

LAKE WALES

OFFICIAL CODE OF ORDINANCES

CHAPTER 2. ADMINISTRATION

LAKE WALES

CHAPTER 2. ADMINISTRATION

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LAKE WALES

CHAPTER 2. ADMINISTRATION

Article I. Public Meetings

Division 1. General Provisions

§ 2-1. Scope and interpretation.

(a) *Scope.* The rules and policies provided herein shall govern the conduct of all public meetings held for the purpose of engaging in the official business of the City of Lake Wales and shall be implemented to ensure fair and open deliberations and decision making.

(b) *Interpretation.* These rules and policies are intended to supplement and shall be interpreted to conform with the statutes of the State of Florida and the ordinances of the City of Lake Wales.

(Ord. No. 98-02, § 1, 1-20-98)

§ 2-2. Legislative intent and statement of policy.

(a) It is the intent of the city commission to establish a standard of behavior to be applied to the conduct of all public meetings held for the purpose of engaging in the official business of the City of Lake Wales. It is also the intent of the city commission to establish general rules and procedures to be observed by commissioners, appointed board members, officers and employees in the conduct of all public meetings.

(b) It is the policy of the city commission to establish a set of core values which shall govern the manner in which city commissioners, appointed board members, officers and employees interact with the public and with each other while engaging in the official business of the City of Lake Wales. This set of core values shall include:

(1) *Fairness.* We shall have compassion, respect and sensitivity for all and shall be impartial and objective when making decisions, always seeking to attain the greatest common good.

(2) *Responsiveness.* We shall deliver public services in an equitable, efficient and effective manner.

(3) *Ethics.* We shall be open, responsible and accountable for our decisions and actions.

(4) *Professionalism.* We shall comport ourselves with dignity in a manner which exceeds the expectations of those we serve, and we shall strive to gain the knowledge which enables us to perform our official duties without the intrusion of personal bias.

(5) *Excellence.* We shall work together cooperatively and unselfishly while striving for the best results.

(6) *Initiative and innovation.* We shall plan, anticipate, take reasonable risks and try new approaches with a positive attitude.

(7) *Decorum.* We may disagree but we shall be respectful of one another, and we shall not engage in personal attacks.

(8) *Pride*. We shall take pride in our community, ourselves, and the accomplishments attained.

(Ord. No. 98-02, § 1, 1-20-98)

§ 2-3. Standard of behavior for public meetings; display of standard.

(a) A standard of behavior for public meetings shall be established and expressed as follows:

(1) We may disagree, but we will be courteous and respectful of one another.

(2) We will not engage in personal attacks.

(3) We will direct all comments to the issue under consideration.

(b) A sign displaying the standard of behavior shall be placed in commission chambers during all public meetings so that the standard may be read from the dais and from the public podium. If meetings are held in other locations, the sign should be displayed so that it can be viewed by all persons attending the meeting.

(Ord. No. 98-02, § 1, 1-20-98)

Division 2. City Commission Meetings

§ 2-6. Meeting schedule, quorum, and attendance requirements.

(a) *Regular meetings*. In accordance with section 3.09 of the City Charter, the city commission shall meet at least twice in every month. Regular meetings of the city commission shall be held on the first and third Tuesday of each month at 6:00 p.m. in Commission Chambers at City Hall. The city commission may continue, reschedule, or postpone any regular meeting to another date and time, provided that no fewer than two (2) regular meetings are held in any month. Notice of the regular meeting shall specify the day, hour and subject of the meeting and shall be posted on the bulletin board at City Hall where other official notices are posted at least forty-eight (48) hours prior to the meeting.

(b) *Special meetings*. In accordance with section 3.09 of the City Charter, special meetings may be called by the mayor, by any two (2) commissioners, or by the city manager. Special meetings shall require no less than twelve (12) hours notice to each member of the commission and to the public. Notice of the special meeting shall specify the day, hour and subject of the meeting and shall be posted on the bulletin board at City Hall where other official notices are posted.

(c) *Workshops*. Informal meetings to discuss particular issues to be considered by the city commission may be held from time to time as the need arises. No official action shall be taken at a workshop. Workshops shall require no less than twelve (12) hours notice to each member of the commission and to the public. Notice of the workshop shall specify the day, hour and subject of the meeting and shall be posted on the bulletin board at City Hall where other official notices are posted.

(d) *Quorum*. A majority of all members elected to the city commission shall constitute a quorum for transaction of business. The inability to hold a scheduled meeting due to lack of a quorum shall be recorded in the official record of the city commission.

(e) *Attendance.* In accordance with section 3.09 of the City Charter, absence from three (3) consecutive regular meetings of the city commission shall operate to vacate the seat of a member unless such absence is excused by the commission by resolution duly passed and recorded in the official minutes.

(Ord. No. 98-02, § 1, 1-20-98; Ord. No. 2006-14, § 1, 4-4-06; Ord. No. 2007-35, § 1, 9-4-07)

§ 2-7. Agenda.

(a) *Publication.* No later than seventy-two (72) hours prior to each regular meeting of the city commission, an agenda which contains all items to be acted upon at the meeting shall be posted on the bulletin board at City Hall where other official notices are posted. Posting of the agenda shall be in addition to any public notice of the meeting which may be required by Florida Statutes or other applicable regulations. A packet containing the agenda and information pertaining to items included on the agenda shall be forwarded to city commissioners no later than seventy-two (72) hours prior to the meeting.

(b) *Agenda deadline.* Any person may have an item placed on the agenda by submitting a request to the city clerk no later than 5:00 p.m. on the Wednesday preceding the meeting. Such request shall be in writing, shall fully explain the nature of the item to be included, and shall provide sufficient detail as to inform the city commissioners about the action to be taken on the item, if any. A request received after the deadline shall be held by the city clerk for inclusion on the agenda for the next scheduled meeting. The city manager may, at his discretion, waive the deadline requirement for requests of an emergency nature.

(c) *Withdrawal of agenda item.* The person requesting placement of an item on the agenda may withdraw the item prior to the meeting by notifying the city clerk.

(d) *Record.* A copy of each agenda packet (i.e., the agenda and all information submitted to the city commission) shall become part of the official record of the city and shall be permanently retained by the city clerk. Any information provided to the city commission during consideration of an item on the agenda shall be added to the record and retained with the agenda packet.

(Ord. No. 98-02, § 1, 1-20-98)

§ 2-8. Meeting procedures.

(a) *Quorum.* The city clerk shall determine the presence of a quorum as required by law and these rules.

(b) *Call to order.* The mayor shall call the meeting to order at the appointed time. In the absence of the mayor, the vice-mayor shall call the meeting to order. In the absence of the mayor and vice-mayor, the most senior commissioner present shall call the meeting to order.

(c) *Presiding officer.* The mayor shall be the presiding officer at all commission meetings. In the absence of the mayor, the vice-mayor shall be the presiding officer. In the absence of the mayor and vice-mayor, the most senior commissioner present shall be the presiding officer.

(d) *Control of discussion.* The presiding officer shall control discussion of the commission on each agenda item to ensure full participation in accordance with these rules.

(e) *Order of consideration.* Each agenda item shall be considered in the order as shown on the published agenda. With the consent of the commission, however, any agenda item may be considered out of order at the request of a commissioner or the city manager.

(f) *Public hearing.* Public hearings shall be held as required by F.S. ch. 166, or other applicable legislation. A public hearing shall commence when declared open by the presiding officer and shall conclude when declared closed by the presiding officer. The presiding officer shall close the public hearing after all citizens have been given the opportunity to speak on the matter under consideration.

(g) *Motion required.* All actions requiring a vote shall be moved and seconded by members of the commission.

(h) *Motion to reconsider.* A motion to reconsider may be made by a commission member and shall require a majority vote of the commission unless a greater number was required for the original action.

(i) *Closing discussion on matters not requiring a public hearing.* Discussion on matters not requiring a public hearing shall be closed by the presiding officer with a call for a vote. A call for a vote shall not close discussion if any commissioner still wishes to be heard except as provided in paragraph (j) of this section. If discussion has preceded the making of a motion, discussion shall be closed with a call for a motion.

(j) *Call for a vote.* At the conclusion of discussion, the presiding officer shall call for a vote, however, a majority of the commission may require a vote at any time.

(k) *Recording of motion and vote.* The city clerk shall record the name of the commissioner making each motion, the second, and the vote of each commission member in accordance with requirements of F.S. § 286.012. All votes enacting any ordinance or adopting any resolution shall be cast verbally by roll call of the members. A voice vote may be taken on any other matter. When a voice vote is taken, the presiding officer shall state the result of the vote and the name of each commissioner casting a dissenting vote.

(l) *Consideration of matters not on the agenda.* At the close of the regular agenda, any commissioner may bring a matter not on the agenda to the commission's attention, however no official action shall be taken on the matter. Upon the request of a commissioner, the matter may be included on a later agenda.

(m) *Adjournment.* The presiding officer shall adjourn the meeting when there are no further matters to be discussed by the commission or the public.

(Ord. No. 98-02, § 1, 1-20-98; Ord. No. 2009-08, § 1, 4-9-09)

§ 2-9. Citizen participation.

Effective: Tuesday, December 15, 2020

(a) *Citizen rights.* Citizens shall be permitted to address the city commission on matters relevant to an agenda item during a duly advertised public hearing on that item. Citizens may be permitted to address the city commission at the discretion of the presiding officer on matters relevant to an agenda item which is not undergoing an advertised public hearing. Citizens shall be permitted to address the city commission on any matter related to city business during that portion of the meeting officially set aside for such purpose.

(b) *Manner of addressing the commission.* A person desiring to address the commission shall step to the podium, state his or her name, address and group affiliation, if any, and speak clearly into the microphone unless otherwise authorized by the presiding officer.

(c) *Time limit on remarks.* Citizens shall be limited to five (5) minutes per comment period unless additional time is granted by the presiding officer. The period for input from citizens on any single agenda item under commission consideration may be limited by the presiding officer. The period for citizen input on an agenda item may be extended by a majority vote of the commission.

(d) *Remarks to be relevant.* The City Commission solicits and welcomes comments from members of the public entitled to speak when the comments address subject matter that is within the Commission's scope of authority and may be of assistance in carrying out the Commission's responsibilities for the benefit of the City and its citizens, taxpayers or those services from the City concerning those services. Citizens making personal, impertinent, intimidating or threatening remarks shall be barred from further comment during the meeting.

(e) *Commissioner making comment as citizen.* A commissioner who desires to speak as a citizen on any matter shall leave the dais and speak from the podium, observing the rules for citizen remarks as specified in paragraphs (b) through (d) of this section. A commissioner who is serving as presiding officer shall pass the gavel to another commissioner as provided in section 2-8 (c) of this article before leaving the dais.

(f) *Disruptive conduct.* If a person's conduct disrupts the meeting or disturbs the peace and order of anyone present, it shall be the duty of a peace officer, upon the request of the presiding officer, to issue such commands and take such action as may be necessary to eliminate the disruptive conduct and restore peace and order to the meeting.

(Ord. No. 98-02, § 1, 1-20-98; Ord. No. 2020-32, § 1, 12-15-20)

Division 3. Appointed Boards, Commissions And Committees

§ 2-15. Meeting schedule, quorum and attendance requirements.

(a) *Regular meetings.* Meetings shall be scheduled in accordance with the ordinance or resolution authorizing the establishment of a particular citizen board, commission or committee. A schedule showing time and place of meeting for each citizen board, commission or committee shall be maintained by the city clerk and shall be available at all times for public review. Where applicable, public notice of the meeting shall be provided in accordance with Florida Statutes. Where special public notice is not required by Florida Statutes, notice of the regular meeting shall specify the day, hour and subject of the meeting and shall be posted on the bulletin board at City Hall where other official notices are posted at least forty-eight (48) hours prior to the meeting.

(b) *Special meetings.* Special meetings may be called by the chairman or by the city manager or his designee. Special meetings shall require no less than twelve (12) hours notice to each member of the board, commission or committee and to the public. Notice of the special meeting shall specify the day, hour and subject of the meeting and shall be posted on the bulletin board at City Hall where other official notices are posted.

(c) *Workshops.* Informal meetings to discuss particular issues to be considered by the board, commission or committee may be held as provided in section 2-6(c) of this article.

(d) *Quorum.* A majority of all members appointed to the board, commission or committee shall constitute a quorum for transaction of business unless otherwise required by the ordinance or resolution authorizing the establishment of a particular citizen board, commission or committee. The inability to hold a scheduled meeting due to lack of a quorum shall be recorded in the official record of the board, commission or committee.

(e) *Attendance.* Absence from three (3) consecutive regular meetings of a board, commission or committee shall automatically operate to vacate the seat of a member unless such absence is excused by the board, commission, or committee by motion duly passed and recorded in the official minutes.

(Ord. No. 98-02, § 1, 1-20-98)

§ 2-16. Agenda.

(a) *Publication.* No later than seventy-two (72) hours prior to each regular meeting of an appointed board, commission or committee, an agenda which contains all items that shall be acted upon at the meeting shall be posted on the bulletin board at City Hall where other official notices are posted. Posting of the agenda shall be in addition to any public notice of the meeting which may be required by Florida Statutes or other applicable regulations. A packet containing the agenda and information pertaining to items included on the agenda shall be forwarded to members of the appointed board, commission or committee no later than seventy-two (72) hours prior to the meeting.

(b) *Agenda deadline.* Any person may have an item placed on the agenda by submitting a request to the recording secretary no later than twenty-four (24) hours prior to publication of the agenda. Such request shall be in writing, shall fully explain the nature of the item to be included, and shall provide sufficient detail as to inform the members about the action to be taken on the item, if any. A request received after the deadline shall be held by the recording secretary for inclusion on the agenda for the next scheduled meeting. The city manager may, at his discretion, waive the deadline requirement for requests of an emergency nature.

(c) *Withdrawal of agenda item.* The person requesting placement of an item on the agenda may withdraw the item prior to the meeting by notifying the recording secretary.

(d) *Record.* A copy of each agenda packet (i.e., the agenda and all information submitted to an appointed board, commission or committee) shall become part of the official record of the city and shall be permanently retained by the city clerk. Any information provided to the board, commission or committee during consideration of an item on the agenda shall be added to the record and retained with the agenda packet.

(Ord. No. 98-02, § 1, 1-20-98)

§ 2-17. Meeting procedures.

(a) *Quorum*. The recording secretary shall determine the presence of a quorum as required by law and these rules.

(b) *Call to order*. The chairman shall call the meeting to order at the appointed time. In the absence of the chairman, the vice-chairman shall call the meeting to order. In the absence of the chairman and vice-chairman, the most senior member present shall call the meeting to order.

(c) *Presiding officer*. The chairman shall be the presiding officer at all meetings. In the absence of the chairman, the vice-chairman shall be the presiding officer. In the absence of the chairman and vice-chairman, the most senior member present shall be the presiding officer.

(d) *Control of discussion*. The presiding officer shall control discussion on each agenda item to ensure full participation in accordance with these rules.

(e) *Order of consideration*. Each agenda item shall be considered in the order as shown on the published agenda. With the consent of the members, however, any agenda item may be considered out of order at the request of a member, the city manager or the city manager's designee.

(f) *Public hearing*. Public hearings shall be held as required by Chapter 166, Florida Statutes, or other applicable legislation. A public hearing shall commence when declared open by the presiding officer and shall conclude when declared closed by the presiding officer. The presiding officer shall close the public hearing after all citizens have been given the opportunity to speak on the matter under consideration.

(g) *Motion required*. All actions requiring a vote shall be moved and seconded by members of the board, commission or committee.

(h) *Motion to reconsider*. A motion to reconsider may be made by a member and shall require a majority vote of the board, commission or committee unless a greater number was required for the original action.

(i) *Closing discussion on matters not requiring a public hearing*. Discussion on matters not requiring a public hearing shall be closed by the presiding officer with a call for a vote. A call for a vote shall not close discussion if any member still wishes to be heard except as provided in paragraph (j) of this section. If discussion has preceded the making of a motion, discussion shall be closed with a call for a motion.

(j) *Call for a vote*. At the conclusion of discussion, the presiding officer shall call for a vote, however, a majority of the board, commission or committee may require a vote at any time.

(k) *Recording of motion and vote*. The city clerk shall record the name of the member making each motion, the second, and the vote of each member. All votes shall be cast verbally by roll call of the members with the exception that the presiding officer may waive a roll call vote for approval of the minutes of a prior meeting.

(l) *Consideration of matters not on the agenda*. At the close of the regular agenda, any member may bring a matter not on the agenda to the attention of the board, commission or committee, however no official action shall be taken on the matter. Upon the request of a member, the matter may be included on a later agenda.

(m) *Adjournment*. The presiding officer shall adjourn the meeting when there are no further matters to be discussed.

(Ord. No. 98-02, § 1, 1-20-98)

§ 2-18. Citizen participation.

Meetings of all appointed boards, commissions and committees are open to the public. Citizen participation shall comply with section 2-9 herein.

(Ord. No. 98-02, § 1, 1-20-98)

Article II. Boards, Committees, Commissions

Division 1. Generally

§ 2-26. Boards, commissions and committees organized under the code.

Several boards, commissions and committees have been organized pursuant to various provisions of the Code. The following general regulations apply to all of these boards, commissions or committees:

(1) Residency.

(a) Unless the ordinance creating a board, commission or committee provides otherwise or as provided in the following paragraph (b), membership on these boards, commissions and committees shall be limited to persons who are residents of the City of Lake Wales or owners of property located in the City of Lake Wales or persons having a business tax receipt issued from the City of Lake Wales.

(b) The Lake Wales Library Board consists of five (5) members appointed by the city commission. Four (4) members shall be appointed as provided in paragraph (a) above. One (1) member may be a resident of the unincorporated Greater Lake Wales area or a resident of the City of Lake Wales provided that the Lake Wales Public Library is a member of the Polk County Library Cooperative and receives operating funds from the Polk County Board of County Commissioners. For the purposes of this paragraph, the term "resident of the unincorporated Greater Lake Wales area" shall mean "any resident outside of the City of Lake Wales having a Lake Wales mailing address."

(2) *Voter registration.* Membership on boards, commissions and committees shall be limited to persons who are legally registered to vote.

(3) Limit on consecutive terms.

(a) Except as provided in paragraph (b) below, no person shall serve more than three (3) consecutive terms on a single board, commission or committee except that a person appointed to a partial term that is less than one-half ($\frac{1}{2}$) of the normal term for that particular board, commission or committee shall be permitted to serve three (3) consecutive terms in addition to the partial term. