Sweat, Yolanda Sweat and their attorney, Richard Eskola, from the Internal Service Self Insurance Fund (06900-1500100-145630).

Further, authorize the City Attorney's Office to execute any documents necessary to effectuate the settlement.

Adopted 12/12/2008.

**W&M/Budget** - Your Committee recommends that the proper City officers be authorized to amend the current contract with the Council on Crime and Justice to increase the amount of the contract by an additional \$9,000 to a new contract amount of \$314,351 for the performance period from January 1, 2009 to December 31, 2009. No additional appropriation required.

Adopted 12/12/2008.

**W&M/Budget** - Your Committee recommends that the proper City officers be authorized to amend the AutoMon, LLC contract (C-22110) for an increase of \$215,000 to provide vendor support, upgrades, licenses, and maintenance; and to extend the date of the contract to 2011. No additional appropriation required.

Adopted 12/12/2008.

**W&M/Budget** - Your Committee, having under consideration the list of City positions required to file Statement of Economic Interest (SEI), now recommends approval of said list as outlined in the staff report (Petn No 273188).

Adopted 12/12/2008.

**W&M/Budget** - Your Committee recommends approval of the January 2009 utility billing insert on behalf of the Utility Billing Division and Finance Department showing the 2009 Utility Billing rates.

Adopted 12/12/2008.

**W&M/Budget** - Your Committee, having under consideration the Empowerment Zone Governance Board's recommendation to approve the grant application to U.S. Housing and Urban Development, Community Planning and Development, Economic Development Initiative, for a Federal Appropriation via the Office of Congressman Keith Ellison, in the amount of \$264,600, now recommends approval.

Adopted 12/12/2008.

**W&M/Budget** - Your Committee, having under consideration the Cedar Riverside Station Area Public Art, now recommends the following:

- a) Passage of accompanying resolution authorizing acceptance of \$40,000 in grant funds;
- b) Passage of accompanying resolution appropriating funds; and
- c) Authorizing proper City officers to execute an agreement between the Minneapolis Public Housing Authority and the City for an easement for the placement of a portion of this public artwork at 1627 6th Street South.

Adopted 12/12/2008.

**RESOLUTION 2008R-579**

**By Ostrow**

**Authorizing the acceptance of grant funds.**

Resolved by The City Council of The City of Minneapolis:

That the proper City officers be authorized to accept grant funding from the McKnight Foundation, in the amount of \$40,000 for the Cedar Riverside Station Area Public Art project.

Adopted 12/12/2008.

**RESOLUTION 2008R-580**

**By Ostrow**

**Amending The 2008 General Appropriation Resolution.**

Resolved by The City Council of The City of Minneapolis:

That the above-entitled resolution, as amended, be further amended by increasing the appropriation in the Community Planning and Economic Development Agency in the Other Grants – State and Local Fund (01600-8900420) by \$40,000; and increasing the Community Planning and Economic Development Agency revenue source (01600-8900420-372001) by \$40,000.

Adopted 12/12/2008.

**W&M/Budget** - Your Committee, having under consideration funding for Maintenance of Public Art, now recommends the following:

- a) Passage of accompanying resolution authorizing acceptance of \$14,418.21 in funds; and
- b) Passage of accompanying resolution appropriating funds.

Adopted 12/12/2008.

**RESOLUTION 2008R-581**

**By Ostrow**

**Authorizing the acceptance of funds.**

Resolved by The City Council of The City of Minneapolis:

That the proper City officers be authorized to accept funding from the following:

a) Minneapolis Police Federation Charities, in the amount of \$9,963.71 for maintenance of the *East Side Guardian* statue; and

b) City of Ibaraki, Japan, in the amount of \$4,454.50 for maintenance of the *Bell of Two Friends*.

Adopted 12/12/2008.

**RESOLUTION 2008R-582**

**By Ostrow**

**Amending The 2008 General Appropriation Resolution.**

Resolved by The City Council of The City of Minneapolis:

That the above-entitled resolution, as amended, be further amended by increasing the appropriation in the Community Planning and Economic Development Agency in the Other Grants – State and Local Fund (01600-8900420) by \$14,418.21; and increasing the Community Planning and Economic Development Agency revenue source (01600-8900420-372001) by \$14,418.21.

Adopted 12/12/2008.

**W&M/Budget** - Your Committee, having under consideration the Annual Property Insurance Premium for the Minneapolis Convention Center (MCC), Tallmadge Building, and Parking Ramp, now recommends:

- a) Authorizing the City's Finance Officer to review options for property insurance for the Convention Center, including the Tallmadge Building, and Parking Ramp for January 1, 2009 coverage; and
- b) Acceptance of the XL Insurance quote of \$284,083 plus taxes and surcharges and lock in the binder for the 2009 property coverage; and
- c) Acceptance of the quote for additional terrorism coverage.

Adopted 12/12/2008.

Approved by Mayor Rybak 12/15/2008.

(Published 12/16/2008)

**W&M/Budget** – Your Committee recommends passage of the accompanying resolution authorizing the acceptance of the 2008 (1st through 4th Quarter) list of donations valued under \$15,000, as set forth in Petn No 273191 on file in the Office of the City Clerk.

Adopted 12/12/2008.

**RESOLUTION 2008R-583**

**By Ostrow**

**Authorizing the acceptance of donations made to the City of Minneapolis, valued under \$15,000.**

Resolved by The City Council of The City of Minneapolis:

That the proper City officers be authorized to accept the donations made in 2008 (1st through 4th Quarter) to the City of Minneapolis.

Adopted 12/12/2008.

**W&M/Budget** - Your Committee recommends that proper City officers be authorized to transfer funds, in the amount of \$8,624 donated following the 35W bridge collapse to the 35W Remembrance Garden Fund established at The Minneapolis Foundation to support the design, construction and maintenance of a memorial.

Your Committee further recommends passage of the accompanying resolution appropriating funds.

Adopted 12/12/2008.

**RESOLUTION 2008R-584**

**By Ostrow**

**Amending The 2008 General Appropriation Resolution.**

Resolved by The City Council of The City of Minneapolis:

That the above-entitled resolution, as amended, be further amended by decreasing the appropriation in the General Fund (00100-8200230), in the amount of \$8,624.

Adopted 12/12/2008.

**W&M/Budget** - Your Committee recommends passage of the accompanying resolution adopting a City policy regarding the implementation of a hiring, promotion and reclassification freeze.  
Adopted 12/12/2008.

**RESOLUTION 2008R-585**  
**By Ostrow**

**Adopting City policy regarding the implementation of a hiring, promotion and reclassification freeze.**

Resolved by the City Council of the City of Minneapolis:

That the following policy is hereby adopted:

1. Effective immediately an employment hiring freeze will be in place for all City departments. This freeze shall be in effect until further notice;
2. This employment hiring freeze shall be implemented in a phased approach, beginning with all external hires, unless exempted by the Human Resources Director, Chief Financial Officer and/or City Coordinator;
3. Effective within the next 60 days of approval, the employment hiring freeze will be extended to include promotions, transfers and classification studies, including maintenance studies;
4. The City Council directs the City Coordinator, Human Resources Director and the Chief Finance Officer to establish and implement administrative procedures for departments seeking to fill critical positions.

Adopted 12/12/2008.

**The WAYS & MEANS/BUDGET and ZONING & PLANNING Committees submitted the following report:**

**W&M/Budget & Z&P** – Your Committee, having under consideration the federal Certified Local Government (CLG) grant administered by the State Historic Preservation Office of the Minnesota Historical Society, in the amount of \$16,000 to revise the City's survey of historic properties in parts of Seward, Longfellow, Cooper, Howe, and Hiawatha neighborhoods, now recommends the following:

- a) Passage of accompanying resolution authorizing acceptance of funds;
- b) Passage of accompanying resolution appropriating funds; and
- c) Authorizing proper City officers to execute a Professional Services Agreement with selected contractor as a result of the Request for Proposal (RFP) process.

