

## Chapter 2

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**ARTICLE I. IN GENERAL****Secs. 2-1—2-18. Reserved.****ARTICLE II. CITY COUNCIL\*****Sec. 2-19. Time and place of city council meetings.**

The city council shall conduct regular meetings on the first and third Monday of the month in the council chambers at city hall commencing at 7:00 p.m. unless rescheduled to a date not less than seven days after adoption of a resolution passed by the city council which reschedules the regular meeting. Whenever a meeting date falls on a city holiday, the meeting shall be conducted on the next business day.

(Code 1972, § 12.101; Ord. No. 82, § 1, eff. 3-15-1992; Ord. No. 82A, eff. 4-13-2003)

**Charter reference**—Meetings of council, § 4.4.

**Secs. 2-20—2-41. Reserved.****ARTICLE III. OFFICERS AND EMPLOYEES†****Secs. 2-42—2-70. Reserved.**

**\*Charter references**—Legislative power of the City Council, § 4.1; meetings of Council, § 4.4; rules of Council, § 4.6.

**State law references**—Open meetings act, MCL 15.261 et seq.; freedom of information act, MCL 15.231 et seq.

**†Charter references**—General provisions regarding officers and personnel of the city, ch. 5; the administrative service, ch. 6.

**State law references**—Freedom of information act, MCL 15.231 et seq.; standards of conduct and ethics, MCL 15.341 et seq.; conflicts of interests as to contracts, MCL 15.321 et seq.; political activities by public employees, MCL 15.401 et seq.; legal defense of public employees, MCL 691.1408; incompatible offices, MCL 15.181 et seq.; nondiscrimination in employment, MCL 37.2102.

**ARTICLE IV. BOARDS AND COMMISSIONS‡****DIVISION 1. GENERALLY****Secs. 2-71—2-98. Reserved.****DIVISION 2. PLANNING COMMISSION\*\*****Sec. 2-99. Created; designated.**

There is hereby created a planning commission for the city to be designated as the "City of Portland Planning Commission," pursuant to Public Act No. 285 of 1931 (MCL 125.31 et seq.). (Code 1972, § 14.001; Ord. No. 76, § 1, eff. 3-15-1972)

**Sec. 2-100. Composition; appointment of members.**

The planning commission shall consist of seven members to be appointed by the mayor and confirmed by the city council.

(Code 1972, § 14.002; Ord. No. 76, § 2, eff. 3-15-1972; Ord. No. 76A, § 1, eff. 1-13-2011)

**Sec. 2-101. Term of office; removal.**

The term of each member of the planning commission shall be three years except that three members of the first commission shall serve for the term of one year, three for a term of two years and three for a term of three years. All members shall hold office until their successors are appointed and may be removed by the city council for inefficiencies, neglect of duty or malfeasance in office. All three-year terms shall expire on June 30 of the third year next following the appointment.

(Code 1972, § 14.003; Ord. No. 76, § 3, 3-15-1972)

**‡Charter references**—Election commission, § 3.4; planning commission, § 6.9; park and recreation board, § 6.13; board of review, § 7.6; board of light and power, § 12.6; board of library trustees, § 13.1.

**\*\*Charter reference**—City planning, § 6.9.

**State law reference**—Municipal planning, MCL 125.31 et seq.

**Sec. 2-102. Powers and duties.**

The planning commission shall have all of the powers and duties now or hereafter provided by state law, including but not limited to those powers provided for in Public Act No. 285 of 1931 (MCL 125.31 et seq.) and Public Act No. 222 of 1943 (MCL 125.51 et seq.). (Code 1972, § 14.004; Ord. No. 76, § 4, eff. 3-15-1972)

**Secs. 2-103—2-132. Reserved.**

DIVISION 3. PARK AND RECREATION  
BOARD\*

**Sec. 2-133. Board established.**

There is hereby established in the city a park and recreation board. (Code 1972, § 12.501; Ord. No. 84, § 1, eff. 3-15-1972)

**Sec. 2-134. Members; terms; compensation.**

The park and recreation board shall consist of five members who shall be qualified by experience and shall have evidenced interest in the development of park and recreation services for public use. The board members shall be appointed by the mayor with the approval of the city council for a term of five years commencing July 1, 1970, with vacancies occurring each year except, that for the first appointment one member shall be appointed for five years, one member for four years, one member for three years, one member for two years and one member for one year. The members of the board shall serve without compensation. (Code 1972, § 12.502; Ord. No. 84, § 2, eff. 3-15-1972)

**Sec. 2-135. Meetings; elections.**

The park and recreation board shall meet monthly, elect its own officers and shall elect a chairman at the first meeting after July 1 each year. (Code 1972, § 12.503; Ord. No. 84, § 3, eff. 3-15-1972)

\***Charter reference**—Park and Recreation Board, § 6.13.

**State law references**—Authority to operate recreation and playgrounds, MCL 123.51 et seq.; playground equipment safety act, MCL 408.681 et seq.

**Sec. 2-136. System of recreation.**

It shall be the duty of the park and recreation board to recommend a system of recreation suitable to the needs of the city including, to the extent deemed necessary, the supervision and maintenance of playgrounds, play fields, gymnasiums, bathing beaches, swimming pools, indoor recreation centers, winter sports areas, and any other recreation endeavor or program in buildings or on properties owned by the city or obtained from any other public or private institution by gift, rental, lease or otherwise for use by the city. (Code 1972, § 12.504; Ord. No. 84, § 4, eff. 3-15-1972)

**Sec. 2-137. Director.**

At such time as need for a director of parks and recreation shall arise, one may be appointed by the city manager subject to the approval of the park and recreation board. (Code 1972, § 12.505; Ord. No. 84, § 5, eff. 3-15-1972)

**Sec. 2-138. Acquisition and disposal; recreational property.**

The park and recreation board shall make recommendations from time to time to the city manager and the city council on acquisition and disposition of city recreational property or facilities, and appropriations or sources of revenue therefor. (Code 1972, § 12.506; Ord. No. 84, § 6, eff. 3-15-1972)

**Sec. 2-139. Annual report.**

The park and recreation board shall make an annual report to the city council. (Code 1972, § 12.507; Ord. No. 84, § 7, eff. 3-15-1972)

**Secs. 2-140—2-161. Reserved.**

**ARTICLE V. FINANCE\***

## DIVISION 1. GENERALLY

**Secs. 2-162—2-190. Reserved.**

## DIVISION 2. PURCHASING

**Sec. 2-191. Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Contractual services* means and includes contracts for service, subject to the exclusion herein-after mentioned, and shall include any type of service; insurance; leases for all grounds, buildings, office or other space required by the using agencies; and the rental, repair or maintenance of equipment, machinery and other city-owned personal property. The term shall not include professional and other contractual services which are in their nature unique and not subject to competition.

*Purchasing agent* or *agent* means the purchasing agent of the city and includes the city manager or any other officer or employee designated by the city manager to act as purchasing agent.

*Supplies* means and includes all supplies, materials and equipment.

*Using agency* means and includes any department, agency, commission, bureau or other unit in the city government using supplies or procuring contractual services as provided for in this division.

(Code 1972, § 12.402; Ord. No. 103, eff. 8-13-1974; Ord. No. 103A, eff. 11-21-2001)

\***Charter references**—Taxation, ch. 7; general finance, ch. 8; special assessment, ch. 9; borrowing authority, ch. 10; contracts, ch. 11.

**State law references**—Revised municipal finance act, MCL 141.2101 et seq.; uniform budgeting and accounting act, MCL 141.421 et seq.; deposit of public moneys, MCL 211.43b.

**Sec. 2-192. Purchasing agent.**

The city manager shall act as the purchasing agent of the city, unless he shall designate another officer or employee of the city to act as purchasing agent. In the event of such designation, every purchase order in excess of \$500.00 shall be approved by the city manager before being issued. The city manager shall adopt any necessary rules respecting requisitions and purchase orders and issue executive orders in respect thereto.

(Code 1972, § 12.403; Ord. No. 103, eff. 8-13-1974; Ord. No. 103A, eff. 11-21-2001)

**Sec. 2-193. General purchasing policy.**

(a) Competitive prices for all purchases and public improvements shall be obtained and the purchase made from or the contract awarded to the lowest competent vendor. The city is not committed to accepting the lowest bid or price but shall consider which bid or price is most advantageous to the city.

(b) Formal sealed bids shall be obtained in all transactions involving the expenditure of more than \$5,000.00.

(c) When other considerations are equal, contracts shall be awarded to local vendors.

(d) If the lowest competent bids are for the same amount, the purchasing agent shall negotiate with the low bidders for a reduced bid and shall make or recommend purchase which shall appear to be to the advantage of the city.

(e) Competitive bidding will not be required in the following cases:

- (1) Where the subject of the contract is other than a public work or improvement and the product or material contracted for is not competitive in nature or no advantage to the city would result from requiring competitive bidding and the council by resolution authorizes execution of a contract without competitive bidding.
- (2) In the employment of professional services including medical, accounting, auditing, data processing, legal, planning, engineering, and architectural services.

- (3) Where the city elects to do, with city forces, work suitable for contracting; provided, the council authorizes such work.
- (4) In purchasing any type of insurance coverage.
- (5) Uniforms and protective clothing.
- (6) Noncontractible services; where the scope of the work is not definitive or the cost of preparing contract documents exceeds the cost of the service.
- (7) Specialty services.
- (8) Additional services may be included in the above listing, as the city council deems necessary to be in the best interest of the city. For other items for which it is not practical to obtain competitive quotes or bids, the city council may waive the requirements of the purchasing ordinance and authorize the purchase as recommended by the purchasing agent.

(Code 1972, § 12.404; Ord. No. 103, eff. 8-13-1974; Ord. No. 103A, eff. 11-21-2001)

**Sec. 2-194. Purchases or contract of \$500.00 or less.**

Purchases involving expenditures of \$500.00 or less may be made with the approval of the department head.

(Code 1972, § 12.405; Ord. No. 103, eff. 8-13-1974; Ord. No. 103A, eff. 11-21-2001)

**Sec. 2-195. Purchases or contract more than \$500.00 and \$5,000.00 or less.**

(a) Purchases of supplies, materials or equipment, the cost of which is more than \$500.00 and \$5,000.00 or less, may be made in the open market by the purchasing agent, but such purchase shall be based on competitive prices and shall be awarded to the lowest competent vendor, except as otherwise provided in this section.

(b) The agent may solicit prices verbally, by telephone or by written communication; provided, that where bids are solicited by written communication, a copy of such request for bids shall be posted in the city hall.

(c) In determining the competency of a bidder, the agent shall be guided by his judgment of the ability of the bidder to provide the required material or services in compliance with the specifications set forth. If the purchase is not made from the lowest bidder, a statement of the reasons for placing the order with a higher bidder shall be prepared by the agent and filed with the purchase order; provided, that when the transaction shall be more than \$5,000.00, the agent shall report such purchase to the council with a copy of the required statement.

(Code 1972, § 12.406; Ord. No. 103, eff. 8-13-1974; Ord. No. 103A, eff. 11-21-2001)

**Sec. 2-196. Purchases or contract over \$5,000.00.**

(a) The council must approve any expenditure for supplies, materials, equipment, and construction projects or contracts obligated to the city, where the amount of the city obligation is in excess of \$5,000.00.

(b) Sealed bids shall be requested by the purchasing agent by mailing a copy of the specifications or requirements to such qualified vendors as may be known to him and by posting a copy of the request in the city hall.

(c) Unless fixed by the council, the agent with the concurrence of the manager shall prescribe the amount of any security to be deposited with any bid and, in the case of construction contracts, the amount of labor and material or performance bonds to be required of the successful bidder. Such security shall be in the form of certified or cashier's check or bond written by a surety company authorized to do business in the state.

(d) Bids shall be opened in public at the time and place designated in the notice requesting bids. Bids shall be opened in the presence of the agent and at least one other city employee preferably the department head requesting the purchase. Immediately following the opening, the bids shall be examined, tabulated and made available for inspection.

(e) The full tabulation of all bids shall be submitted to the next council meeting following the opening of bids, together with the recommen-

dation of the agent, department head or city manager. The council, in its discretion, may accept the low bid, reject all bids or determine the low bid to be unsatisfactory and make the award to the lowest competent bidder.

(f) After the opening of the submitted bids, such bids may not be withdrawn without forfeiture of the bid deposit. Deposits of security accompanying the three low bids shall be retained until the contract is awarded and signed, other deposits shall be returned to the unsuccessful bidders immediately after the bids have been tabulated. If any successful bidder fails or refuses to enter into the contract awarded to him within ten days after being notified of such an award or file any bond required within the same time, the deposit accompanying his bid shall be forfeited to the city, and the council may, in its discretion, award the contract to the next lowest bidder or readvertise the project.

(g) At the time the contract of a construction project is executed by the contractor, he shall file a bond executed by a surety company authorized to do business in the state, assuring payment of all just debts incurred in the performance of the contract including wages and material bills, and shall file a performance bond when one is required in the bid specification. The contractor shall also file evidence of public liability insurance and workers' compensation insurance in an amount satisfactory to the manager and shall also protect the city from loss or damage caused to any person or property by reason of negligence of the contractor or his employees.

