

Title 2

ADMINISTRATION AND PERSONNEL

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2.04.010

Chapter 2.04

CITY COUNCIL

Sections:

2.04.010 Meetings.

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Meetings.

The common council shall, from time to time by resolution, fix the time, frequency and place for the holding of regular meetings pursuant to Chapter IV, Section 10 of the City Charter. (Ord. 1017 § 1, 2011: Ord. 678, 1981)

Chapter 2.05

CITY COUNCIL RULES AND PROCEDURES

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2.05.010

Definitions.

In this Chapter, except where the context clearly indicates a different meaning, the following words and phrases mean:

A. “Agenda” means a listing, by topic, of all matters to be discussed during a council meeting; the date, time and location of the meeting; the type of meeting being held and the names of the mayor and each member of the council.

B. “Agenda report” means any report prepared by the city manager, or any city official or employee, regarding a matter placed on an agenda for presentation to the council.

C. “Consent Agenda” means a list of routine, non-controversial matters, not typically requiring discussion, presented for Council approval by a single motion. The Mayor shall announce all items on the consent agenda prior to calling for the motion. The Mayor or any Councilor may request that an item placed on the consent agenda be removed for discussion and independent vote. Any item removed from the consent agenda shall be discussed and acted upon following approval of other consent agenda items.

D. “Mayor pro-tem” means the elected official acting in the place of the mayor because of the mayor’s absence or inability to act. As required by the charter, it shall be the council president who acts as mayor pro-tem. In the absence of the mayor and council president, a temporary presiding officer (Mayor pro-tem) shall be elected by the members of Council present.

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E. "Minutes" means a written record giving a true reflection of the matters discussed at a council meeting, the views of those participating in the discussion and all other information required by the Public Meetings Law.

F. "Public Meetings Law" means all applicable state regulations affecting the meeting of a public body which are in effect at the time of the meeting.

G. "Robert's Rules of Order" means H. Robert's publication of the commonly used and accepted guidelines on proper parliamentary procedures and any revisions thereto.

H. "Quorum" means a majority of the councilors, without regard to any legal conflict or abstention which prevents a councilor from voting, except that a lesser number of councilors may meet and compel the attendance of absent members. (Ord. 1028 § 1 (part), 2013: Ord. 904 § 1 (part), 1999)

2.05.020**Laws and rules governing meetings of the council.**

The following shall apply to the conduct, procedures and notice to be given of all meetings of the Council.

A. Oath of Office. New Councilors and/or Mayor shall be sworn in by the City Recorder.

B. Compliance with Applicable Laws. The Council shall adhere to all applicable federal, state and City laws as further set forth but not limited by the statutes listed below.

C. Public Meetings Law. The Public Meetings Law shall govern all meetings of the Council. Unless exempted by State Law, all official meetings of the Council, for which a quorum is present, including any Council Advisory Committee, shall be open to the public. Public notice, as specified in Section 2.05.030, shall be given of all meetings of the Council.

D. Parliamentary Procedure. Unless specified to the contrary in this Chapter, "Robert's Rules of Order" shall guide the proceedings of the council in all cases, provided, however, strict adherence to such Rules shall be used only to the extent necessary to observe the law, expedite business, avoid confusion and protect the rights of members of the public and the prerogatives of the City's elected officials.

E. Americans with Disabilities Act. All meetings of the Council shall be held in compliance with the Americans with Disabilities Act.

F. Laws Regarding Smoking in Public Meetings. Smoking shall be prohibited during all meetings of the Council and at all times within the Council Chambers.

G. Recording of Council Meetings. All meetings of the Council shall be recorded, provided, however, the written minutes shall serve as the official and permanent record of all Council meetings. Recordings of Council meetings shall be posted on the City's web site no later than five (5) working days after conclusion of the meeting. (Ord. 1028 § 1 (part), 2013; Ord. 904 § 1 (part), 1999)

2.05.030**Notice and types of meetings.**

A. Notice of Meetings. Except when more extensive notice is required by State Law or this Code, the City Recorder shall give notice of all Council meetings to the public by mail delivery, or otherwise, and the agenda to the news media and other interested persons upon written request. Provided State Law is not violated, the failure of the City Recorder to give timely notice shall not prevent the Council from meeting or invalidate its actions. Notice shall include the date, time and location of the meeting, and a list of the subjects to be presented to Council. Unless a different location is specified in this Chapter and decided upon in advance of the meeting, all meetings of the Council shall be held in the Civic Auditorium (Council Chambers).

B. Types of Meetings. The council may conduct the following type of meetings under the guidelines contained herein and the City Recorder shall give notice of said meetings as provided herein:

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1. Regular Meetings. The common council shall, from time to time by resolution, fix the time, frequency and place for the holding of regular meetings pursuant to Chapter IV Section 10 of the City Charter. If such date falls upon a legal holiday, the meeting shall be held at the usual hour and place on the next following day, unless canceled in advance by the Mayor or by majority vote of the Council. Unless otherwise specified in advance of the meeting, all regular evening meetings of the Council shall be held in the Sutherlin Civic Auditorium. Notice of regular meetings shall be given in accordance with the above Subsection A at least 48 hours prior to the meeting.

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2. Special Meetings. Special meetings of the Council may be called by the Mayor or by three or more members of the Council. The call for a special meeting shall be filed with the City Recorder who shall give notice of said meeting in accordance with the above Subsection A at least 24 hours prior to the meeting. Only the subjects listed on the special meeting agenda may be acted upon at the special meeting. Unless otherwise specified in advance of the meeting, all special meetings shall be held in the Sutherlin Civic Auditorium.

3. Emergency Meetings. An emergency meeting of the Council may be called on less than 24 hours' notice; provided, that an actual emergency exists. The minutes of such meeting must describe the emergency justifying less than 24 hours' notice and contain a statement from the Mayor or City Manager indicating why the meeting could not be delayed. The City Recorder shall attempt to contact the news media to provide notice of such emergency meetings. Only the matters creating a need for the emergency meeting shall be discussed or acted upon during the meeting called for such reason. Unless specified in advance of the meeting, all emergency meetings shall be held in the Sutherlin Civic Auditorium.

4. Workshop Meetings. Workshop meetings of the Council may be called by the mayor or at the request of three or more members of Council. Such meetings shall allow Council the opportunity to review forthcoming projects of the City, determine goals for the ensuing year, receive progress reports on current programs or projects and to hold open discussion on any City related subject; provided, that all discussions and conclusions thereon shall be informal with no vote or formal action taken. The call for a workshop session shall be filed with the City Recorder who shall give notice of the meeting in accordance with the above Subsection A at least 24 hours before such meeting is conducted.

5. Executive Session. Executive sessions, or closed meetings, shall be held in strict accordance with state law. Matters discussed in executive session shall be exempt from public disclosure. Executive sessions shall be closed to all persons except the Mayor and Council; persons reporting to Council on the subject of the executive session; the City Manager, unless directed otherwise by the Council; City staff persons directed by the City Manager to attend; news media representatives, unless excluded by the Public Meetings Law; and other persons authorized by Council to attend. No elected official who declares a conflict of interest on a topic to be discussed in executive session shall remain in the room during such executive session discussion. No person attending an executive session of the Council shall disclose or discuss information received in executive session with another person except a person, other than a member of the media, who would have been authorized to attend the executive session but was not present at the time the executive session was conducted. Prior to opening an executive session, the Mayor shall announce the purpose of the executive session, the state statute authorizing the executive session and the anticipated length of time required for the session and shall advise all those present, including the news media, that matters discussed in executive session are not to be disclosed or reported upon to the public. An executive session may be held during any open meeting for which proper notice has been given, so long as the open meeting is adjourned until the executive session is concluded and then reopened to the public. A meeting that will be solely an executive session may also be called provided notice requirements as outlined in this Section are met and the

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meeting agenda identifies the state statute authorizing the executive session. No executive session may be held for the purpose of taking any final action or making any final decision, but a consensus of Council opinion may be gathered. (Ord. 1028 § 1 (part), 2013; Ord. 1017 § 2, 2011; Ord. 904 § 1 (part), 1999)

2.05.040**Attendance of news media at council meetings.**

Except as provided in this Section, all meetings of the Council and its committees shall be open to the news media, freely subject to recording by radio, television and photographic services at any time, except where such actions are exempted by the Public Meetings Law. No representative of any news media shall interfere with the orderly conduct of the meeting. The media shall be allowed to attend executive sessions of the Council in accordance with state law. (Ord. 1028 § 1 (part), 2013: Ord. 904 § 1 (part), 1999)

2.05.050**Duties of meeting chair.**

A. The Mayor shall chair all meetings of the Council. In the absence of the Mayor, the Council President shall act as Mayor Pro-Tem and chair the meeting. In the absence of both the Mayor and Council President, the City Recorder shall call the meeting to order whereby a temporary presiding officer (chair) shall then be elected by the members of Council present.

B. The chair shall keep the meeting in order and impose any reasonable restrictions necessary for efficient and orderly conduct. The chair may modify the order of business on the agenda rather than follow the agenda as published. The chair shall preserve order and decorum, prevent attacks on personalities and confine members in debate to the question under discussion. The chair shall state all questions submitted for vote and announce the results.

C. The chair shall have the prerogative to set guidelines for public hearings and audience participation. If public participation is to be a part of the meeting, the chair may regulate the order and length of appearances and limit appearances to presentations of relevant points. In exercising such duties, the chair shall impose restrictions in a uniform manner so that all persons seeking to appear before the Council shall have an equal amount of time to do so; provided, that the chair may afford additional time to any speaker as necessary for the Council to receive relevant information. The chair may request that groups with similar comments choose a spokesperson to present joint remarks and provide the spokesperson with additional time. When receiving public request, testimony and evidence, the chair shall rule on the admissibility and propriety of such request, testimony and evidence.

D. Citizen and community group testimony forms will be available at each meeting and shall be filled out and handed to the City Recorder. At the time on the agenda designated for public comment and during any public hearing, any member of the public desiring to address the Council must first request to be recognized by the chair and then state his or her name for the record.

2.05.060

E. Upon councilor Motion and a second thereof, decisions of the chair described in the above Subsections B and C may be appealed to a vote of the Council. (Ord. 1028 § 1 (part), 2013; Ord. 904 § 1 (part), 1999)

2.05.060

Meeting agenda and order of business.

A. The City Recorder shall be responsible for preparing all council agendas. All agendas and agenda reports shall be approved by the City Manager. All agendas shall be sufficiently descriptive to provide an accurate accounting of the matters to be discussed and considered.

B. Other than “Call to Order,” “Pledge of Allegiance,” “Roll Call” and “Media Recognition” the order of business shall be proposed by the City Manager on a meeting-by-meeting basis and approved by the Mayor or the Mayor Pro-Tem in the Mayor’s absence.

C. The City Manager shall list Council Agenda matters according to the order of business and with the concurrence of the Mayor or the Mayor Pro-Tem in the Mayor’s absence; and ensure that the City Recorder furnishes each member of the Council, the City Attorney, the media, and department heads with a copy of the agenda prior to the Council meeting, as early as possible and in any event in compliance with section 2.05.030.

D. No item shall be submitted to the Council, except through the City Manager and again, by way of concurrence of the Mayor or the Mayor Pro-Tem in the Mayor’s absence; however, any member of the public, member of the Council, or the City Manager may submit emergency items to the Council during the Council meeting at the time provided in the order of business. Excepting emergency actions necessary in furtherance of the public health, safety, or general welfare, no Council action shall be taken on any item not included on the published agenda, but rather shall be placed on a future Council agenda.

E. Nothing provided herein shall preclude the Council, by a majority vote of those present, from placing a topic, subject or presentation on a future Council agenda.

F. Agendas for all Regular Council Meetings shall include an item for Council Comments. This time is reserved for each Councilor to notify the Council, staff and public of topics of interest related to the City. During Council Comments, Councilors may ask questions of staff, through the City Manager; provided, that neither the City Manager nor staff will be required to provide an answer to a Councilor’s questions during the meeting unless the Councilor has provided his or her question to the City Manager on a form approved by the Council at least 24 hours before the meeting. The Council may, by majority vote of those present, limit the number of questions asked by any individual Councilor during Council Comments as well as direct the City Manager and staff not to answer any question. Neither the City Manager nor staff shall spend more than twenty minutes researching, compiling information or otherwise spending staff time to answer a question raised by an individual Councilor without approval by a majority vote of the Council.

G. All Council meeting agendas shall contain proper notice of the City’s intent to conduct the meeting in accordance with the Americans with Disabilities Act and that persons needing accommodations may contact the City Recorder 48 hours prior to the meeting time to request the

necessary accommodation. Such notice shall provide the telephone number and address at which the City Recorder may be contacted. (Ord. 1028 § 1 (part), 2013; Ord. 1017 §§ 3, 4, 2011; Ord. 904 § 1 (part), 1999)

2.05.065**Council calendar.**

To assist the City Manager and Mayor, or Mayor Pro Tem in the Mayor's absence, the Council shall, with the assistance of the City Manager and City Recorder, develop a Council Calendar setting forth ongoing and future duties of the Council that should appear on future agendas of the Council. Pursuant to subsection 2.05.060(E), the Council may, by a majority vote of those present, place a topic, subject or presentation on a future Council agenda by adding it to the Council Calendar. (Ord. 1028 § 1 (part), 2013)

2.05.070**Procedures for making motions and voting.**

A. Any councilor making a motion upon a matter to be voted on by the Council shall state the motion with enough clarity, specificity and brevity that the matter to be voted upon is clearly understood. All motions shall require a second by another Councilor prior to being put to a vote. Any motion failing to receive a second shall be considered failed.

B. Votes shall be by roll call taken by the City Recorder.

C. Except for a motion to adopt an ordinance at a single meeting for which the Charter requires a unanimous vote of all councilors present, an affirmative vote from at least a majority of all councilors present and eligible to vote shall be necessary to pass any motion upon which a vote has been called.

D. Each councilor shall vote on all questions put to the council, unless a conflict of interest as described in 2.05.100 exists or an appearance of fairness question under state law is present. Unless a member of the council states that he or she is abstaining, his or her silence shall be recorded as an affirmative vote.

E. The mayor shall call for the vote on each motion receiving a second. Upon a call for the vote, each councilor shall respond "yes" (aye), "no" (nay) or "abstain." Any councilor responding "abstain" must state the reason for such abstention from the vote. An abstention shall not count as either an affirmative or a negative vote and shall not be counted toward the number of votes required to pass or reject a motion. Except to the degree allowed as a member of the public, no councilor shall discuss or vote upon any matter in which the councilor has declared a conflict of interest. (Ord. 1028 § 1 (part), 2013; Ord. 1017 §§ 5, 6, 2011; Ord. 904 § 1 (part), 1999)

2.05.080**Attendance—Excused absences.**

Members of the Council may be excused from attending a City council meeting by contacting the Mayor, City Manager or City Recorder prior to the meeting and stating the reason for his or her inability to attend. Council members who do not follow the above process will be considered unexcused and it shall be so noted in the minutes. (Ord. 1028 § 1 (part), 2013; Ord. 1017 § 7, 2011; Ord. 904 § 1 (part), 1999)

2.05.090

Minutes of council meetings.

A. Written minutes shall be taken for all meetings of the Council, except executive sessions for which minutes may be kept in the form of recordings. No transcript of executive session minutes must be made unless otherwise required by law. The recordings, or written minutes if produced, of executive sessions shall not be disclosed to the public, including the news media, unless otherwise required by law. The City Recorder shall be responsible for the minutes of all Council meetings.

2.05.095

B. The written minutes of Council meetings shall not be verbatim transcripts, but shall give a true reflection of the matters discussed at the meeting and the views of those participating in the discussions and shall contain at least the following:

1. The date and location of the meeting, the type of meeting held and the time it was called to order;

2. The names of all elected officials present and those absent; the names and titles of all appointed officials present and the names of all news media representatives present and which media they represent;

3. The substance of all matters discussed at the meeting, including all motions, proposal, directives, ordinances and resolutions, and the disposition of the same;

4. Each motion made, the name of the councilor making the motion, and the name of the councilor who seconded the motion or, if the motion failed to receive a second, a statement that the motion failed due to lack of a second;

5. The results of all votes, identifying any councilor who abstains from voting and the reason for such abstention and those councilors voting in the minority; if the vote on a matter is unanimous, the minutes shall so state the vote was unanimous;

6. Any conflict of interest or potential conflict of interest declared by any elected or appointed official on any matter discussed by the council, and the reason for such conflict;

7. If the council adjourned for an executive session during the meeting, a statement indicating the council so adjourned; the state statute under which the executive session was authorized; the time the open meeting was adjourned for the executive session and the time at which the open meeting was reconvened;

8. A reference to any document discussed at the meeting; and

9. The time at which the meeting was adjourned.

C. Minutes of all council meetings, except those prepared for executive sessions if so prepared, shall be made available to the public within a reasonable time following the meeting. Any minutes provided to the public prior to being approved by the council shall be identified as an unofficial, draft record of the meeting. Minutes shall be provided to persons with disabilities in accordance with the Americans with Disabilities Act.

D. All minutes shall be approved by the city manager and presented for formal approval by council as promptly as possible. Minutes presented to council may be amended by a majority vote of the council. Upon council approval, the minutes shall be considered final and shall not be amended thereafter. The approved minutes shall be considered the official record of the council and shall be permanently retained by the city recorder. (Ord. 1028 § 1 (part), 2013; Ord. 904 § 1 (part), 1999)

2.05.095

Boards, committees and commissions.

A. City Council Committees. When the need arises, and with the advice and consent of the Council, the Mayor shall create committees to advise the full city council on specific issues. The Mayor shall appoint members to these committees which shall include at least one councilor and

may include citizen members, as would best serve the needs of the council on the particular issue. These committees shall address only the assigned topic. After the assigned issue is researched, evaluated and discussed, the committee shall make a recommendation on the issue to the council. When the council has disposed of the matter, the committee shall be automatically disbanded.

B. Citizen Advisory Committees. If the council chooses to have citizen advisory committees, it shall commission such committees by a resolution which will detail any such committee's mission, membership, terms of office, authority, officers, keeping of minutes, manner of reporting to the council, and other administrative matters. Each citizen advisory committee shall be chaired by a member of the city council who has been nominated by the mayor and approved by the city council to serve as the chair. Citizen nomination to a citizen advisory committee shall be by application to the mayor. Appointment shall occur by approval of a nomination by a vote of the city council. Citizen advisory committees shall be advisory to the council on specific matters or issues and may not operate, manage, administer or expend funds on any city program or service. The city manager shall assign city staff to each advisory committee to assist the committee with agenda notices, minutes and other administrative matters. Members of such committees shall be residents of the City; provided, that the Mayor may nominate and the Council may approve one nonresident of the City to serve on each committee.

C. Boards, Committees and Commissions. Boards, committees and commissions which are mandated by provisions of state statute shall be commissioned by ordinance of the city. The ordinance shall detail the group's mission, membership, terms of office, authority, officers, and other administrative matters. Such groups include, but are not limited to, the library board, the planning commission, the budget committee, the contract review board and other groups which may, from time to time, be required by a superior government. While the library director serves as staff for the Library Board, the city manager shall assure staff assistance is provided with preparation of agenda, meeting notices and preparation of minutes for these groups. Meetings of such boards, committees and commissions shall be recorded; audio to be posted on the City's website no later than five (5) working days after conclusion of the meeting. Written minutes of these meetings shall be made available to the public within a reasonable time following each meeting.

D. For all boards, committees and commissions serving in an advisory capacity, if a meeting duly called of the board, committee or commission fails to achieve quorum, the agenda item(s) for that meeting shall be placed on the agenda of the next regularly scheduled city council meeting. Staff may utilize Council created committees to seek input on issues that have been delegated to staff by the Council; provided, that staff informs the Council at its next regular meeting of the issue about which staff sought advice and the advice provided to staff by committee members.

E. Unless otherwise set forth in another City ordinance, the City Charter or state law, an appointed position on a City board, committee or commission becomes vacant upon: (1) the incumbent having been absent from twenty-five percent (25%) or more of the meetings of his or her board, committee or commission in any calendar year as determined on December 31 of each year by the City Recorder; (2) upon the incumbent having been absent from two consecutive meetings of his or her board, committee or commission; and (3) upon the incumbent having been absent from two meetings of his or her board, committee or commission in a calendar year without having provided advance notice of the intended absence to the City Manager, City Recorder

or presiding officer of the board, committee or commission. (Ord. 1028 § 1 (part), 2013; Ord. 1019, 2012; Ord. 1017 § 8, 2011; Ord. 1005 § 1, 2010; Ord. 946 § 1, 2003)

2.05.100

2.05.100

Conflicts of interest.

Generally, conflicts of interest arise in situations where a Council member, as a public official, has an actual or potential financial interest in the matter before the Council. A relative means the spouse, children, siblings or parents of the public official or public official's spouse. By law, a Council member must publicly announce potential and actual conflicts of interest and, in the case of an actual conflict of interest, must refrain from participating in debate on the issue and from voting on the issue. For purposes in understanding and determining if a conflict of interest exists, there shall be three definitions as follows:

A. Actual Conflict of Interest. An actual conflict of interest exists when a City Councilor's actions related to his or her current duties and/or responsibilities would result in a private pecuniary benefit or detriment to the Councilor; the Councilor's relative; or a business with which the Councilor or the Councilor's relatives are associated. In addition, Oregon Government Ethics laws prohibit Councilors from using or attempting to use their official position or office to obtain financial gain or avoidance of financial detriment for themselves, their relatives or members of their households, or any business with which the Councilor or a relative or member of the household of the Councilor is associated, if the financial gain or avoidance of financial detriment would not otherwise be available but for the public official's holding of the official position or office.

B. Potential Conflict of Interest. A potential conflict of interest exists when a Councilor takes action that could have a financial impact on that official, a relative, or a business with which the Councilor or Councilor's relative is associated.

C. Perceived Conflict of Interest. A perceived conflict of interest exists when a Councilor's private interests, bias or personal involvement in other activities and organizations, whether compensated or not, could improperly influence the performance of the Councilor's duties in serving the exclusive interests of the City on any particular matter before the City Council. A perceived conflict of interest may exist whether or not a Councilor believes that the private interest, bias or personal involvement in an outside activity or organization actually creates a conflict that requires recusal. (Ord. 1028 § 1 (part), 2013)

2.05.110

Conflicts of interest remedy.

A. Immediately upon calling the meeting to order and at the conclusion of the flag salute, the presiding officer shall ask of the council if any member wishes to declare an actual, potential or perceived conflict of interest on any matter listed on the agenda. Thereafter, the presiding officer shall ask the public whether any member of the public believes a Councilor has an actual, potential or perceived conflict of interest that is required to be disclosed under the Council's rules or state law.

B. In the event an actual conflict of interest exists, the Councilor (by law) must make such declaration, describe the nature of the conflict and recuse him or herself from all discussion and any vote on the matter for which the conflict exists.

C. In the event a potential conflict of interest exists the Councilor (by law) must declare the potential conflict and describe the nature of the conflict prior to any discussion or vote. After declaration, the Councilor may participate in the discussion and may vote.

D. In the event of a perceived conflict of interest, the Councilor must declare and/or acknowledge the perceived conflict and describe the nature of the conflict prior to any discussion or vote. After declaration, the Councilor may participate in the discussion and may vote unless the Councilor, in his or her discretion, determines that a private interest or personal involvement in other activities or organizations precludes the Councilor from serving the exclusive interests of the City in the particular matter in which the perceived conflict exists.

E. Pursuant to Section 2.05.120(A) of this Code, failure of a Councilor to make a disclosure or declaration required by this section shall not result in invalidation of any council act. (Ord. 1028 § 1 (part), 2013)

2.05.120

Effect of rules.

A. These rules shall repeal, rescind and replace all other rules and procedures of the council which may have been formally adopted by resolution or informally adopted by past practice or implied policies. These rules of procedure are adopted for the sole benefit of the members of the city council to assist in the orderly conduct of council business. These rules of procedure do not grant rights or privileges to members of the public or third parties. Failure of the city council to adhere to these rules shall not result in any liability to the city, its officers, agents, and employees, nor shall failure to adhere to these rules result in invalidation of any council act. The city council may, by a majority vote, determine to temporarily waive any of the provisions herein.

B. Unless otherwise provided by state statute, this chapter or an ordinance or resolution commissioning a committee, board or commission, the rules in this chapter shall also apply to all boards, committees and commissions of the council as described in Section 2.05.095 of this code. (Ord. 1028 § 1 (part), 2013; Ord. 946 § 2, 2003; Ord. 904 § 1 (part), 1999. Formerly 2.05.100)

Chapter 2.08**CITY OFFICIALS GENERALLY****Sections:**

- 2.08.010 Department heads designated.**
- 2.08.020 Consent required for outside employment.**
- 2.08.030 Conflict of interest.**
- 2.08.040 Violation—Penalty.**

2.08.010**Department heads designated.**

For the purposes of this chapter, the department heads of the city shall be the city recorder, police chief, fire chief, public utilities superintendent, treatment division superintendent and finance director. (Ord. 875 § 3(B), 1997; Ord. 826 § 2, 1994; Ord. 458 § 1, 1973)

2.08.020**Consent required for outside employment.**

Neither the city manager nor any department head, as defined in this chapter, shall engage in any other gainful employment, occupation or activity except their respective position with the city without the express consent of the common council of the city. (Ord. 458 § 2, 1973)

2.08.030**Conflict of interest.**

Neither the city manager nor any department head shall have any interest in any other business which would conflict with the duties of the city manager or the department head. Any department head in violation of this chapter shall have thirty (30) days from the date of the enactment of the ordinance codified in this chapter in which to divest himself of any interest in any business, corporation or partnership who deals with the city in a capacity which would cause the department head to have a conflict of interest between the department head and the business. (Ord. 458 § 3, 1973)

2.08.040**Violation—Penalty.**

A violation of this chapter is declared to be a misdemeanor punishable by a fine not to exceed three hundred dollars (\$300.00) or imprisonment in the city jail not to exceed thirty (30) days or both. (Ord. 458 § 4, 1973)

2.09.010

Chapter 2.09

CITY MANAGER

Sections:

- 2.09.010** **Definitions.**
- 2.09.020** **City manager—Administrative and rule making authority.**
- 2.09.030** **Appeal procedures.**

2.09.010

Definitions.

For the purposes of this chapter, the following terms are defined as follows:

“City manager” means the city manager or the city manager’s designee.

“Rule” means any written directive, standard, regulation or statement of general applicability issued by the city manager that implements or interprets any city ordinance, or prescribes a city policy, or describes the procedure or practice requirements of any city department or division charged with the enforcement or implementation of a city ordinance. The term includes the amendment or repeal of a prior rule, but does not include:

1. Internal management directives, regulations or statements which do not substantially affect the interest of the public, unless a hearing is required by a city ordinance or other act of the city council;
2. Action by the city directed to other units of government which do not substantially affect the interests of the public;
3. Declaratory rulings of the city manager with respect to the applicability to any person, property or discrete state of facts of any rule or city ordinance enforceable by the city manager;
4. Orders of the city manager;
5. Promulgation or adoption of document forms or other instruments that merely incorporate provisions of existing laws, ordinances and rules; or
6. Establishment of a fee, fine or penalty. (Ord. 951 § 1 (part), 2004)

2.09.020

City manager—Administrative and rule making authority.

A. In addition to authority granted by the City Charter and elsewhere in this code, the city manager shall have the authority to:

1. Administer oaths;
2. Audit records to assure conformance with this code;
3. Certify official acts;
4. Subpoena and require attendance of witnesses at meetings or hearings to determine compliance with this code;
5. Require production of relevant documents;

6. Take testimony of any person by deposition;
7. Adopt rules for implementation of any provisions of this code; and
8. Perform all other acts necessary to administer or enforce the provisions of this code.

B. Notice of Rule Making. Prior to the adoption, amendment, or repeal of any rule, the city shall give notice of intended rule making by:

1. Making copies of the notice of intended rule making available to any person who has requested such notice under subsection G of this section, and to any business which possesses a license issued pursuant to the rule;
2. Publishing the notice of intended rule making in a newspaper of general circulation for at least five days.

C. Contents of Notice. The notice of intended rule making shall state the subject matter and purpose of the intended action in sufficient detail to inform a person that the person's interests may be affected, and the time, place, and manner in which interested persons may present their views on the intended action. This notice shall include:

1. A citation of the city manager's legal authority to promulgate the rule;
2. A statement of the need for the rule and a statement of how the rule is intended to meet the need; and
3. A list of the principal documents, reports, or studies, if any, prepared by or relied upon by the city manager in considering the need for and in preparing the rule, and a statement of the location at which those documents are available for public inspection.

D. Opportunity for Comment. The city shall give interested persons reasonable opportunity of not less than fifteen (15) days to submit data or views in writing. The city manager shall make findings that respond to any written submissions.

E. Adoption of Rule—Compilation. After considering any written comments, the city manager may adopt the rule as originally proposed or with such modifications as the city manager deems appropriate after considering all submitted comments. All administrative rules shall be compiled and retained at the city recorder's office. The city manager shall mail a copy of an adopted rule to all persons who submitted written comments or who specifically requested a copy of the adopted rule in writing, along with a brief explanation of the right to appeal under Section 2.09.030. The city manager shall also promptly provide copies of an adopted rule to the mayor and city councilors. Unless appealed, the rule is final on the sixteenth (16th) day after it is adopted by the city manager.

F. Emergency Rules. Notwithstanding the above, the city manager may adopt, amend, or suspend a rule without prior notice or hearing or upon any abbreviated notice and hearing that he/she finds practicable, if the city manager issues:

1. A statement of findings that failure to act promptly will result in serious prejudice to the public interest or the interest of the parties concerned and the specific reasons for the findings of prejudice;
2. A citation of the city manager's legal authority to promulgate the rule;
3. A statement of the need for the rule and a statement of how the rule is intended to meet the need; and
4. A list of the principal documents, reports, or studies, if any, prepared by or relied upon by the city manager in considering the need for and in preparing the rule, and a statement of the location at which those documents are available for public inspection.

Any adoption, amendment, or suspension under this section is temporary and may not be effective for a period of longer than one hundred eighty (180) days. The adoption of a rule under this section does not preclude the subsequent adoption of an identical rule under the permanent rule adoption procedures.

G. Mailing List. For rules that implement or interpret a provision of the city code, any person may file with the city a written request that the city mail to that person notices given under subsection (B)(1) of this section. Such a written request shall specify the code sections to which

the request for notice applies. Upon receipt of any request, the city shall acknowledge the request, establish a mailing list, and maintain a record of all mailings made pursuant to requests. A request shall be valid for all notices issued under subsection (B)(1) of this section within thirty-six (36) months of the date of receipt by the city and shall thereafter be removed from the mailing list.

2.09.030

H. Petition Requesting Adoption of Rule. Any interested person may petition the city requesting the promulgation, amendment, or repeal of a rule. The city manager may prescribe by rule the form or contents of such petitions and the procedure for their submission, consideration and disposition.

I. Basis for Rule. Unless otherwise provided by ordinance, the adoption, amendment, or repeal of a rule by the city manager need not be based upon or supported by an evidentiary record.

J. Validity of Rules. All rules adopted by the city manager prior to the effective date of the ordinance codified in this section shall continue to be valid and shall not be subject to challenge. After the first effective date of the ordinance codified in this section, all rules shall be adopted in substantial compliance with the provisions of this section in effect on the date the rule is adopted. (Ord. 951 § 1 (part), 2004)

2.09.030

Appeal procedures.

A. Unless a different appeal process is provided in this code, a person aggrieved by an administrative action of the city manager or the city manager's designee may, within fifteen (15) days after the date of the action, file a written appeal with the city manager. For appeal of an administrative action taken by a designee of the city manager, the appeal shall be heard by the city manager, acting as hearings officer, or by a hearings officer appointed by the city manager. For appeal of an administrative action taken by the city manager, the appeal shall be heard by the city council or by a hearings officer appointed by the city council. The written appeal shall be accompanied by a fee as established by a resolution of the city council and shall state:

1. The name and address of the appellant;
2. A description of the administrative action being appealed;
3. The reason the action was incorrect; and
4. What the correct action should be.

An appellant who fails to file such a statement within the time permitted waives all objections to the action, and the appeal shall be dismissed. Except as provided in subsection F of this section, an appeal fee is not refundable.

B. If a notice of revocation of a license or permit is the subject of the appeal, the revocation does not take effect until final determination of the appeal. Notwithstanding this subsection, an emergency suspension shall take effect upon issuance of, or such other time stated in, the notice of suspension.

C. Unless the appellant and the city agree to a longer period, an appeal shall be heard within thirty (30) days of the receipt of the notice of intent to appeal. At least ten days prior to the hearing, the city shall mail notice of the time and location thereof to the appellant.

D. The decision maker shall hear and determine the appeal on the basis of the appellant's written statement and any additional evidence the decision maker deems appropriate. At the hearing the appellant may present testimony and oral argument personally or by counsel. The rules of evidence as used by courts of law do not apply.

E. If the appeal is from a denial of a business license or other license or permit, the applicant shall carry the burden of proving entitlement to the license or permit and wherein the city erred in its denial. If the appeal is from a revocation or suspension of a business license or other license or permit, the city shall carry the burden of proving that the revocation or suspension was proper. In all other cases, the burden of presenting evidence to support a fact or position rests on the proponent of the fact or position.

F. The decision maker shall issue a written decision within ten days of the hearing date. The decision is final, and may include a determination that the appeal fee be refunded to the applicant if the decision maker makes a finding that such refund is in the public interest. (Ord. 951 § 1 (part), 2004)

Chapter 2.12

OFFICIAL MISCONDUCT

Sections:

- 2.12.010** **Performance review by council.**
- 2.12.020** **Council to receive communications of misconduct—Referral to city manager.**
- 2.12.030** **Termination.**
- 2.12.040** **Applicability.**

2.12.010

Performance review by council.

The city council, as the governing legislative body of the city, has the responsibility of reviewing at its discretion the performance of the city manager, the municipal judge, the city attorney and any member of any council-created board, committee, commission or other appointive body and of any person appointed by the council to represent the council when dealing with other agencies or groups. (Ord. 740 § 1, 1988)

2.12.020

Council to receive communications of misconduct—Referral to city manager.

The council may receive at public meetings, according to the agenda, or may receive in private conversations with any member of the council, communications regarding official misconduct including any unlawful acts, any failure to adhere to council policies, or any other decision that adversely affects the public confidence in city government, committed by a city official, employee or representative.

Any communications received by the council regarding a city employee's behavior shall be referred to the city manager for appropriate action. All allegations of official misconduct by appointees of the council may be presented to the council or any member thereof. (Ord. 740 §§ 2, 3, 1988)

2.12.030

Termination.

A. The council may terminate the term of any member of a board, committee, commission or other appointive body for the following reasons:

1. Adjudicated incompetence;
2. Conviction of an offense the potential penalty for which includes incarceration for one year or more;
3. An abuse or offense pertaining to his office; or

2.12.040

4. Any matter or conduct which, in the opinion of the council, creates animosity, impedes the job of the particular body or tends to render the city ineffective or open to ridicule.

B. The term of any member of a board, committee, commission or other appointment body is automatically terminated in the following circumstances:

1. Death; or

2. Unexcused absence from two consecutive meetings duly called of the board, committee, commission or other appointive body. (Ord. 1005 § 2, 2009; Ord. 740 § 4, 1988)

2.12.040

Applicability.

The procedures established by Section 2.12.020 apply to city employees only when the personnel rules and collective bargaining agreements of the city fail to provide an adequate remedy. (Ord. 740 § 5, 1988)

2.16.010

Chapter 2.16

PUBLIC LIBRARY

Sections:

- 2.16.010** **Established.**
- 2.16.020** **Library board members—Terms.**
- 2.16.030** **Library board—Officers.**
- 2.16.040** **Library board—Duties.**
- 2.16.050** **Vested interest—Reimbursement.**
- 2.16.060** **Donations.**

2.16.010

Established.

The public library of the city is declared to be established and shall be controlled and governed by a library board which shall be appointed by the city council. (Ord. 550 § 1, 1977)

2.16.020

Library board members—Terms.

The library board shall consist of five members. At the expiration of the term of any member of the library board, the council shall appoint a successor for a term of four years. In case of a vacancy on the library board, the council shall appoint a new member to fill the unexpired term of the member whose office is vacant. Terms of members shall be on a rotation basis to expire two each year, except the third year when one shall expire. Succeeding appointees shall hold office from January 1st in the year of their appointment. (Ord. 1009 § 1, 2010; Ord. 989 § 1, 2008; Ord. 550 § 2, 1977)

2.16.030

Library board—Officers.

The library board shall elect a chairman from among its members who shall serve for a term of one year. The librarian shall serve as secretary to the board and keep a record of its actions. (Ord. 550 § 3, 1977)

2.16.040

Library board—Duties.

The duties of the library board shall be as follows:

- A. To formulate rules and policies for the governance of the library;
- B. To prepare and submit an annual budget request;

2.16.050

C. To accept, use or expend any real or personal property or funds donated to the library, or purchase, control or dispose of real and personal property as necessary for the purposes of the library, except that each donation shall be administered in accordance with its terms, and all property or funds shall be held in the name of the city council;

D. To select sites for public library buildings or for the location of library facilities;

E. To carry on such other activities as the council may assign;

F. Any expenditures for library purposes shall be reviewed and approved by the city council for conformity with budgetary practices and shall be paid and audited in the same manner as other funds of the city. (Ord. 930 § 1, 2001; Ord. 550 § 4, 1977)

2.16.050

Vested interest—Reimbursement.

No member of the public library board, nor of the city council, shall have any financial interest, either directly or indirectly, in any contract to which the library is a party, nor shall he receive a salary or any payment for materials or for service rendered to the board. No more than one elective officer of the city shall serve at one time as a member of the public library board. Board members may receive reimbursement for expenses incurred in the performance of their duties. (Ord. 550 § 5, 1977)

2.16.060

Donations.

All persons desiring to make donations of money, personal property or real estate for the benefit of the Sutherlin public library, shall have the right to vest the title thereto in the name of the library to be controlled by the public library board, according to the terms of the deed, gift, devise or bequest, and as to such property the library board shall be held and considered to be special trustees. All such property and funds shall be held in the name of the city, but the earnings from such holdings shall accrue to the library under the control of the library board. (Ord. 550 § 6, 1977)

2.20.010

Chapter 2.20

MUNICIPAL COURT

Sections:

- 2.20.010** Right to trial by jury.
- 2.20.020** Number of jurors.
- 2.20.030** Qualification of jurors.
- 2.20.040** Preliminary jury list.
- 2.20.050** Jury box.
- 2.20.060** Drawing of jury.
- 2.20.070** Jurors—Failure to appear.
- 2.20.080** Peremptory challenges.
- 2.20.090** Summons to jurors.
- 2.20.100** Trial jury.
- 2.20.110** Conduct of trials.
- 2.20.120** Verdicts.
- 2.20.130** Payment of jurors.
- 2.20.140** Powers of the municipal judge—Municipal judge—General responsibilities.
- 2.20.150** Imprisonment—Credit against fine.
- 2.20.155** Right to counsel.
- 2.20.160** Court-appointed attorney—Fee.
- 2.20.170** Schedule of court costs and fines—Imposition of costs and schedule.

2.20.010

Right to trial by jury.

Any person accused of any offense defined and made punishable by incarceration, pursuant to the City Charter or any ordinance of this city or laws of this state, shall have the right to trial by jury in the municipal court unless waived in writing. (Ord. 1018 § 1, 2012; Ord. 407 § 1, 1971; Ord. 235 § 1, 1959)

2.20.020

Number of jurors.

The jury shall consist of six persons duly sworn to try the cause for which they are called; and the jurors shall be selected as hereinafter provided. (Ord. 235 § 2, 1959)

2.20.030

Qualification of jurors.

The qualifications of all prospective jurors for the municipal court shall be the same qualifications as prescribed in ORS 10.030. In addition, a prospective juror must be an inhabitant of

the city and a registered voter at the time he/she is summoned. (Ord. 1018 § 2, 2012: Ord. 235 § 3, 1959)

2.20.040**Preliminary jury list.**

A. The court clerk shall prepare or cause to be prepared a preliminary jury list commencing on January 1st and July 1st of each year. The sources of this list may be the most recent list of electors of the city from records furnished by the Douglas County Clerk's Office—Elections Department, the Oregon Motor Vehicles Division, the tax roll compiled most recently, or any other sources which, in the judgment of the municipal judge, meet constitutional and statutory standards. The list must include all or a random selection of potential jurors from the sources selected. A random selection may be made by manual or electronic means.

B. The court clerk shall prepare or cause to be prepared a jury list from the preliminary jury list. The number of names to be placed on the jury list shall be at least 150 names.

C. As needed for a scheduled jury trial, the court clerk shall select and notify jurors on the jury list to serve in a scheduled jury trial. Such selection shall be made on a random basis by manual or electronic means. (Ord. 1018 § 3, 2012: Ord. 235 § 4, 1959)

2.20.050**Jury box.**

The municipal judge or, under his/her direction, the court clerk, shall keep a jury box. After the jury list has been made, the municipal judge or the court clerk shall prepare separate slips containing the name of each person on the jury list. The slips shall be included in the jury box for jury selection. (Ord. 1018 § 4, 2012: Ord. 235 § 5, 1959)

2.20.060**Drawing of jury.**

When a jury is requested, the municipal judge or, under his/her direction, the court clerk shall draw six slips from the jury box of the 15 summoned potential jurors, in the presence of the city prosecutor as well as the defendant and/or the defendant's attorney, to be seated. Each of the 6 jurors shall be seated in sequential number order beginning with the number one. (Ord. 1018 § 5, 2012: Ord. 407 § 2, 1971: Ord. 235 § 6, 1959)

2.20.070**Jurors—Failure to appear.**

It shall be unlawful for any person who has been served with a lawful summons or subpoena to willfully, or without a prior excuse based upon good cause and approved by the municipal court, fail to appear as required. The municipal judge may hold any prospective juror who disregards a summons for jury duty in contempt of court and may punish said juror by a fine or imprisonment, or both. (Ord. 1018 § 6, 2012: Ord. 235 § 7, 1959)

2.20.080**Peremptory challenges.**

The defendant and the city will select the jury by each striking up to three potential jurors, alternately, commencing with the defendant. For each potential juror who is stricken, the municipal judge or, under his/her direction, the court clerk shall draw another slip from the jury box of the 15 summoned potential jurors as a replacement. This process shall continue until the defendant and the city have exercised all their desired peremptory challenges, but in no event shall either party exercise more than three. After seating six jurors, the municipal court may appoint alternate jurors from the remaining slips in the jury box. No alternate juror shall be summoned to serve at the trial of the action except when six principal jurors are not available. (Ord. 1018 § 7, 2012: Ord. 235 § 8, 1959)

2.20.090**Summons to jurors.**

A. When a jury is requested, the municipal judge or, under his/her direction, the court clerk shall draw 15 slips from the current jury list of all eligible potential jurors. The court clerk shall summon the jurors for jury duty by giving each of them written notice by mail or by personal service under Oregon Rules of Civil Procedure (ORCP) 7D. The notice shall state the juror is required to appear in the municipal court at the time and place stated in the notice to serve as a trial juror, and provide such other information as the court clerk deems necessary. The written notice shall be issued a reasonable period of time before the day upon which the juror is required to attend.

B. Notwithstanding the notice requirements of subsection (A) of this section, if at the time of trial there are insufficient jurors to complete the jury, the municipal judge may order a peace officer to bring before the judge such persons who qualify as a juror so that the judge may order their participation in the trial before the court. (Ord. 1018 § 8, 2012; Ord. 235 § 9, 1959)

2.20.100

2.20.100

Trial jury.

The six persons drawn and summoned as hereinabove provided shall constitute the jury for the trial of the cause then pending before the municipal court of the city. Neither party shall be entitled to a peremptory challenge as to any of the six jurors but if any of the six jurors are found to be disqualified by challenge for cause, their places on the jury shall be filled by drawing from the jury box by the municipal judge in the manner hereinabove stated and subject to being disqualified for cause. (Ord. 235 § 10, 1959)

2.20.110

Conduct of trials.

Trials shall be conducted as trials in justice courts and the rules of evidence shall be the same as in state courts and shall include applicable statutes of the state regarding the introduction or admission of evidence. (Ord. 235 § 11, 1959)

2.20.120

Verdicts.

All jurors sworn to try the cause must concur to render a verdict. (Ord. 875 § 3(C), 1997: Ord. 235 § 12, 1959)

2.20.130

Payment of jurors.

Those jurors notified and who appear at trial shall receive compensation from the city in the amount stipulated by ORS 10.061 for each day of attendance upon the municipal court. (Ord. 927 § 1, 2001: Ord. 235 § 14, 1959)

2.20.140

Powers of the municipal judge—Municipal judge—General responsibilities.

A. The municipal judge shall be the judicial officer of the city and shall hold court within the city known as the Sutherlin Municipal Court. The judge shall exercise original jurisdiction over all crimes and offenses committed in the city and made punishable by this code.

B. The municipal judge shall have all the inherent and statutory powers permitted by law to be conferred on the judge, including but not limited to issuing process for the arrest of any person charged with an offense, committing persons to jail for commission of an offense, ordering restitution, requiring a person to post bail pending trial, issuing subpoenas, compelling witnesses to appear and testify in court, compelling obedience of court orders, issuing any process to carry into effect the judgment of the court, punishing people for contempt of court and issuing warrants.

C. The municipal judge may, in the judge's sole discretion, authorize the police chief or the chief's designee to cite and release a person pursuant to a misdemeanor security release agreement if the police chief or the chief's designee has probable cause to believe that the person has committed a misdemeanor. The security release agreement shall be on a form authorized and provided by the court. Unless otherwise permitted by the municipal judge, the chief or the chief's designee shall have no authority to issue conditions upon a person conditionally released other than those set forth on the form authorized and provided by the court. (Ord. 1033 § 1, 2013: Ord. 1018 § 9, 2012: Ord. 235 § 15, 1959)

2.20.150

Imprisonment—Credit against fine.

Whenever a person has been fined for violation of any ordinance of the city, or a state statute under the jurisdiction of the municipal court, and the person has been held in con-tempt for nonpayment of a fine, there shall be given credit against the fine the sum of at least twenty-five dollars (\$25.00) for every day the person is confined or imprisoned. (Ord. 543 § 1, 1977)

2.20.155

Right to counsel.

Any person charged with an offense for which the person could, if convicted, be sentenced to jail shall have the right to an attorney.

The municipal judge shall allow a person charged with such an offense reasonable time and opportunity to obtain counsel. (Ord. 1018 § 10, 2012)

2.20.160**Court-appointed attorney—Fee.**

The municipal judge shall appoint suitable legal counsel for a person who is charged with an offense for which the person could, if convicted, go to jail, provided it appears to the judge that the person charged is without financial means to obtain legal counsel and the person charged with the offense:

- A. Requests appointment of legal counsel;
- B. Files a verified financial statement with the court and provides other information under oath showing that the person is financially unable to retain legal counsel;
- C. Provides any information requested by the court regarding the person's inability to obtain legal counsel; and
- D. Agrees to pay the court appointed attorney's fees as part of the person's sentence, if the person is convicted. (Ord. 1018 § 11, 2012; Ord. 927 § 2, 2001; Ord. 587 § 1, 1978)

2.20.170**Schedule of court costs and fines—Imposition of costs and schedule.**

Whenever the judge of the municipal court of the city imposes a fine or orders bail forfeiture as a penalty for the violation of any city ordinance, including violation of state law punishable in the municipal court, court costs shall be paid by and collected from the defendant(s) as provided in the Sutherlin Municipal Code. (Ord. 1018 § 12, 2012; Ord. 928 § 1, 2001; Ord. 689 §§ 1—3, 1982)

2.24.010

Chapter 2.24

PLANNING COMMISSION

Sections:

- 2.24.010** Created.
- 2.24.020** Members, terms of office, and vacancies.
- 2.24.030** Election of officers.
- 2.24.040** Public officers.
- 2.24.050** Compensation.
- 2.24.060** Quorum—Rules, regulations and procedures.
- 2.24.070** Duties.
- 2.24.080** Expenditure of funds.

2.24.010

Created.

There is created a planning commission for the city, pursuant to the authority granted to the city by ORS Chapter 227. (Ord. 1020 § 1, 2012; Ord. 470 § 1, 1974)

2.24.020

Members, terms of office, and vacancies.

A. Members. The Commission shall consist of seven members appointed by the city council. At least six of the members must be residents of the city; the other member may reside outside city limits, but must reside within the urban growth boundary of the city. No more than two members may engage principally in the buying, selling or developing of real estate for profit as individuals, or be members of any partnership or officers or employees of any corporation, that engages principally in the buying, selling or developing of real estate for profit; and not more than two members shall be engaged in the same kind of occupation, business, trade or profession. Not more than two members of the Commission may be city officers, who shall serve as ex officio nonvoting members.

B. Term of Office. Except for appointments to fill the remainder of an unexpired term, all members of the Commission shall be appointed for a term of four years. Notwithstanding, a member of the Commission may be removed by the city council, after hearing, for misconduct or nonperformance of duty.

C. Vacancies. All vacancies in the Commission, whether by expiration of term, resignation, removal from office or otherwise, shall be filled by appointment by the city council pursuant to this Code. (Ord. 1020 § 2, 2012; Ord. 470 § 2, 1974)

2.24.030

Election of officers.

The city planning commission, at its first meeting, shall elect a chair and a vice chair, who shall be members appointed by the city council and who shall hold office during the pleasure of the commission. (Ord. 1020 § 3, 2012: Ord. 470 § 3, 1974)

2.24.040

Public officers.

Members of the planning commission shall abide by state and local laws and regulations governing public officers, including, but not limited to, ORS Chapter 244. (Ord. 1020 § 4, 2012)

2.24.050

Compensation.

Members of the city planning commission shall receive no compensation. (Ord. 1020 § 5, 2012: Ord. 470 § 4 (part), 1974)

2.24.060**Quorum—Rules, regulations and procedures.**

A majority of the planning commission shall constitute a quorum. The city planning commission may make and alter rules and regulations for its government and procedure consistent with the laws of the state of Oregon and with the City Charter and ordinances of the city, including, but not limited to, Chapter 2.05 of this Code, and shall meet at least once a month, at such times and places as may be fixed by the commission. Special meetings may be called at any time by the president or by three members by written notice served upon each member of the commission at least three hours before the time specified for the proposed meeting. (Ord. 1020 § 6, 2012; Ord. 470 § 5, 1974)

2.24.070**Duties.**

The Commission shall have all powers and duties enumerated in ORS Chapter 227, this Code, and the city's Development Code. (Ord. 1020 § 7, 2012; Ord. 470 § 7, 1974. Formerly 2.24.090)

2.24.080**Expenditure of funds.**

The city planning commission shall have no authority to make any expenditure on behalf of the city, or to obligate the city for the payment of any sums of money. (Ord. 1020 § 8, 2012; Ord. 470 § 15, 1974. Formerly 2.24.150)

2.32.010

Chapter 2.32

SUTHERLIN URBAN RENEWAL AGENCY

Sections:

2.32.010 **Created.**

2.32.020 **Governing body.**

2.32.010

Created.

There is created a public body corporate and politic to be known as the Sutherlin urban renewal agency. Such agency shall have and exercise all powers granted to it under ORS Chapter 457 and related state law. (Ord. 759 § 2, 1989; Ord. 757 § 2, 1989)

2.32.020

Governing body.

The planning commission of the city shall act as the governing body for the Sutherlin urban renewal agency. When acting as the Sutherlin urban renewal agency, the planning commission shall act for the agency only and not for the city.

When the planning commission is required by any other ordinance of the city to act upon a development application for real property owned by the renewal agency or for a project to which the renewal agency has committed agency funds, the planning commission shall not consider the development application. Such applications shall be presented to the council for its decision which shall be made according to the standards required of the planning commission for that type of development. The decision of the council shall be final. (Ord. 759 § 3, 1989; Ord. 757 § 3, 1989)

Chapter 2.36

LOCAL CONTRACT REVIEW BOARD

Sections:

- 2.36.005 Public contracts—Definitions.**
- 2.36.010 Local contract review board.**
- 2.36.020 Powers.**
- 2.36.025 Public contracts—Council regulations.**
- 2.36.030 Public contracts—City manager and city contracts.**
- 2.36.035 Public contracts—Model rules.**
- 2.36.040 Public contracts—Exempt contracts.**
- 2.36.045 Public contracts—Goods and services.**
- 2.36.050 Public contracts—Negotiation.**
- 2.36.070 Public contracts—Personal services contracts.**
- 2.36.075 Public contracting—Concession agreements.**
- 2.36.095 Public contracting—Review of prequalification and debarment decisions.**
- 2.36.100 Coordination with state public contracting laws.**

2.36.005

Public contracts—Definitions.