Adopted 12/12/2008.

**RESOLUTION 2008R-586**  
**By Schiff and Ostrow**

**Authorizing the acceptance of federal Certified Local Government (CLG) grant funds.**

Resolved by The City Council of The City of Minneapolis:

That the proper City officers be authorized to accept federal Certified Local Government (CLG) grant funds administered by the State Historic preservation Office of the MN Historical Society, in the amount of \$16,000 to revise the City's survey of historic properties in parts of Seward, Longfellow, Cooper, Howe, and Hiawatha neighborhoods.

Adopted 12/12/2008.

**RESOLUTION 2008R-587**

**By Schiff and Ostrow**

**Amending The 2008 General Appropriation Resolution.**

Resolved by The City Council of The City of Minneapolis:

That the above-entitled resolution, as amended, be further amended by increasing the appropriation in the Community Planning and Economic Development Agency in the Federal Fund (0300-890-8962) by \$16,000; and increasing the Community Planning and Economic Development Agency revenue source (0300-890-8962 - Source 3210) by \$16,000.

Adopted 12/12/2008.

**The ZONING & PLANNING Committee submitted the following report:**

**Z&P** - Your Committee concurs in the recommendation of the Heritage Preservation Commission in granting the petition of Clark Gassen on behalf of CAG Development for a historic variance for Florence Court Apartments, an existing designated landmark located at 1022 University Avenue, to allow for more than one residential structure on one zoning lot, and adopting the related findings prepared by the HPC staff.

Adopted 12/12/2008.

**MOTIONS**

Ostrow moved that the regular payrolls for all City employees under City Council jurisdiction for the month of January, 2009, be approved and ordered paid subject to audit by the Finance Officer. Seconded.

Adopted 12/12/2008.

Absent - Benson.

Remington moved to discharge the Ways & Means/Budget Committee from further consideration of the newsrack ordinance. Seconded.

Adopted 12/12/2008. Yeas, 7; Nays, 6 as follows:

Yeas – Samuels, Gordon, Schiff, Remington, Benson, Goodman, Hodges.

Nays – Hofstede, Ostrow, Colvin Roy, Glidden, Johnson, Lilligren.

Remington moved:

a. That the following ordinances be given their second reading for amendment and passage:

1. Amending Title 17 of the Minneapolis Code of Ordinances relating to *Streets and Sidewalks* by repealing Chapter 451 relating to *Newsstands*.
2. Amending Title 17 of the Minneapolis Code of Ordinances, adding a new Chapter 464 relating to *Newsracks*, regulating the placement of Newsracks; designating personnel to enforce the ordinance; and providing for a fee.
3. Amending Title 17, Chapter 439 of the Minneapolis Code of Ordinances relating to *Streets and Sidewalks: Nicollet Mall*, amending the list of permitted uses to add Chapter 464 relating to Newsracks.
4. Amending Title 1, Chapter 2 of the Minneapolis Code of Ordinances relating to *General Provisions: Administrative Enforcement and Hearing Process*, amending the list of persons authorized to issue citations to include the Departments of Regulatory Services and Public Works for Newsracks.

b. That the subject of the amount of newsrack fees be referred to the Ways & Means/Budget Committee for a public hearing to be held January 5, 2009.

c. That staff be directed to report back to the March 11, 2009 Public Safety & Regulatory Services Committee with a comprehensive plan for implementation of Chapter 464, Newsracks. Staff is further directed to work with industry input to develop a system which is fair and content neutral for placement of newsracks. Seconded.

Adopted 12/12/2008. Yeas, 9; Nays, 4 as follows:

Yeas – Samuels, Gordon, Hofstede, Schiff, Glidden, Remington, Benson, Goodman, Hodges.

Nays – Ostrow, Colvin Roy, Johnson, Lilligren.

Ordinance 2008-Or-103 amending Title 17 of the Minneapolis Code of Ordinances relating to *Streets and Sidewalks* by repealing Chapter 451 relating to *Newsstands*, Sections 451.10 through 451.170, was adopted 12/12/2008 by the City Council. A complete copy of this ordinance is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized ordinance.

**ORDINANCE 2008-Or-103**  
**By Remington**  
**Intro & 1st Reading: 11/21/2008**  
**Ref to: PS&RS & T&PW**  
**2nd Reading: 12/12/2008**

**Amending Title 17, Chapter 451 of the Minneapolis Code of Ordinances relating to Streets and Sidewalks: Newsstands.**

The City Council of The City of Minneapolis do ordain as follows:

Section 1. That Chapter 451 of Minneapolis Code of Ordinances be and is hereby repealed.

**CHAPTER 451. NEWSSTANDS**

~~**451.10. Definitions.** Class A newsstand: A stand, stall, booth or other structure used for distribution of newspapers, magazines or other printed materials, which is designed to be attended when in use.~~

~~*Class B newsstand:* A structure, stand, platform, stall, box, rack or other device used for the distribution of newspapers, magazines, or other printed materials, which is unattended.~~

~~Provided, the above definitions shall not include a portable platform or stand used by a person to distribute printed materials on a temporary basis, which is removed from the public right-of-way when not in use, so long as its use conforms to the location restrictions contained in section 451.100.~~

~~**451.20. License required.** No person, firm or corporation shall install or maintain a newsstand situated or placed on or over a public street or sidewalk without obtaining a license from the city council. "Skyways" are not "over" a public street for purposes of this chapter.~~

~~**451.30. Application for license.** Application for the license shall be made to the department of licenses and consumer services upon forms provided by the department. A single application may cover more than one newsstand provided all required supporting documentation and drawings are submitted. The application shall contain such information as may be required by the director of licenses and consumer services to verify that the terms and conditions of this chapter have been met, including the name and address of the applicant, and the type, description, dimensions and number of newsstands. The application shall also be accompanied by a simple drawing or a plot for each newsstand location. The plot shall indicate the street or intersection on which the newsstand is to be placed and shall contain measurements of the distances of the stand from the edges of existing curbing and from any structures, poles, posts, traffic signs, shelters and buildings within a twenty-foot radius of the newsstand. The department of licenses and consumer services shall maintain a compilation of the drawings or plots of all newsstand locations held by each licensee. The compilation shall be modified as necessary to reflect new locations, deletions and other changes.~~

~~**451.40. License fee; expiration.** The annual license fee for each newsstand shall be ten dollars (\$10.00) the first year of licensing and five dollars (\$5.00) in subsequent years. All licenses shall be~~

issued for a period of one year and shall expire on March thirty-first of each year. License fees shall not be prorated.

**451.50. License renewals.** Licenses shall be renewed upon receipt of the annual license fee on or before the date of expiration of the license. Prior to the date of expiration, the director of licenses and consumer services shall send each licensee a bill or pay card indicating the amount due, and requesting verification of the licensee's name, address, telephone number, number of newsstands on the public right-of-way, and whether the locations of any newsstands have changed since the last renewal. If renewal payment is not received on or before the expiration date of the license, the applicant shall pay an additional fee in the sum of twenty (20) per cent of the license fee.

**451.60. Provisional permits.** Upon submission of the application, license fee, proof of insurance, and hold harmless agreement required herein, the director of licenses and consumer services shall issue a temporary permit authorizing placement of the newsstands at the locations applied for. Said provisional permit shall be issued prior to approval by the city council of the license application and prior to site inspections or other procedural requisites so as not to effect a prior restraint upon publication or distribution. The provisional permit authorized by this section shall expire upon grant or denial of the license by the city council.

**451.70. Invalidity of prior licenses.** Any newsstand license issued prior to the effective date of this chapter [April 1, 1983] is hereby invalidated, the owners of such newsstands shall be required to conform with the provisions of this chapter as enacted.

**451.80. Identification required.** The licensee shall permanently affix in a conspicuous place on each newsstand licensed under this chapter, his name and either his address or telephone number and shall keep the same legible. In lieu of such identification, a licensee may obtain from the department of licenses and consumer services numbered decals which shall be permanently and conspicuously affixed to each newsstand.

**451.90. Replacement of lost decals.** If the decal provided for in section 451 is lost or removed from the machine, the licensee may obtain a replacement decal upon filing with the department of licenses and consumer services an affidavit setting forth the fact and upon payment of two dollars (\$2.00).

**451.100. Location and size.** The city engineer shall review the proposed location of each newsstand and shall recommend approval or disapproval to the director of licenses and consumer services. The recommendation shall be based solely upon the following criteria:

(a) No newsstand shall be located where it would endanger the safety of persons or property, obstruct the vision of motorists, or unreasonably interfere with or impede the flow of pedestrian or vehicular traffic or the ingress into and egress from any building.

(b) No newsstand shall be located:

- (1) Within six (6) feet of any fire hydrant, fire or police alarm box, or other emergency facility;
- (2) By attaching it in any manner to any fire alarm box shaft, ornamental street light pole, traffic signal or any stop sign post. After October 1, 1987, pole-mounted newsstands shall not be permitted on any city-owned poles or posts;
- (3) Where it projects beyond any curblines onto the roadway;
- (4) Within three (3) feet of any marked crosswalk;
- (5) Within three (3) feet of the curb return at any intersection;
- (6) Within three (3) feet of the curb return of any driveway;
- (7) Within fifteen (15) feet of the approach to any sign marking a designated bus stop, or three (3) feet forward of such sign;
- (8) Where it restricts access to a bus shelter or a bus bench;
- (9) Where it interferes with loading or unloading at the front and rear doors of buses;
- (10) In any handicap access ramp;
- (11) In such a manner as to reduce the clear space for the passageway of pedestrians to less than six (6) feet;
- (12) On any boulevard or other place planted with lawn, flowers, shrubs or trees.

(c) Newsstands shall only be placed near a curb or adjacent to the wall of a building. Newsstands placed near the curb shall be placed no less than eighteen (18) inches nor more than twenty-four (24)

inches from the edge of the curb. Newsstands placed adjacent to the wall of a building shall be placed parallel to such wall and not more than six (6) inches from the wall.

(d) No Class B newsstand shall exceed five (5) feet in height, thirty (30) inches in width, or two (2) feet in depth.

**451.110. Revocation, suspension, refusal to renew license; denial of application for new location.** The city council may revoke, suspend or refuse to renew any newsstand license or may deny an application for a new newsstand location, for any of the following reasons:

(a) Failure to comply with any of the terms and conditions of this chapter;

(b) Failure to comply with the terms and conditions of any other provisions of this Code which apply to newsstands;

(c) Fraud, deceit or misrepresentation in connection with an application for a license or licenses under this chapter;

(d) Relocating newsstand(s) without approval as required by this chapter;

(e) Failure to maintain newsstand(s) in good repair and neat appearance.

No such action shall be taken except upon notice to the licensee and a hearing before the licenses and consumer services committee. At the hearing, the licensee may be represented by legal counsel, may call witnesses and present evidence on his behalf, and may cross-examine witnesses against him. At the licensee's request, a court reporter shall record the proceedings.

**451.120. Use and appearance.** All such newsstands shall be used solely for the distribution of newspapers, magazines and other printed materials and shall be maintained by the applicant in a state of good repair and neat appearance.

**451.130. Hold-harmless agreement.** The applicant shall furnish a statement in each application agreeing to hold the City of Minneapolis harmless from any and all liability, judgments, damages or expense that may arise or grow out of the installation, maintenance, use, presence or removal of said newsstand or newsstands.

**451.140. Insurance.** Each licensee shall provide proof of liability insurance in the amounts of one hundred thousand dollars (\$100,000.00) for individuals, three hundred thousand dollars (\$300,000.00) for any single accident, and ten thousand dollars (\$10,000.00) for property damage in which the city shall be named an additional insured. A certificate of insurance shall be delivered to the director of licenses and consumer services prior to issuance of a license or provisional permit.

**451.150. No transfer permitted.** A newsstand license shall not be transferable from person to person or from place to place without council approval.

**451.160. Impoundment of newsstands.** (a) Whenever the city council after notice and hearing has revoked, suspended, or declined to renew a newsstand license, the director of licenses and consumer services shall notify the licensee in writing of the council action. The newsstand shall be removed from the public sidewalks within two (2) weeks after receipt of the notification. If the newsstand is not removed within two (2) weeks, the director may impound the newsstand.

(b) Whenever the director is unable to make the written notice provided in (a) above, or whenever the director finds an unlicensed newsstand on the public sidewalks, the director shall post a conspicuous notice on the newsstand indicating that the newsstand is not authorized and that the newsstand will be impounded after a date designated on the notice. The notice shall indicate that the owner may request a hearing prior to impoundment. The notice shall contain the address and phone number of the department of licenses and consumer services where information may be obtained and a hearing requested. The hearing shall be conducted in the same manner and with the same rights and procedures referred to in section 451.110. The notice shall be posted on the newsstand continuously for a period of two (2) weeks. If the newsstand is still on the public sidewalks after two (2) weeks, and if the owner has not requested a hearing, the director may impound the newsstand.

(c) Each impounded newsstand shall be kept by the director for at least six (6) months, and reasonable efforts shall be made to notify the owner and allow him to reclaim the newsstand. After six (6) months, an impounded newsstand may be destroyed or disposed of in accordance with laws relating to disposition of surplus or confiscated property.

**451.170. Severability.** If any section, subsection, sentence, clause or other part of this chapter should be adjudged void or of no effect, such decision shall not affect the validity of any other portions of this chapter.

Adopted 12/12/2008. Yeas, 9; Nays, 4 as follows:

Yeas – Samuels, Gordon, Hofstede, Schiff, Glidden, Remington, Benson, Goodman, Hodges.

Nays – Ostrow, Colvin Roy, Johnson, Lilligren.

Ordinance 2008-Or-104 amending Title 17 of the Minneapolis Code of Ordinances relating to *Streets and Sidewalks* by adding a new Chapter 464 relating to *Newsracks*, Sections 464.10 through 464.190 to regulate the placement of newsracks, designate personnel to enforce the ordinance, and provide for a fee, was adopted 12/12/2008 by the City Council. A complete copy of this ordinance is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized ordinance.

**ORDINANCE 2008-Or-104**  
**By Remington**  
**Intro & 1st Reading: 10/24/2008**  
**Ref to: PS&RS & T&PW**  
**2nd Reading: 12/12/2008**

**Amending Title 17 of the Minneapolis Code of Ordinances relating to Streets and Sidewalks, by adding a new Chapter 464 relating to Newsracks.**

The City Council of The City of Minneapolis do ordain as follows:

Section 1. That the Minneapolis Code of Ordinances be amended by adding thereto a new Chapter 464 to read as follows:

**CHAPTER 464. NEWSRACKS**

**464.10. Definitions.** The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Director* means the Director of the Department of Regulatory Services of the City of Minneapolis, or his or her designee. It may also mean the Director of the Department of Public Works of the City of Minneapolis or his or her designee as it relates to removal and impoundment of newsracks or other issues as may be delegated to the Director of Public Works or designee by the Director of Regulatory Services or designee.

*Heritage preservation district* means any areas, places, or districts which have been duly designated and listed as heritage preservation districts pursuant to Minneapolis Code of Ordinances, Chapter 599.

*Implementation period* means the period of time elapsing after passage, approval and publication of this Chapter, but before the effective date of this Chapter, and during which time the director shall prepare and execute a plan to implement this Chapter.

*Install or installed* means to place, affix, erect, construct, operate or maintain a newsrack.

*Newsrack* means any type of unmanned device for the vending or free distribution of newspapers, news periodicals, advertising supplements, advertising periodicals, political periodicals, and similar publications.

*Newsrack corral or corral* means any structure designed to group newsracks in stable clusters.

*Parkway* means those streets and avenues that are designated as parkways and boulevards pursuant to the Minneapolis City Charter and the Minneapolis Code of Ordinances including Park Board Ordinances.

*Responsible person* means an individual who is listed on a master list of newsrack locations pursuant to section 464.40 and who, on behalf of an owner, may receive notice, respond to complaints, and be notified or contacted at any time concerning a Newsrack.

*Owner* means any person which either holds an ownership interest in or operates a newsrack that it seeks to install or has installed in the public right-of-way.

*Person* means any individual, person or entity, however organized, whether public or private, whether domestic or foreign, whether for profit or nonprofit, and whether natural, corporate, or political.

Examples include a business or commercial enterprise organized as any type or combination of corporation, limited liability company, partnership, proprietorship, association, cooperative, or joint venture.

*Right-of-way or public right-of-way* means the area in, on or above a public roadway, highway, street, cartway, boulevard, bicycle lane, sidewalk, parkway or alley which the city owns or over which it has an easement or interest, including other dedicated rights-of-way, for public purposes.

**464.20. Purpose and criteria.** The purpose of this Chapter is to promote the public health, safety and welfare through the regulation of placement, type, appearance and servicing of newsracks on public rights-of-way so as to:

(a) Provide for pedestrian and driving safety and convenience, and comply with local, state or federal handicapped accessibility regulations.

(b) Restrict unreasonable interference with the public use of the public right-of-way and with the flow of pedestrian or vehicular traffic including ingress into or egress from any residence or place of business, or from the street to the sidewalk by persons exiting or entering parked or standing vehicles.

(c) Provide for the safety of people and property during periods of heavy snow, storms, and other adverse weather conditions, and for the proper functioning of the city's safety and sanitation forces.

(d) Provide reasonable access:

(1) For the use and maintenance of poles, posts, traffic signs or signals, hydrants, utility openings, delivery chutes, trash receptacles, bus or plaza benches, United States postal service mailboxes, parking meters and other public fixtures; and

(2) To locations used for public transportation purposes.

(e) Relocate and/or replace newsracks which result in a visual blight and/or excessive space allocation on the public rights-of-way or which unreasonably detract from the aesthetics of store window displays, adjacent landscaping and other improvements, both public and private, as well as to remove abandoned newsracks.

(f) Maintain and protect the values of surrounding properties, and protect and preserve public property.

(g) Reduce unnecessary exposure of the public to personal injury or property damage.

(h) Treat all publications equally regardless of their size, content, circulation, or frequency of publication.

(i) Maintain and preserve freedom of speech and freedom of the press.

(j) Protect and enhance the city's attraction to residents, tourists and visitors, and serve as a support and stimulus to business and industry, by enhancing the visual and aesthetic character and interest of the city.

**464.30. Master list and corresponding sticker or statement required.** No person shall install a newsrack on or in the public right-of-way without first submitting to the director a master list that contains the location of each newsrack and the items described in section 464.40, and without first affixing to the newsrack a sticker or statement pursuant to section 464.90(e).

**464.40. Submission of master list and other items.** (a) *Duties of director.* The director is responsible for fairly coordinating and administering the physical placement of newsracks as provided for in this chapter, for ensuring that the items described in this chapter are properly submitted, and for enforcing this chapter.

(b) *Submissions.* Before any newsrack may be installed, and at least every three (3) months thereafter, each newsrack owner shall submit to the director a master list, as well as any fee, hold harmless agreement, and certification required under this chapter. The master list shall specify each newsrack location in numerical order and shall contain the following information and attachments:

(1) The name, address and telephone numbers of each owner of the newsrack.

(2) The name, address and telephone number of a responsible person to whom the city may provide notice or contact at any time concerning the newsrack(s), which notice, if given, shall bind and be deemed actual notice to the owner(s) of the newsrack.

(3) The specific location of each newsrack, listed individually and numerically, including any identifying information for the location, such as a corresponding street address and specific corner of an intersection, where applicable.

- (4) Information that allows the director to easily determine whether each newsrack location contained in the list is:
  - a. a new location (relative to the most recent master list submitted);
  - b. an existing location (relative to the most recent master list submitted); or
  - c. that a newsrack location has been removed from the list.
- (5) The fee as established pursuant to section 464.60.
- (6) A fully executed hold harmless agreement as required by this chapter.
- (7) A certification, signed by an individual with the requisite corporate or other power and authority to bind the applicant, which states that the applicant has reviewed, understands, and will comply with all requirements of this chapter, and that all information contained in the master list is truthful, accurate, complete and up-to-date.

(c) *Issuance of certificate of compliance.* Upon a finding by the director that the applicant and all owners of the newsrack are in compliance with the provisions of this chapter for

- (1) The proposed newsrack location; and
- (2) All other existing newsrack locations,

the director shall cause to be issued a certificate of compliance. Such issuance shall be made within fifteen (15) working days of the city's receipt of the completed application.

(d) *Denial of certificate of compliance.* If a certificate of compliance for one or more newsrack locations applied for shall be denied, the applicant shall receive notice of the denial in writing within fifteen (15) working days of the city's receipt of the completed application. The applicant shall be advised of the specific cause of each such denial by the director. The applicant may amend the application and reapply for the same location, or apply for a substitute alternative location, subject to a reprocessing fee for the first reapplication in an amount determined by a resolution of the City Council. Any subsequent reapplications shall be subject to the standard application fee. A denial may be appealed pursuant to section 464.70.

(e) *Additional certificate of compliance.* If, at any time after initial application for a certificate of compliance to install a newsrack, an owner wishes to install additional newsracks at additional locations, then subsections (c) and (d) above are to be repeated in accordance with the provisions of this chapter.

(f) *Lapse of unused certificates.* Any certificate of compliance not used to install a newsrack within thirty (30) days from the date of issuance shall be void and automatically deemed revoked, and the owner's newsrack shall not be installed at that location.

**464.50. Risk management requirements.** Prior to installation, every newsrack owner who desires to install a newsrack on a public right-of-way shall file a written agreement to indemnify and hold the city harmless. This agreement shall be in a form prescribed from time to time by the city attorney, whereby the newsrack owner, in exchange for the ability to install its newsrack on the public right-of-way, agrees to indemnify and hold harmless the city, its officers and employees from any loss, liability or damage (including costs, disbursements and attorney fees) for bodily or personal injury, including death, and for property damage sustained by any person or entity as a result of a newsrack installed on the public right-of-way.

**464.60. Newsrack Fee.** A newsrack fee shall be set in an amount designed to reimburse the city for all its expenses incurred in the administration and enforcement of the terms and provisions of this chapter. The fee shall only be used for such purposes. The fee may only be imposed following the preparation of a report from the director to an appropriate Committee of the City Council reasonably describing such expenses, shall be based on the number of newsracks placed in the public right-of-way by newsrack owners, and shall be established from time-to-time by resolution of the City Council.

**464.70. Appeal.** (a) If a newsrack owner has reasonable grounds to claim that a notice of violation or a notice of removal has been wrongfully issued or a Certificate of Compliance has been wrongfully denied and wants to appeal that determination, the appealing owner shall, within ten (10) days of receipt of the notice of violation, notice of removal, or notice of denial of the certificate of compliance demand a review by giving written notice to the director, and including in that notice any exhibits such as photographs or maps or affidavits which support the claim. No oral presentation shall be permitted, and all grounds supporting the appeal shall be provided in writing. The director shall review the claim within fifteen (15) days of receipt of notice from the appealing owner. Within fifteen (15) days of the review,

the director shall provide written notice of the decision to the appealing owner. Except for removal pursuant to 464.110(d), any action by the City to remove a newsrack shall be stayed during the ten (10) day appeal period provided by this section and during the pendency of any subsequent appeal made pursuant to this section.

(b) If the appealing owner believes the director's decision of the appeal under section 464.70(a) is in error and wants the decision further reviewed, the appealing owner shall file a written request for review by an administrative hearing officer pursuant to Title 1, Chapter 2 of this Code. If the appealing owner believes the administrative hearing officer's decision is in error and wants the decision further reviewed, the appealing owner may have the decision reviewed by appropriate action in a court of competent jurisdiction. Except for removal pursuant to 464.110(d), any action by the City to remove a newsrack shall be stayed for ten (10) days following a final decision of the administrative hearing officer and during the pendency of any subsequent judicial proceeding intended to review the decision of the administrative hearing officer.

**464.80. Placement generally.** Newsracks may not be installed in any public right-of-way which is used regularly or intended to be used by motor vehicle traffic. Newsracks shall not be installed on bicycle trails. Subject to the prohibitions of this chapter, newsracks may be installed on public sidewalks and public pedestrian areas. The closest edge to the street of any newsrack shall be installed parallel to and not less than eighteen (18) inches nor more than twenty-four (24) inches from the edge of the curb. Newsracks may also be installed, subject to the prohibitions of this chapter, near the wall of a building if the closest edge to the building is placed parallel to and not more than six (6) inches from the wall. Newsracks shall not be installed on the side toward residential property. Every newsrack shall be installed so as to open toward the sidewalk and not toward the street.

**464.90. Installation and maintenance.** (a) Newsracks shall not exceed sixty (60) inches in height, including the height of any coin box on top, thirty (30) inches in width, or twenty-four (24) inches in depth. Multilevel newsracks shall be of uniform depth and width.

(b) No advertising signs or material, other than those advertising the name of the publication contained within the newsrack, shall be displayed on the outside of any newsrack.

(c) Each newsrack which receives coins shall be equipped with a coin-return mechanism to permit a person using the machine to secure an immediate refund in the event he or she is unable to receive the publication paid for. The coin-return mechanism shall be maintained in good working order.

(d) Each newsrack shall have stenciled or otherwise permanently affixed to it in a readily visible place a notice setting forth the name and address of the owner or the responsible person for the newsrack and the telephone number to call the owner or the responsible person or to report a malfunction, or to secure a refund in the event of a malfunction of the coin-return mechanism, or to give the notice provided for in this chapter.

(e) In order to verify compliance with the master list requirement in sections 464.30 and 464.40, each newsrack shall have stenciled or otherwise permanently affixed to it in a readily visible place a sticker or notice verifying that the newsrack has been listed on a master list previously submitted to the director, and stating the month, year, and corresponding number of the newsrack on that list. The director may, however, substitute a reasonable alternative to the "corresponding number" requirement in the preceding paragraph, provided that any such alternative must assist the director in verifying compliance with the master list requirement.

(f) Each newsrack shall be maintained in a neat and clean condition and in good repair at all times. Specifically, but without limiting the generality of the foregoing, each newsrack shall be serviced and maintained, or replaced if necessary, so that:

- (1) it is reasonably free of dirt and grease;
- (2) it is reasonably free of chipped, faded, peeling and cracked paint in the visible painted areas thereof;
- (3) it is free of graffiti or other writing or pictures added without the permission of the owner;
- (4) it is reasonably free of rust and corrosion in the visible metal areas thereof;
- (5) the clear plastic or glass parts thereof, if any, through which the publications therein are viewed are unbroken and reasonably free of cracks, dents, blemishes and discoloration;

- (6) the structural and solid parts thereof are not broken, do not contain holes (other than vent holes as part of the design of the newsrack), and are not unduly misshapen;
- (7) the dispensing portion of each box shall be fully enclosed and weatherproof so as to keep publications dry and free of snow and dirt;
- (8) all surfaces shall be of sturdy impact resistant materials; and
- (9) it shall contain no sharp corners or sharp protrusions.

(g) Newsracks for free publications may omit the coin box and may have the pull bar attached to the door to produce an "honor rack".

**464.95. Newsrack corrals.** (a) Newsrack corrals may be placed and maintained on the public sidewalks by the City at locations acceptable to the director subject to the provisions of this section. The director may approve any proposed location where, as determined by the director, substantial pedestrian traffic, sidewalk congestion or the presence of an excessive number of newsracks within close proximity of one another suggests the need for certain limits on the number and placement of newsracks.

(b) Subject to the limitations set forth elsewhere in this chapter, the director shall develop equitable criteria to allocate space within a newsrack corral, where necessary, giving first priority to newsracks displaying publications that are then currently displayed within thirty (30) feet of such corral.

(c) Prior to installing corrals at particular locations, the director shall consult with and solicit the views of representatives of relevant city agencies, City Council, relevant neighborhood groups and entities which issue regular editions of publications distributed on the public right-of-way.

(d) Subject to the criteria established pursuant to section 464.95 (b) above, the director shall allow any person to place or maintain a newsrack within a newsrack corral, so long as such person maintains such newsrack in conformity with all requirements of this chapter and so long as such person is not prohibited from placing such newsrack at the location of such corral by any provision of this chapter.

(e) No person shall place or maintain a newsrack within a newsrack corral unless the newsrack is unobtrusively attached by plastic coated cables, plastic coated chains or otherwise to the corral so as to ensure stability of the newsrack.

(f) No person shall maintain a newsrack within twenty-five (25) feet of a newsrack corral unless the newsrack is lawfully placed within the corral at that location.

**464.100. Specific prohibitions.** No newsrack shall be installed:

(a) Within three (3) feet of any marked crosswalk.

(b) Within three (3) feet of any unmarked crosswalk as defined in Minnesota Statutes (2008), Section 169.011, Subdivision. 20 (1).

(c) Within ten (10) feet of any fire hydrant, fire call box, fire stand pipe, police call box or other emergency facility.

(d) On a public right-of-way where it is crossed by a public or private driveway or alley, or within five (5) feet of such public or private driveway or alley crossing, or within five (5) feet of the end of radius or side slope of such public or private driveway or alley crossing where the public or private driveway or alley enters any street or highway.

(e) Within five (5) feet ahead of, and twenty-five (25) feet to the rear of any official public transit bus sign marking a designated bus stop, measured along the edge of pavement.

(f) In or within five (5) feet of the curb in any marked truck zone, passenger loading zone, van pool loading zone, handicapped transfer zone, valet parking zone, or ambulance loading zone.

(g) Within three (3) feet of any bus bench, bus shelter, or plaza bench.

(h) At any location whereby the clear space for passageway of pedestrians is reduced to less than five (5) feet. Provided, however, that in those areas with maximum sidewalk widths on any block side of less than seven (7) feet six (6) inches, the clear space for passageway of pedestrians shall be the maximum amount possible while complying with the other provisions of this chapter, but in no event shall the clear space for passageway of pedestrians be less than four feet. In those areas with maximum sidewalk widths on any block side of less than seven (7) feet six (6) inches, there shall be no more than four (4) total newsracks on the same side of the same block whereby the clear space for passageway of pedestrians is reduced to less than five (5) feet.

(i) On any lawn or on or within twelve (12) inches of any area improved with a hedge, a boulevard garden, or flowers, or within three (3) feet of any tree.

(j) Within one and one-half (1 1/2) feet from any window of any building abutting the sidewalk or parkway or in such a manner as to impede or interfere with the reasonable use of such window for display purpose, unless permission has been obtained from the party having legal authority over the window, or within four (4) feet of a building entrance.

(k) On, attached to, or within two (2) feet of any traffic sign or signal, street light, hydrant, United States Postal Service mailbox, or parking meter.

(l) Chained or bolted or otherwise attached to any property not owned by the owner of the newsrack or to any permanently fixed object if the property owner objects. Provided, however, that only attachment devices that do not damage the property, such as coated chains or cables, shall be used and that by attaching to such property the newsrack owner expressly agrees that the property owner may revoke the permission and may remove the chains or cables without notice and without cause at any time.

(m) By being chained to more than three (3) other newsracks. A maximum of four (4) newsracks may be chained or physically joined together in banks if each of them complies with the requirements of this chapter, and they are joined together in a manner that does not present a hazard to the public. Any bank of four (4) newsracks, whether chained or unchained, that are placed on the curb or street side of a sidewalk must be at least three (3) feet from any other newsrack, except when located within a newsrack corral pursuant to section 464.95.

In heritage preservation districts, no more than three (3) newsracks may be chained or physically joined together.

(n) In violation of local, state or federal handicapped accessibility regulations.

(o) That exceeds thirty-six (36) inches in height and is within a distance of twenty (20) feet from the nearest curb of any intersecting street as measured from a straight line extension of the nearest curb of the intersecting street prior to the beginning of the corner curb section. If there is no curb on the intersecting street, the measurement shall be made from the nearest improved surface of the intersecting street. For the purposes of this paragraph, the height limitation does not include the height of a coin box or other attachment that is attached to the top of the newsrack that is nine (9) inches in width or less and eight (8) inches in depth or less.

(p) That exceeds thirty-six (36) inches in height and is within a distance of ten (10) feet from any curb cut of any alley intersecting a street. In the absence of a curb, the measurement shall be made from the nearest improved surface of the intersecting alley. For the purposes of this paragraph, the height limitation does not include the height of a coin box or other attachment that is attached to the top of the newsrack that is nine (9) inches in width or less and eight (8) inches in depth or less.

(q) Over, above or on top of any public utility opening, delivery chute, areaway access or other access through the right-of-way.

(r) Upon any parkway, unless the adjacent property is primarily devoted to commercial or industrial uses.

(s) Within five (5) feet of the approved seating area of a permitted sidewalk cafe if the sidewalk cafe is set up.

(t) Within two (2) feet of any garbage or litter container or receptacle.

**464.110. Enforcement procedures—Nonconforming newsracks.** (a) Any newsrack found installed in violation of the provisions of this chapter may be tagged with a notice of violation stating the violation, date of tagging, and notice of intention to remove the newsrack if the violation is not corrected within ten (10) days and specifying the procedure for obtaining a hearing and opportunity to be heard regarding the violation using the procedures set out in section 464.70. The director shall also provide notice to the owner or responsible person thereof by sending a copy of the notice of violation to the person listed in the master list, if any, pursuant to section 464.40, or to the person listed on the notice affixed to the newsrack as required by section 464.90.

(b) The director may, as an alternative to tagging, have such newsrack(s) realigned or otherwise repositioned in order to restore them to a legal condition.

(c) Any newsrack which has been tagged and remains in violation of the provisions stated on the tag past the ten-day correction period, and for which no appeal has been requested pursuant to section 464.70 during that ten-day correction period, shall be removed and stored in a secure location.

- (1) The director shall provide notice to the owner or responsible person thereof by sending a notice of removal to the person listed in the master list, if any, pursuant to section 464.40 or to the person listed on the notice affixed to the newsrack as required by section 464.90. Such notice shall state the date the newsrack was removed, the reasons therefore, and the procedure for obtaining a post-removal hearing and opportunity to be heard regarding the removal using the appeal procedures set out in section 464.70.
- (2) Any such newsrack removed and stored pursuant to these provisions shall be released to the owner or responsible person thereof if claimed within sixty (60) days after such removal and upon the payment of reasonable charges of removal and storage. Upon failure of the owner or responsible person to claim such newsrack and pay the reasonable charges within sixty (60) days after the mailing of written notice of removal, such newsrack shall be deemed to be unclaimed or abandoned property and may be disposed of pursuant to provisions outlined in section 427.100 of the Minneapolis Code of Ordinances relating to disposition of property found in streets or as otherwise provided for unclaimed or abandoned property but without the requirement of further hearings or notices.

(d) Any newsrack in violation of the provisions of this chapter, which violation creates an immediate and substantial danger to the health, safety or welfare of the public, which violation cannot be quickly and easily corrected by moving or otherwise repositioning the newsrack, may be summarily removed and stored in a secure location so as to eliminate the danger to the health, safety and welfare of the public. The director shall promptly provide notice to the owner or responsible person as otherwise outlined in this section and allow for a post-deprivation hearing.

**464.120. Abandoned newsracks.** (a) A newsrack shall be deemed abandoned when no publication provided by a registered newsrack owner is in the newsrack for a period of more than thirty (30) consecutive days or when the newsrack and location have not been included on a master list as required under this chapter.

(b) In the event a newsrack owner desires to voluntarily abandon a newsrack location, the owner shall provide notice to the director, including the month and the year that the newsrack was first placed on a master list, and the corresponding master list number, and completely remove the newsrack and restore the public right-of-way to a safe condition, leaving no trace.

(c) When the director shall find an abandoned newsrack on the public right-of-way within the city, the director shall cause a notice of violation to be placed upon it pursuant to the procedures established in section 464.110.

**464.130. Severability.** If any section, subdivision, sentence, clause or other part of this chapter should be adjudged void or of no effect, such decision shall not affect the validity of any other portions of this chapter.

**464.140. Rights of underlying fee title owner.** This chapter shall not in any way limit, lessen, or derogate the rights of ownership or control, if any, of any owner of the underlying fee title of any city right-of-way covered by this chapter.

**464.150. Application to other governmental units.** This chapter shall not apply to other governmental units or in any way derogate their power to regulate their property or rights-of-way. All registrations under this chapter are subject to the authority of any other governmental unit.

**464.160. Change of surroundings.** Permission to install a newsrack on a public right-of-way is at the sufferance of the city. No property right of any kind is intended or created. The city may at any time, either pursuant to the provisions of this chapter or by ordinance amendment, withdraw or modify its permission. All permission is subject to continual compliance with the provisions of this chapter. If the physical surroundings of a newsrack, which was legally located when originally installed, change so that the newsrack can no longer comply with sections 464.80, 464.100 or any other sections of this chapter, then it shall promptly be removed by its owner and its continuing presence shall be a violation subject to remedy under section 464.110.

**464.170. Implementation.** The director shall implement and administer this chapter. The director shall prepare and execute a plan to implement this chapter during the implementation period consistent with the expressed purposes and provisions of this chapter and consistent with the City of Minneapolis Charter and Code of Ordinances. This plan shall be guided by the following:

(a) All determinations regarding newsracks shall be content neutral.

(b) No preference shall be given to any particular type of publication.

(c) The director may authorize the placement of warning notices on newsracks at any time during the implementation period which state that all newsracks are subject to removal on the specified effective date of this chapter unless they are in compliance with the requirements of this chapter. Each such warning notice shall contain information regarding inquiries about compliance.

**464.180. Notice.** Unless otherwise specifically provided for in this chapter, any notice which may be required to be or is given shall be in writing and shall be deemed received when it is either:

(a) Personally delivered, or

(b) Placed in the Certified U.S. Mail, return receipt requested.

**464.190. Effective Date.** This chapter shall be effective as of October 1, 2009.

Adopted 12/12/2008. Yeas, 9; Nays, 4 as follows:

Yeas – Samuels, Gordon, Hofstede, Schiff, Glidden, Remington, Benson, Goodman, Hodges.

Nays – Ostrow, Colvin Roy, Johnson, Lilligren.

Ordinance 2008-Or-105 amending Title 17, Chapter 439 of the Minneapolis Code of Ordinances relating to *Streets and Sidewalks: Nicollet Mall*, amending Section 439.20 to amend the list of permitted uses to add Chapter 464 relating to newsracks, was adopted 12/12/2008 by the City Council. A complete copy of this ordinance is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized ordinance.

**ORDINANCE 2008-Or-105**  
**By Remington**  
**Intro & 1st Reading: 11/21/2008**  
**Ref to: PS&RS & T&PW**  
**2nd Reading: 12/12/2008**

**Amending Title 17, Chapter 439 of the Minneapolis Code of Ordinances relating to Streets and Sidewalks: Nicollet Mall.**

The City Council of The City of Minneapolis do ordain as follows:

Section 1. That Section 439.20 of the above entitled ordinance be amended to read as follows:

**439.20. Uses, activities permitted.** The following uses or activities are permitted on the Mall:

(a) Telephones installed in bus shelters.

(b) Coin-operated newspaper vending devices which shall be attached to bus shelters. The construction of said devices shall be approved by the director of public works, shall be in accordance with said Nicollet Avenue Transit and Pedestrian Mall Surface Plan, and shall be in compliance with Chapter ~~454~~ **464** of this Code of Ordinances.

(c) Decorations, banners, etc., when a part of an overall mall promotion or display, subject to compliance with Chapter 449 of this Code of Ordinances.

(d) Transit vehicles, taxicabs, emergency vehicles and special permit vehicles as provided in an ordinance "Restricting the Use of and Establishing a Pedestrian Mall District on Nicollet Avenue from Washington Avenue to South Thirteenth Street in the City of Minneapolis, Minnesota" passed April 7, 1966, approved April 11, 1966, and amended by an ordinance passed December 18, 1975 [see section 439.15].

(e) Public solicitations, subject to and in compliance with Chapter 333, Article II of this Code of Ordinances. The organization or persons conducting such solicitations shall use no mechanical, electrical apparatus or device, nor any other means, for the purposes of sound amplification.

(f) Decorative waste containers, Christmas trees, bouquets, art works, underground facilities, subject to approval of the city and in compliance with all laws, ordinances and resolutions governing encroachments on the public right-of-way.

(g) Sidewalk cafes or restaurants, when authorized by a special permit granted by the city council.

(h) Block parties as defined in section 455.10 of this Code where the block party is of a citywide nature and when authorized by special permit granted by the city council. To the extent authorized in any such special permit, the permittee may sell beer, food or food products and goods or merchandise on the public way or public highway notwithstanding the provisions of sections 186.40, 368.40 and 427.130 of this Code.

(i) There may be, at a designated location within the sidewalk area of Nicollet Mall, between Washington Avenue and Thirteenth Street South, a facility for the providing of information to the public, regarding the location of businesses, facilities and activities in the downtown area. The operation of such information service may be in conjunction with and incidental to the operation of a small stand or wagon within the public sidewalk area for the street sale of popcorn or flowers. The operation of such facility shall be subject to the obtaining of a permit or license therefor pursuant to section 439.60. In determining whether to grant an application for such license or permit, the city council shall consider and determine:

- (1) A suitable location, if any, where such facility may be placed;
- (2) Whether the safety and welfare of pedestrians and of vehicular travelers will be endangered or hampered;
- (3) Whether the flow and movement of pedestrian or vehicular traffic will be interfered with;
- (4) Whether the facility and its operation will be in harmony with the other facilities and amenities of the Nicollet Mall;
- (5) Whether such facility and its operation at the specified location would unreasonably interfere with other normal and legal activities on the Nicollet Mall;
- (6) The character, reputation, reliability and financial responsibility of the applicant.

If a permit or license is granted, it shall be by council action. The council action shall establish reasonable and prudent requirements for the furnishing by the applicant of evidence of the maintenance by the applicant of public liability insurance for the protection of the public and for the indemnification of the city by the applicant against all third-party claims. Such council action shall also establish a reasonable fee to be charged the licensee or permittee to defray the cost of administration, investigation, inspection and policing in connection with such license or permit, and the operation of such facility.

(j) Passenger automobiles may travel upon the Nicollet Mall roadway between 6:00 p.m. and 10:00 p.m. on Thanksgiving Day of every year. Such vehicles shall not travel at a speed greater than ten (10) miles per hour, and may not pass another vehicle or stop or park upon such part of Nicollet Avenue and must enter/exit only at Washington Avenue South or Grant Street.

(k) Sidewalk cart food vendors, when licensed and operated in accordance with Chapter 188 of this Code. The city council will also establish a reasonable fee, not to exceed two hundred fifty dollars (\$250.00) per year to be charged each sidewalk cart food vendor located in the Nicollet Mall, to defray the cost of mall cleanup and maintenance and other policing in connection with such license.

(l) Sidewalk cart flower vendors when licensed and operated in accordance with Chapter 331 of this Code.

(m) Organized events that identify and promote commercial activities within the pedestrian mall district, when authorized by special permit granted by the city council.

Adopted 12/12/2008. Yeas, 9; Nays, 4 as follows:

Yeas – Samuels, Gordon, Hofstede, Schiff, Glidden, Remington, Benson, Goodman, Hodges.

Nays – Ostrow, Colvin Roy, Johnson, Lilligren.

Ordinance 2008-Or-106 amending Title 1, Chapter 2 of the Minneapolis Code of Ordinances relating to *General Provisions: Administrative Enforcement and Hearing Process*, amending Section 2.20 to amend the list of persons authorized to issue citations to include the Departments of Regulatory Services and Public Works for newsracks, was adopted 12/12/2008 by the City Council. A complete copy of this ordinance is available for public inspection in the office of the City Clerk.

The following is the complete text of the unpublished summarized ordinance.

**ORDINANCE 2008-Or-106**  
**By Remington**  
**Intro & 1st Reading: 11/21/2008**  
**Ref to: PS&RS & T&PW**  
**2nd Reading: 12/12/2008**

**Amending Title 1, Chapter 2 of the Minneapolis Code of Ordinances relating to General Provisions: Administrative Enforcement and Hearing Process.**

The City Council of The City of Minneapolis do ordain as follows:

Section 1. That Section 2.20 of the above entitled ordinance be amended to read as follows:

**2.20. Persons authorized to issue citations.** The following city employees are authorized to issue citations for violations of the Minneapolis Code of Ordinances:

- (1) Police officers.
- (2) Animal control officers.
- (3) License inspectors.
- (4) Fire chief, fire marshal and fire inspectors.
- (5) Building inspectors.
- (6) Manager of environmental health and environmental health inspectors.
- (7) Housing inspectors.
- (8) Zoning inspectors.
- (9) Traffic Control Agent II for violations of Title 13, Chapter 341.
- (10) Sidewalk inspectors.
- (11) Utility connection inspectors and their supervisor.
- (12) Real estate investigators and their supervisor.
- (13) Deputy director of environmental management and safety, environmental and code compliance inspectors.
- (14) Any designee of the Director of the Department of Regulatory Services or any designee of the Director of the Department of Public Works for the purposes of enforcement of Title 17, Chapter 464 relating to Newsracks.

Adopted 12/12/2008. Yeas, 9; Nays, 4 as follows:

Yeas – Samuels, Gordon, Hofstede, Schiff, Glidden, Remington, Benson, Goodman, Hodges.

Nays – Ostrow, Colvin Roy, Johnson, Lilligren.

Ostrow moved to adjourn to Room 315 City Hall to consider the claim of Vang Khang and Yee Moua. Seconded.

Adopted upon a voice vote 12/12/2008.

Room 315, City Hall

Minneapolis, Minnesota

December 12, 2008 - 12:05 p.m.

The Council met pursuant to adjournment.

Council President pro tem Lilligren in the Chair.

Present - Council Members Samuels, Ostrow, Lilligren, Colvin Roy, Glidden, Remington, Benson, Goodman, Hodges, Johnson.

Absent - Council Members Gordon, Hofstede, Schiff.

Moore stated the meeting may be closed for the purpose of discussing attorney-client privileged matters involving the claim of Vang Khang and Yee Moua.

At 12:07 p.m., Ostrow moved that the meeting be closed. Seconded.

Adopted upon a voice vote.

Absent - Gordon, Hofstede, Schiff.

Present - Council Members Samuels, Gordon (In at 12:09 p.m.), Hofstede (In at 12:13 p.m.), Ostrow, Schiff (In at 12:09 p.m.), Lilligren, Colvin Roy, Glidden, Remington, Benson, Goodman, Hodges, Johnson.

Also Present - Susan Segal, City Attorney; Peter Ginder, Deputy City Attorney; Jim Moore, Assistant City Attorney; Peter Wagenius, Aide to Mayor Rybak (In at 12:14 p.m.); Steve Ristuben, City Clerk; and Anissa Hollingshead, City Clerk's Office.

Moore summarized the claim from 12:08 p.m. until 12:19 p.m.

At 12:19 p.m., Benson moved that the meeting be opened, Seconded.  
Adopted upon a voice vote.

Glidden moved to approve the settlement of the claim of Vang Khang and Yee Moua, on their own behalf and on behalf of their 6 minor children (hereinafter jointly "Claimants"), for the net amount of \$612,497.96 payable to Claimants and their attorneys and upon certain non-monetary terms, including the transfer of title to 1321 Logan Avenue North to the City, as more fully set forth below.

In exchange for a full and final settlement of all claims on behalf of Claimants and in consideration of the obligations of Plaintiffs as set forth herein, the City:

- 1) Will pay to Claimants the amount of \$17,922.11 as and for the insurance company subrogation claim for the cost of the family's medical care;
- 2) Agrees that Claimants will keep the \$9,000 already paid by the City to help them meet their interim housing needs during the pendency of their claim;
- 3) Will pay an additional \$600,000;

Said funds will be paid from Fund/Org. 06900-1500100-145400.

In addition, the City agrees to non-monetary relief as follows:

Hmong Recruitment:

The Minneapolis Police Department will consult with Hmong and Asian community agencies, including, without limitation the Hmong 18 Council, Lao Family Community of Minnesota and Hmong American Mutual Assistance Association, to identify and recruit potential Hmong candidates for the Minneapolis Police Department ("MPD"), including MPD's Cadet, Community Service Officer (CSO) and sworn ranks.

Hmong Community relations:

1) MPD Administration will continue to develop its working relationship with the Hmong community, including, but not limited to the Hmong 18 Council, Lao Family Community of Minnesota and Hmong American Mutual Assistance Association. MPD Administration will endeavor, to extent permitted by law, to maintain open communication with Hmong community agencies about law enforcement issues of interest to the Hmong community.

2) MPD will conduct in-service training within the next two years relating to Hmong culture, traditions and practices.

3) MPD agrees that it will appoint a department official as a liaison to the Hmong community during 2009 and 2010. The appointed official will serve as a point of contact at the MPD for the Hmong community and will attend such Hmong community events as his/her other duties will allow.

In exchange for the foregoing consideration by the City, Plaintiffs will:

- 1) Sign a settlement agreement releasing any and all claims against the City, its officials, agents and employees;
- 2) Deed the property at 1321 Logan Avenue North to the City; and;
- 3) Agree to hold the City harmless from all claims for subrogation by their health insurance carriers; and
- 4) Pay to the city the insurance proceeds for damage to the property at 1321 Logan Avenue North in the amount of \$14,424.15.

The settlement of this matter shall become final upon approval by the Court of the minor settlement and pursuant to Minn. Stat. Section 466.08. The City Attorney's Office is hereby authorized to execute

any documents and the Finance Office is authorized to issue any checks necessary to effectuate the settlement. Seconded.

Adopted 12/12/2008.

Approved by Mayor Rybak 12/15/2008.

(Published 12/16/2008)

Gordon moved passage of the accompanying resolution finding that the purchase of 1321 Logan Avenue North pursuant to the voluntary settlement of the claims of Vang Khang, Yee Moua and their children, has no relationship to the comprehensive municipal plan. Seconded.

Adopted 12/12/2008.

Approved by Mayor Rybak 12/15/2008.

(Published 12/16/2008)

Resolution 2008R-588, finding that the purchase of 1321 Logan Avenue North pursuant to the voluntary settlement of the claims of Vang Khang, Yee Moua and their children, has no relationship to the comprehensive municipal plan, was adopted 12/12/2008 by the City Council. A complete copy of this resolution is available for public inspection in the office of the City Clerk.

**RESOLUTION 2008R-588**

**By Gordon**

**Finding that the purchase of 1321 Logan Avenue North pursuant to the voluntary settlement of the claims of Vang Khang, Yee Moua and their children, has no relationship to the comprehensive municipal plan.**

Whereas, the City Council approved the settlement of the matter of the claims of Vang Khang and Yee Moua, on their own behalf and on behalf of their minor children, hereinafter jointly the "Khang claim") on December 12, 2008; and

Whereas, by the terms of the agreed upon settlement of the Khang claim, the City agreed to purchase the property located at 1321 Logan Avenue North; and

Whereas, the City's interest in purchasing the property is to satisfactorily settle the Khang claim and is not driven by long-term planning goals of the City; and

Whereas, Minn. Stat. § 462.365, Subd. 2 declares that:

... no publicly owned interest in real property within the municipality shall be acquired or disposed of, ... until after the planning agency has reviewed the proposed acquisition, disposal, or capital improvement and reported in writing to the governing body or other special district or agency or political subdivision concerned, its findings as to compliance of the proposed acquisition, disposal or improvement with the comprehensive municipal plan. Failure of the planning agency to report on the proposal within 45 days after such a reference, or such other period as may be designated by the governing body shall be deemed to have satisfied the requirements of this subdivision. The governing body may, by resolution adopted by two-thirds vote dispense with the requirements of this subdivision when in its judgment it finds that the proposed acquisition or disposal of real property or capital improvement has no relationship to the comprehensive municipal plan.

Now, Therefore, Be It Resolved by the City Council of the City of Minneapolis:

That the City Council finds that the purchase, and acquisition of the property located at 1321 Logan Avenue North, pursuant to the agreed upon settlement of the Khang claim has no relationship to the comprehensive municipal plan of the City of Minneapolis.

Adopted 12/12/2008.

Approved by Mayor Rybak 12/15/2008.

**DECEMBER 12, 2008**

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The meeting was adjourned by unanimous consent.

The adjourned session of the City Council meeting was tape recorded with the tape on file in the office of the City Clerk.

Steven J. Ristuben,  
City Clerk.

Unofficial Posting: 12/16/2008  
Official Posting: 12/19/2008  
Correction: 12/31/2008; 1/16/09; 5/4/2009