(h) The council shall reserve the right to accept or reject any or all bids as submitted if in the council's discretion such action would be in the best interests of the city.  
(Code 1972, § 12.407; Ord. No. 103, eff. 8-13-1974; Ord. No. 103A, eff. 11-21-2001)

#### **Sec. 2-197. Purchases through other governmental units.**

Where another governmental entity uses a bid process similar to the process specified by this division to obtain services, materials, supplies

and/or equipment, the purchasing agent may purchase these items under the auspices of the other governmental unit.

(Code 1972, § 12.408; Ord. No. 103, eff. 8-13-1974; Ord. No. 103A, eff. 11-21-2001)

#### **Sec. 2-198. Prohibitions.**

(a) No contract or purchase shall be subdivided to avoid the requirements of this division.

(b) The purchasing agent and every officer and employee of the city are expressly prohibited from accepting, directly or indirectly, from any person doing business or contemplating doing business with the city, any rebate, gift, money or anything of value.

(Code 1972, § 12.409; Ord. No. 103, eff. 8-13-1974; Ord. No. 103A, eff. 11-21-2001)

#### **Sec. 2-199. Emergency purchases.**

In an emergency or an apparent emergency endangering the public peace, health or safety of the city, the purchasing agency, the manager or any department head may purchase directly any supplies, materials or equipment that he deems immediately necessary. The agent shall advise the council of the purchase no later than the next regular meeting of the council.

(Code 1972, § 12.410; Ord. No. 103, eff. 8-13-1974; Ord. No. 103A, eff. 11-21-2001)

#### **Sec. 2-200. Inspection of materials.**

The responsibility for the inspection and acceptance of all materials, supplies and equipment purchased under this division shall rest with the department head.

(Code 1972, § 12.411; Ord. No. 103, eff. 8-13-1974; Ord. No. 103A, eff. 11-21-2001)

#### **Sec. 2-201. Sale of property.**

Whenever the city property, real or personal, is no longer needed for the corporate or public purposes, the same may be offered for sale. Personal property not exceeding \$1,000.00 in value may be sold for cash by the city manager after receiving quotations or competitive bids thereon for the best price obtainable. Property with a value in excess of \$1,000.00 may be sold

after advertising and receiving competitive bids, as provided in section 2-195 and after approval of the sale has been given by the council. (Code 1972, § 12.412; Ord. No. 103A, eff. 11-21-2001)

**Secs. 2-202—2-225. Reserved.**

DIVISION 3. RECOVERY COSTS FOR  
CERTAIN PUBLIC SAFETY EMERGENCY  
RESPONSES

**Sec. 2-226. Scope and purpose.**

This division is adopted to defray some costs incurred by the Portland Area Fire Authority and/or the City of Portland in providing certain emergency response services. It is not the purpose of this division to provide complete reimbursement or funding for the Portland Area Fire Authority.

(Ord. No. 196, § 1(40.301), eff. 7-15-2005; Ord. No. 196A, eff. 10-26-2017)

**Sec. 2-227. Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) *Assessable costs* means the direct and reasonable costs incurred by the Portland Area Fire Authority, the city or by a private person, corporation or other assisting government agency, which is operating at the request or direction of the Portland Area Fire Authority, when making an emergency response, including the costs of providing firefighting, rescue services, emergency medical services, containment, storage, clean-up or abatement of all hazardous materials and conditions at the scene of the incident.
- (2) *Emergency response* means the following actions or services provided by the Portland Area Fire Authority or the city, or by a private individual, corporation or other assisting government agency operating at the request or direction of the Portland Area Fire Authority:
  - (a) The providing, sending and/or utilizing of firefighting, emergency medical or rescue services by the Portland Area Fire Authority or the City for an incident resulting in a hazardous materials release or threatened release or the clean-up or abatement of same.
  - (b) Any incident requiring a response by the Portland Area Fire Authority or the City that involves any public or private utility property and requires equipment or personnel to remain at the incident to protect the health, safety and welfare of the public until the utility provider responds to the incident and takes corrective measures.
- (3) *Explosive* means any material regulated as an explosive by the United States Department of Transportation through regulations found in 40 CFR 171.1 et seq., as amended.
- (4) *Flammable liquid* means any material regulated as flammable liquid by the United States Department of Transportation through regulations found in 49 CFR 171.1 et seq., as amended.
- (5) *Flammable solid* means any material regulated as a flammable solid by the United States Department of Transportation through regulations found in 49 CFR 171.1 et seq., as amended.
- (6) *Hazardous material* means explosive, pyrotechnics, compressed gas, flammable liquid, flammable solid, combustible liquid, oxidizing material, poisonous gas, poisonous liquid, poisonous solid, irritating material, etiological material, radioactive material, corrosive material or liquefied petroleum gas and also including, but not limited to, any of the following:
  - (a) Any material, listed in the list of toxic pollutants found in 40 CFR 401.15, as amended, or in any other federal law or regulation;

- (b) Any material regulated as a hazardous material by the United States Department of Transportation through regulations found in 49 CFR 171.1 et seq.;
  - (c) Any material designated as hazardous material by state or federal law or regulation, or City Ordinance; or,
  - (d) Any otherwise nonhazardous material released is a hazardous material for purposes of this division if its presence causes a potential hazard to vehicular or pedestrian traffic.
- (7) *Poison* means any liquid or gas that is life threatening when mixed with air in small amounts, and shall also include all those materials regulated as poison class A by the United States Department of Transportation through regulations found in 49 CFR 171.1 et seq., as amended.
- (8) *Release* means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing which causes damage or harm to person(s), property, natural resources, the public health or environment.
- (9) *Threatened release* means any imminent or pending event potentially causing but not resulting in a release which causes the Portland Area Fire Authority or the city to undertake emergency response.
- (10) *User or responsible party* means the owner, operator and/or person in charge of or person in possession of the premises, structure, property, equipment, facility or vehicle to which an emergency response is directed.
- (Ord. No. 196, § 1(40.302), eff. 7-15-2005; Ord. No. 196A, eff. 10-26-2017)

**Sec. 2-228. Cost recovery authorization.**

The city council authorizes the imposition of assessable costs upon users of emergency responses provided by or on behalf of the Portland Area Fire Authority within the city's jurisdictional

limits. Responsible parties shall be obligated to pay the city all assessable costs incurred by the Portland Area Fire Authority and the city to provide emergency response services. Such costs and expenses shall be the joint and several obligations of all responsible parties. (Ord. No. 196, § 1(40.303), eff. 7-15-2005; Ord. No. 196A, eff. 10-26-2017)

**Sec. 2-229. Billing and collection of assessable costs.**

The city's billing clerk shall mail an itemized invoice to all users of emergency responses as specified in section 2-228 above. Such invoice shall be due and payable within 30 days of the date of mailing and any amounts unpaid after such date shall bear a late payment fee equal to 1.0 percent per month or fraction of a month that the amount due remains unpaid. Payments shall first be applied to any late fee and then to the principal amount.

(Ord. No. 196, § 1(40.304), eff. 7-15-2005; Ord. No. 196A, eff. 10-26-2017)

**Sec. 2-230. Procedure for appealing assessable costs.**

(1) A recipient of any invoice from the city sent pursuant to section 2-229 shall have the right to appeal the invoice by showing the recipient is not a responsible party or by challenging its amount.

(2) The recipient shall have the right to request a meeting with the Portland City Manager, or his/her designee, to review the tabulation of the assessable costs. The recipient shall request in writing such meeting within 14 days of the invoice date. That written request shall state in detail the basis for the appeal and be accompanied by any supporting documents.

(3) If, after meeting with the city manager, or his/her designee, the recipient does not concur with the decision, the recipient may request an appeal to city council. That appeal shall be filed in writing within 14 days of the date of the decision of the city manager, or his/her designee. The city council's decision shall be final. (Ord. No. 196, § 1(40.305), eff. 7-15-2005; Ord. No. 196A, eff. 10-26-2017)

**Sec. 2-231. Other remedies.**

In addition to any other remedy available at law or in equity, the city may initiate a lawsuit in a court of competent jurisdiction to collect the amounts due under this division.

(Ord. No. 196, § 1(40.306), eff. 7-15-2005; Ord. No. 196A, eff. 10-26-2017)

**Sec. 2-232. No limitation of liability.**

The recovery of assessable costs pursuant hereto does not limit the liability of a user under any other applicable laws, rules, regulations permit or license requirements, orders or directives of any governmental entity, agency or official of competent jurisdiction.

(Ord. No. 196, § 1(40.307), eff. 7-15-2005; Ord. No. 196A, eff. 10-26-2017)