As used in this chapter:

“Concession agreement” means a contract between the city and a privately owned business for the operation of a specific retail business in a public facility, and under which the business owner agrees to make periodic payments structured as rental or concession fees. The term “concession agreement” does not include a franchise, license or permit for the use of a public way or any business franchise, license or permit issued under a provision of this code other than this chapter.

“Emergency” means circumstances that create a substantial risk of loss, damage, interruption of services or threat to the public health or safety that require prompt execution of a contract to remedy the condition. In cases of emergency, the city manager may excuse a contractor from the city’s requirement of furnishing a good and sufficient performance bond and a good and sufficient payment bond for the faithful performance of any public improvement contract.

“Goods” means any item or combination of supplies, equipment, materials or other personal property, including any tangible, intangible and intellectual property and rights and licenses in relation thereto.

“Model rules” means the public contracting rules of procedure promulgated by the Oregon Attorney General, as the same may be, from time to time, amended or revised pursuant to Oregon public contracting laws.

“Personal service contract” means a contract primarily for the provision of services that require specialized technical, creative, professional or communication skills or talents, unique and specialized knowledge, or the exercise of discretionary judgment skills, and for which the quality

of the service depends on attributes that are unique to the service provider. Such services include, but are not limited to, the services of architects, engineers, attorneys, auditors and other licensed professionals, artists, designers, computer programmers, performers, consultants, and property managers. For any single contract or class of contracts, the purchasing agent shall have discretion to determine whether additional types of services not specifically mentioned in this paragraph are personal services.

2.36.010

“Public Contracting Code” means the provisions of ORS chapters 279A, 279B, and 279C.

“Purchasing agent” means the city manager or the city manager’s designee.

“Services” means all labor and services other than personal services.

“Solicitation” means any invitation to one or more potential contractors to submit a bid, proposal, price quote, statement of qualifications or letter of interest to the city with respect to a proposed project, procurement or contracting opportunity. The word “solicitation” also refers to any competitive process by which the city screens and selects contractors for public contracts that are subject to this chapter. (Ord. 959 § 1, 2005; Ord. 948 § 1 (part), 2004)

2.36.010

Local contract review board.

The council of the city is designated as the local contract review board pursuant to ORS 279.055. (Ord. 933 § 1 (part), 2001)

2.36.020

Powers.

When the ordinance codified in this chapter is fully adopted and filed with the board of county commissioners, the local contract review board shall exercise all powers and perform all duties of a local contract review board under ORS chapter 279. (Ord. 933 § 1 (part), 2001)

2.36.025

Public contracts—Council regulations.

A. Public Contracting Rules. This chapter declares the regulations, policies and rules of the council in its capacity as contracting agency and contract review board regarding the solicitation and award of public contracts for the procurement of goods and services, including personal services and public improvements, and for the solicitation and award of concession agreements. The regulations, policies and rules of the council are intended to comply with and fully implement all provisions and authority granted to local contracting agencies under the Public Contracting Code and shall be interpreted broadly, in favor of the city’s contracting powers.

B. Manner of Adoption. All regulations and policies of the council described in subsection A of this section or any modification thereto shall be by ordinance or resolution adopted at a regular council meeting in which public testimony is invited. A notice describing the purpose of the proposed ordinance or regulation, the date scheduled for the meeting at which the council will take public testimony, and the place at which the ordinance or resolution may be viewed prior to the meeting shall be published in a newspaper of general circulation in the city. At the meeting, the council shall adopt, modify or reject the ordinance.

C. Annual Review. As part of the city’s annual audit, the city manager’s application and performance of the council’s regulations and policies regarding city contracts and the purchasing agent’s rules, regulations and procedures shall be reviewed.

D. Validity of Rules. All rules adopted by the city council prior to the effective date of the ordinance codified in this section shall continue to be valid until repealed or amended by the city council and shall not be subject to challenge. All rules adopted after the first effective date of the ordinance codified in this section shall be adopted in substantial compliance with the provisions of this section in effect on the date the rule is adopted. (Ord. 959 § 2, 2005; Ord. 948 § 1 (part), 2004)

2.36.030**Public contracts—City manager and city contracts.**

A. General Authority. The city manager or the manager's designee shall be the contracting and purchasing agent for the city and is hereby authorized to award all city contracts for which there is an appropriation and to execute and deliver all such contracts on behalf of the city. The awarding of city public contracts shall conform to this code and to the mandates of state law relating to the awarding of public contracts.

B. Notwithstanding the authority granted to the City Manager as purchasing agent under subsection A of this section, and except as provided below, City Council approval is required for all contracts with a total amount in excess of \$25,000 and for all other purchases with a total amount in excess of \$15,000. The City Council approval required by this subsection does not apply to payments in excess of \$25,000 under a contract previously approved by the City Council or to reoccurring purchases in excess of \$15,000 when the City Council previously approved the City's use of the supplier of the goods or services. The City Council's approval of contracts or purchases under this subsection requires an affirmative vote of the majority of Council members present at a public meeting.

C. Purchasing Agent Regulations. The purchasing agent may develop forms and promulgate rules, regulations, procedures and modifications thereto reasonably necessary to accomplish the purposes of this chapter and regulations adopted thereunder. In promulgating such rules, regulations and procedures, the purchasing agent shall establish practices and procedures that:

1. Do not encourage favoritism or substantially diminish competition;
2. Allow the city to take advantage of the cost-saving benefits of alternative contracting methods and practices;
3. Give preference to goods and services that have been manufactured or produced in the state of Oregon if price, fitness, availability and quality are otherwise equal; and
4. Give preference to goods that are certified to be made from recycled products when such goods are available, can be substituted for nonrecycled products without a loss in quality, and the cost of goods made from recycled products is not significantly more than the cost of goods made from nonrecycled products.

D. Whenever the Oregon State Legislative Assembly enacts laws that cause the Attorney General to modify its model public contract rules, the purchasing agent shall review the city's public contract rules to determine whether any modifications to the rules need to be adopted by the city to ensure compliance with statutory changes.

E. The purchasing agent will adopt rules in accordance with the procedures set forth in Chapter 2.09. (Ord. 1031 § 1, 2013; Ord. 1021 §§ 1—4, 2012; Ord. 948 § 1 (part), 2004)

2.36.035**Public contracts—Model rules.**

The model rules shall be superseded by any procedure or practice that is described in this chapter, rules or orders of the city's contract review board, or rules promulgated under Section

2.36.030. In all other cases, the model rules shall be the city's contracting rules. (Ord. 948 § 1 (part), 2004)

2.36.040

Public contracts—Exempt contracts.

The following classes of contracts are exempt from application of the Public Contracting Code and are also exempt from all provisions of this chapter except for Sections 2.36.025 and 2.36.030 concerning the authority of the city council and the purchasing agent to award and execute city contracts:

A. Contracts between the city and other public bodies or between the city and the federal government;

B. Grants, other than contracts for construction services for which the city has received a grant;

C. Contracts for professional or expert witnesses or consultants to provide services or testimony relating to existing or potential litigation or legal matters in which the city is or may become interested;

D. Acquisitions or dispositions of real property or interests in real property;

E. Contracts for the procurement or distribution of textbooks;

F. Procurements from an Oregon corrections enterprise program;

G. Contracts, agreements or other documents entered into, issued or established in connection with:

1. The incurring of debt by the city, including but not limited to the issuance of bonds, certificates of participation and other debt repayment obligations, and any associated contracts, agreements or other documents, regardless of whether the obligations that the contracts, agreements or other documents established are general, special or limited;

2. The making of program loans and similar extensions or advances of funds, aid or assistance by the city to a public or private body for the purpose of carrying out, promoting or sustaining activities or programs authorized by law;

3. The investment of funds by the city, as authorized by law, and other financial transactions of the city that in the determination of the purchasing agent cannot practically be established under the competitive contractor selection procedures of ORS 279B.050 through 279B.085;

H. Contracts for employee benefit plans as provided in ORS 243.105(1), 243.125(4), 243.221, 243.275, 243.291, 243.303 and 243.565; or

I. Any other public contracting of the city specifically exempted from the Public Contracting Code by another provision of law. (Ord. 959 § 3 (part), 2005)

2.36.045

Public contracts—Goods and services.

A. Contracts for Less Than Twenty-Five Thousand Dollars (\$25,000.00). The purchasing agent may award contracts for goods and services in an estimated amount of up to twenty-five thousand dollars (\$25,000.00) without competitive bidding.

B. Contracts Between Twenty-Five Thousand Dollars (\$25,000.00) and Seventy-Five Thousand Dollars (\$75,000.00). Contracts with an estimated value of between twenty-five thousand dollars (\$25,000.00) and seventy-five thousand dollars (\$75,000.00) shall be awarded using competitive procedures under rules adopted by the purchasing agent.

C. Contracts for More Than Seventy-Five Thousand Dollars (\$75,000.00). Contracts with an estimated value of more than seventy-five thousand dollars (\$75,000.00) shall be awarded using a written solicitation which is advertised in the same manner as provided for public notices of invitations to bid or request for proposals unless competition is limited to members of a qualified contractor pool in accordance with rules adopted by the purchasing agent.

D. Special Procurements. The following classes of contracts may be awarded by direct appointment or any other method which the purchasing agent deems in the best interest of the city. The purchasing agent shall make a written record documenting the manner of selection and the reason why the selection was in the best interest of the city.

1. Insurance contracts.
2. Contracts for copyrighted materials or advertising products.
3. Equipment repair, conversion and overhaul.

4. Contract amendments if the aggregate increase in the contract price does not exceed twenty (20) percent of the original contract amount.

5. Contracts for the purchase of steam, power, heat, water, telecommunications services and other utilities.

6. Contracts for the purchase of price-regulated items.

7. Contracts, for a single period of one year or less, for the temporary extension of an expiring and nonrenewable price agreement or service contract.

8. Contracts under a local government purchasing program administered by the United States General Services Administration.

9. Contracts under joint and permissive cooperative procurements as provided under ORS chapter 279B.

10. Contracts under which the purchasing agent has determined that an emergency exists and immediate execution of a contract is necessary to prevent substantial damage or injury to persons or property. However, where time permits, the purchasing agent shall attempt to use competitive price and quality evaluation before selecting an emergency contractor. The purchasing agent shall document the nature of the emergency and notify the city council of the declaration of emergency, if made, and the facts and circumstances surrounding the emergency execution of the contract, as soon as possible, in light of the emergency circumstances.

E. Brand Name. Bid documents must not expressly or implicitly require the contractor to provide any product by one brand name or mark, nor the product of one particular manufacturer or seller, except for the following reasons:

1. It is unlikely that such exemption will encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts;

2. The specification of a product by brand name or mark, or the product of a particular manufacturer or seller, would result in substantial cost savings to the city;

3. There is only one manufacturer or seller of the product of the quality required; or

4. Efficient utilization or maintenance of existing equipment, supplies or products requires the purchase of one particular manufacturer.

A brand name or equal specification may be used when the use of a brand name or equal specification is advantageous to the city because the brand name describes the standard of quality, performance, functionality and other characteristics of the product needed by the city. The purchasing agent is entitled to determine what constitutes a product that is equal or superior to the product specified, and any such determination is final.

F. Price Agreements. The purchasing agent may enter into contracts for the procurement of goods or services at a set price with no guarantee of a minimum or maximum purchase, or an initial order or minimum purchase combined with a continuing contractor obligation to provide goods or services in which the contracting agency does not guarantee a minimum or maximum additional purchase.

G. Sole Source. Contracts with a goods or services provider who is the sole source of the contract goods or services. The purchasing agent shall make a written record of the facts upon which the provider has been found to be a sole source.

2.36.045

H. Protest of Award. The purchasing agent shall adopt rules for the protest of awards to the city manager. (Ord. 959 § 3 (part), 2005)

2.36.050

2.36.050

Public contracts—Negotiation.

A. When Bids Exceed Estimates. Whenever all bids received under a price-based solicitation method exceed the city's written cost estimate, the purchasing agent may negotiate the contract price with the bidder that has submitted the lowest responsible bid. The purchasing agent may negotiate changes to the goods, project or services that reduce the price as well as changes to contract provisions that are not required by law, so long as the scope of the contract is not changed. For purposes of this section, the scope of a contract is changed if the pool of potential bidders who would qualify to submit bids under a new solicitation would be different from or larger than the pool of potential bidders who were qualified to submit bids under the initial solicitation. Notwithstanding the foregoing, the purchasing agent shall not negotiate with the lowest responsible bidder if the bid submitted by such bidder exceeds the cost estimate by more than twenty-five (25) percent. (Ord. 959 § 3 (part), 2005)

2.36.070

Public contracts—Personal services contracts.

A. General Provisions. The award of contracts for personal services shall be based on an evaluation of all criteria deemed relevant by the purchasing agent, in which price shall not be the only significant criterion.

B. Exemption from Required Competition. The following personal service contracts may be awarded by any method deemed appropriate by the purchasing agent, including, without limitation, by direct appointment, by private negotiation, by lottery from a qualified pool, or by a competitive process:

1. Contracts Under Twenty-Five Thousand Dollars (\$25,000.00). Contracts for which the purchasing agent estimates that payments will not exceed twenty-five thousand dollars (\$25,000.00).

2. Contracts Using Qualified Pools. Contracts of not more than seventy-five thousand dollars (\$75,000.00), when selection is made from a qualified pool maintained by the purchasing agent.

3. Temporary Extensions. Contracts, for a single period of one year or less, for the temporary extension of an expiring and nonrenewable contract.

4. Renewals. Contracts that are being renewed on an annual basis.

5. Contracts for Continuation of Work. Contracts of not more than seventy-five thousand dollars (\$75,000.00) for the continuation of work by a contractor who performed preliminary studies, analysis or planning for the work under a prior contract, if the prior contract was awarded under a competitive process and the purchasing agent determines that use of the original contractor will significantly reduce the costs of, or risks associated with, the work.

6. Arts. Contracts in any amounts for any theatrical or musical performance or for the production of a work of art, music or literature.

2.36.070

7. Sole Source. Contracts with a service provider who is the sole source of the contract services. The purchasing agent shall make a written record of the facts upon which the provider has been found to be a sole source.

C. Contracts for Not More Than Seventy-Five Thousand Dollars (\$75,000.00). Contracts with an estimated value that does not exceed seventy-five thousand dollars (\$75,000.00) shall be awarded using competitive procedures under rules adopted by the purchasing agent.

D. Formal Solicitation. Contracts with an estimated value of more than seventy-five thousand dollars (\$75,000.00) shall be awarded using a written solicitation which is advertised in the same manner as provided for public notices of invitations to bid unless competition is limited to members of a qualified contractor pool in accordance with rules adopted by the purchasing agent.

E. Protest of Award. The purchasing agent shall adopt rules for the protest of awards to the city manager. (Ord. 959 § 4, 2005; Ord. 948 § 1 (part), 2004)

2.36.075

Public contracting—Concession agreements.

A. General. No part of a concession agreement shall contain or constitute a waiver of any generally applicable provision of this code concerning regulation, registration, licensing, inspection, or permit requirements for any construction or business activity.

B. Public Event Concessions. A concession to sell food, beverages, merchandise or services at a single public event shall be awarded based on any method determined by the purchasing agent to provide a fair opportunity to all persons desiring to operate a concession. Such methods may include, but shall not be limited to, direct appointment, price or proposal competition, rotation from a list of prequalified concessionaires, or a lottery selection process.

C. Solicited Concession Agreements. Concession agreements solicited by the city for the use of designated public premises for a term greater than a single event shall be awarded as follows:

1. For concession agreements under which the concessionaire's projected annual gross revenues are estimated to be three hundred thousand dollars (\$300,000.00) or less, the purchasing agent has discretion to use either the informal or formal request for proposal process applicable to contracts for personal services. If the proposals received indicate a probability that the concessionaire's annual gross revenues will exceed three hundred thousand dollars (\$300,000.00), the purchasing agent may, but shall not be required to, reissue the solicitation as a formal solicitation.

2. Concession agreements for which the concessionaire's projected annual gross revenues are estimated to exceed three hundred thousand dollars (\$300,000.00) annually shall be awarded using the formal request for proposal process applicable to contracts for personal services.

D. Sole Sources. The purchasing agent may award a concession agreement without competition if the purchasing agent determines that the concession provider is a sole source. The purchasing agent shall keep a record of the facts upon which the determination of sole source was made. (Ord. 948 § 1 (part), 2004)

2.36.095

Public contracting—Review of prequalification and debarment decisions.

A. Every notice of a decision on prequalification or a decision to debar a prospective contractor from submitting bids or proposals shall describe the procedure for appeal in this section.

B. The prospective bidder or proposer that is the subject of a decision on prequalification or debarment may, within three business days after receipt of the notice of decision, notify the purchasing agent that the prospective bidder or proposer appeals the decision as provided in this section.

C. Immediately upon receipt of the prospective bidder's or proposer's notice of appeal, the purchasing agent shall notify the city council.

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D. Upon receipt of the notice of appeal, the city council shall set a date for a hearing and promptly notify the person appealing and the purchasing agent of the time and place of the hearing. The city council shall conduct the hearing and decide the appeal within thirty (30) days after receiving the notice from the purchasing agent. The city council shall set forth in writing the reasons for the hearing decision.

E. At the hearing the city council shall consider de novo the notice of denial, revocation or revision of a prequalification or the notice of debarment, the standards of responsibility on which the contracting agency based the denial, revocation or revision of the prequalification or the reasons for the debarment, and any evidence provided by the parties.

F. The city council shall hear and determine the appeal on the basis of the appellant's written and oral statements and any additional evidence the city council deems appropriate. At the hearing the appellant may present testimony and oral argument personally or by counsel. The rules of evidence as used by courts of law do not apply.

G. The city council may allocate the city's costs for the hearing between the person appealing and the city. The allocation shall be based upon facts found by the city council and stated in the final order that, in the city council's opinion, warrant such allocation of costs. If the final order does not allocate the costs for the hearing, the costs shall be paid as follows:

1. If the decision to deny, revoke or revise a prequalification of a person as a bidder or proposer or member of a prequalified pool, or the decision to debar a person is upheld, the costs shall be paid by the person appealing the decision.

2. If the decision to deny, revoke or revise a prequalification of a person as a bidder or proposer or member of a prequalified pool, or the decision to debar a person is reversed, the costs shall be paid by the city. (Ord. 948 § 1 (part), 2004)

2.36.100

Coordination with state public contracting laws.

The city council intends that all sections of this chapter that are enacted or amended under the ordinance codified in this chapter shall be adopted as the city's public contracting rules under ORS chapter 279 and as the city's contracting rules under 2003 Oregon Laws, Chapter 794, Sections 8, 10, 11 and 335. (Ord. 948 § 1 (part), 2004)

Chapter 2.40

SALE OF PERSONAL PROPERTY

Sections:

- 2.40.010 Auction sales of personal property.**
- 2.40.020 Sales of personal property.**
- 2.40.030 Donations of personal property.**

2.40.010

Auction sales of personal property.

Personal property may be sold at auction if the city manager determines that the auction contemplated will probably result in a higher net return to the city than if the property were sold by competitive written bid. (Ord. 721 § 1, 1986)

2.40.020

Sales of personal property.

The city manager may sell personal property, including recyclable or reclaimed materials, without formal competitive bidding if the manager has determined that a negotiated sale will result in increased net revenue to the city and the city manager complies with the following conditions:

A. When the current market value per item is deemed to be less than one thousand dollars (\$1,000.00), the city manager may establish a selling price, schedule and advertise a sale date, and sell to the first qualified buyer meeting the sale terms; or

B. When the current value per item is deemed to exceed one thousand dollars (\$1,000.00), the personal property must be offered for competitive written bid and be advertised in accordance with ORS 279.025 or such other applicable section of state law, or be offered for sale at public auction in accordance with Section 2.40.010. If no bids are received or if it is determined by the city manager that the market value of the property exceeds the offer of the highest responsible bidder, all bids may be rejected and the city manager may negotiate a sale subject to the following conditions:

1. An appraisal of the market value of the property is obtained and documented and the negotiated sales price exceeds the market value, or

2. The sale amount exceeds the highest bid received through the bidding or auction process.
(Ord. 721 § 2, 1986)

2.40.030

Donations of personal property.

A. The city manager may transfer surplus personal property, including recyclable or reclaimed materials, with or without remuneration and without competitive bids to the following:

2.40.030

1. Another public agency; or
 2. Any sheltered workshop, work activity center, or group care home which operates under contract or agreement with, or grant from any state agency which is certified to receive federal surplus property; or
 3. Any recognized nonprofit activity which is certified to receive federal surplus property; or
 4. Recognized private nonprofit social or health service activities.
- B. Transfers under subsection A of this section are subject to the following conditions:
1. A determination has been made that the property is not needed for other public purposes;
- and

2. If the property has a current market value of two hundred fifty dollars (\$250.00) or more, the donation or sale shall:

- a. Be approved by the city council,
- b. Be documented to be clearly in the public interest;

3. The city shall maintain a record of all transfers, donations or sales authorized by this section.
(Ord. 721 § 3, 1986)

2.44.010

Chapter 2.44

PERSONNEL SYSTEM

Sections:

- 2.44.010 Purpose.**
- 2.44.020 Adoption and amendment of rules.**
- 2.44.030 Administration of the rules.**

2.44.010

Purpose.

The ordinance codified in this chapter is adopted to establish an equitable and uniform procedure for dealing with personnel matters; to attract to municipal service and to retain the best and most competent persons available; to assure that appointments and promotions of employees will be based on merit and fitness; and to provide a reasonable degree of job security for qualified employees. (Ord. 591 § 2, 1978)

2.44.020

Adoption and amendment of rules.

Personnel rules shall be adopted and amended by resolution of the common council. The rules shall provide means to recruit, select, develop and maintain an effective and responsive work force, and shall include policies and procedures for employee hiring and advancement, training and career development, job classification, salary administration, retirement, fringe benefits, discipline, discharge and other related activities. All appointments and promotions shall be made in accordance with the personnel rules without regard to sex, race, color, age, religion or political affiliation; and, furthermore, shall be based on merit and fitness. (Ord. 591 § 3, 1978)

2.44.030

Administration of the rules.

The city manager (with the consent of the common council) shall be responsible for:

A. Administering all the provisions of this chapter and of the personnel rules not specifically reserved to the common council.

B. Preparing or causing to be prepared and recommending to the common council personnel rules and revisions and amendments to such rules. (Ord. 591 § 4, 1978)

Chapter 2.45

CRIMINAL BACKGROUND CHECKS

Sections:

- 2.45.010 Purpose.**
- 2.45.020 Criminal background check required.**
- 2.45.030 Process.**
- 2.45.040 Applicants with convictions.**
- 2.45.050 Conformance with state law.**

2.45.010

Purpose.

The criminal background check is intended to identify persons who have demonstrated unsafe, threatening or illegal behaviors and assess their fitness for complying with job and volunteer requirements. (Ord. 952 § 1 (part), 2004)

2.45.020

Criminal background check required.

A. Applicants for all employment positions with the city shall authorize the city to conduct a criminal background check through the Oregon State Police (OSP).

B. Applicants for certain volunteer positions shall authorize the city to conduct a criminal background check through the OSP. Volunteer positions requiring criminal background checks shall be determined by the city manager, based on the duties and responsibilities of the position or public safety.

C. Each employment or volunteer position for which a criminal background check will be required shall be so designated at the time of the opening of the recruitment for that position.

D. The city may make a preliminary offer to the selected candidate; however, any offer is conditional depending on the results of the criminal background check. (Ord. 952 § 1 (part), 2004)

2.45.030

Process.

A. For employment and volunteer positions requiring a criminal background check, candidates will be instructed to complete the criminal records check consent form authorizing the city to conduct the criminal background check. The city manager's office will maintain the criminal background check forms.

B. Once the city has conditionally offered a candidate an employment position or the city has conditionally appointed a volunteer to a position requiring a background check, the city manager's office shall, in accordance with OAR 257-10-025(1), request a written criminal history

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report from the OSP Identification Services Section for that selected candidate and pay the applicable fee for this service. Pursuant to OAR 257-10-025(1)(a), the city's police department may directly access criminal offender information through the Oregon Computerized Criminal History System for all applicants seeking employment with the city's police department.

C. The written criminal history record for persons who are not hired or appointed as volunteers will be retained with the application in the city manager's office for a period of three years and thereafter will be destroyed by shredding.

D. The criminal history record of applicants and volunteers with a criminal history who are hired or appointed will become a part of the confidential personnel file maintained by the city manager's office of that employee or volunteer. Access to confidential personnel files is limited to authorized persons who have an official need to access such files as sanctioned by law or regulation. (Ord. 952 § 1 (part), 2004)

2.45.040

Applicants with convictions.

Applicants seeking employment or appointment as a volunteer who have a felony criminal history or a history of conviction of a misdemeanor involving moral turpitude or theft shall be closely examined by the selecting official(s) to determine if the applicant possesses the required degree of public trust and confidence. Each selection, however, shall be made on an individual, case-by-case basis, taking into account the applicant's qualifications, the requirements of a particular job or volunteer post applied for, and the results of the criminal background check. When reviewing a criminal background record, the city shall:

- A. Evaluate the nature, gravity and frequency of the offense;
- B. Consider the duties of the position the employee holds or is applying for;
- C. Consider the age of the individual at the time of conviction;
- D. Consider the time that has passed since the conviction;
- E. Consider rehabilitation, if any; and

F. Evaluate the employee's entire work record or the applicant's work qualifications in total rather than only one aspect of the individual's history. (Ord. 952 § 1 (part), 2004)

2.45.050

Conformance with state law.

Any action taken pursuant to this chapter shall be done in accordance with ORS 181.555 and OAR 257-10-025, which establishes procedures for access to criminal record information possessed by the Oregon State Police (OSP). (Ord. 952 § 1 (part), 2004)

Chapter 2.55

EMERGENCY CODE

Sections:

- 2.55.010** **Definitions.**
- 2.55.020** **Declaration of state of emergency.**
- 2.55.030** **Emergency interim succession.**
- 2.55.040** **Authority.**
- 2.55.050** **Declaration of nuisance.**
- 2.55.060** **Violation of measure or order.**
- 2.55.070** **Controlling provisions.**

2.55.010

Definitions.

For purposes of this chapter, the following words and phrases mean:

“Disaster” means an occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural, technological or human-made cause including fire, flood, earthquake, windstorm, wave action, oil spill or other contamination, radioactive incident, epidemic, air contamination, blight, drought, infestation, explosion, riot, hostile or paramilitary action, or structure failure of a dam, building or infrastructure, or other public calamity requiring emergency action.

“Emergency” means any human-made, technological or natural event or circumstance causing or threatening loss of life, injury to persons or property, human suffering or financial loss including but not limited to fire, explosion, flood, severe weather, drought, earthquake, volcanic activity, spills or releases of petroleum products or other hazardous material, contamination, utility or transportation emergencies, disease, blight, infestation, civil disturbance, riot, sabotage and war.

“State of Emergency” means a situation which involves an emergency or a disaster. (Ord. 992 § 1 (part), 2008)

2.55.020

Declaration of state of emergency.

- A. The city manager may declare a state of emergency when:
1. An emergency requires a coordinated response beyond that which occurs routinely;
 2. The required response is not achievable solely with the added resources acquired through mutual aid or cooperative assistance agreements; and
 3. The emergency is of a magnitude requiring county, state and/or federal assistance. Local resources, including mutual assistance response, are insufficient to cope with the situation, and

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the incident requires response from other levels of government to protect lives and minimize property damage for a large portion of the population.

B. The city manager shall use an administrative order to declare a state of emergency. Any administrative order declaring a state of emergency shall:

1. Immediately be provided to the city council and mayor;
2. Designate the geographic boundaries of the area where the state of emergency exists; and
3. Fix the duration of time in which the state of emergency shall exist. The initial duration shall not exceed a two-week period, but may be extended for additional periods of two weeks.

2.55.030

C. The city manager may request the Governor to declare a state of emergency within the city. The city manager shall submit the request as provided in state law.

D. The city manager shall terminate the state of emergency in an administrative order when the state of emergency no longer exists or when the threat of an emergency has passed. If the Governor has declared a state of emergency within the city, the city manager shall request the Governor to terminate the declaration.

E. The city council may repeal the city manager's declaration of a state of emergency by majority vote. (Ord. 992 § 1 (part), 2008)

2.55.030

Emergency interim succession.

A. If the city manager, for any reason, is unable or unavailable to perform the duties of office under this code during a state of emergency, the duties shall be performed by the first available of those emergency interim successors as designated by the city manager.

B. The powers of the emergency interim successor to the city manager shall be the same as the city manager and the duration of succession shall be until such time as the city manager is able to perform the duties of office. (Ord. 992 § 1 (part), 2008)

2.55.040

Authority.

Upon the declaration of a state of emergency, in addition to other powers granted to the city manager elsewhere in this code or the City Charter, the city manager may:

A. Designate persons to coordinate the work of public and private relief agencies operating in the area and exclude from the area any person or agency refusing to cooperate and work under the coordinator or to coordinate with other agencies engaged in the emergency work.

B. Regulate, by rationing, freezing, use of quotas, prohibitions on shipments, price fixing, allocation or other means, the sale or distribution of food, feed, fuel, clothing and other commodities, materials, goods and services.

C. Order the removal of debris and wreckage which may threaten the public health or safety on public or private property.

D. Barricade streets and prohibit vehicular or pedestrian traffic, or regulate the same on any public street leading to the area designated as an emergency area for such distance as may be deemed necessary under the circumstances.

E. Prohibit or limit the number of persons who may gather or congregate upon any public street, public place or any outdoor place within the area designated as an emergency area.

F. Establish a curfew for the designated emergency area which fixes the hours during which all persons other than officially authorized personnel may not be upon the public streets or other public places.

G. Prohibit the sale, carrying or possession of any firearms or explosives of any kind on public streets or public places.

2.55.050

H. Establish rent controls and provide temporary or permanent housing by purchase, lease or otherwise and to enter into arrangements necessary to prepare or equip the living units for occupancy.

I. Order the evacuation of persons from designated areas as necessary.

J. Adopt rules for the expeditious issuance of permits necessary to address issues which arise from the emergency or disaster.

K. In accordance with Chapter 2.36 of this code, suspend the applicable public procurement requirements.

L. To the extent sufficient funds are available and budgeted, to redirect city funds to pay expenses incurred as a result of responding to the state of emergency.

M. Appropriate from commercial or industrial businesses merchandise, equipment or vehicles needed to alleviate the emergency. The city shall reimburse the business within 30 days at the customary value charged for the items during the 90-day period before the declaration of the state of emergency. Nothing in this chapter authorizes the city to take an individual's personal property (including food or other goods).

To the extent that the emergency permits, the city manager shall consult with the mayor and a majority of councilors prior to invoking any of the powers under this section. The city manager shall provide the city council with notice of each action the city manager takes pursuant to this section. By majority vote, the city council may override the city manager's decision to invoke a power or take action pursuant to this section. (Ord. 992 § 1 (part), 2008)

2.55.050

Declaration of nuisance.

Debris or wreckage resulting from a natural disaster or emergency situation is declared to be a nuisance and may be abated as such pursuant to Chapter 8.16 of this code. (Ord. 992 § 1 (part), 2008)

2.55.060

Violation of measure or order.

No person shall knowingly violate any emergency measure, regulation or lawful order of an authorized city employee or agent taken pursuant to this chapter. (Ord. 992 § 1 (part), 2008)

2.55.070

Controlling provisions.

In the event of a state of emergency, these code provisions shall control over any conflicting code provisions. (Ord. 992 § 1 (part), 2008)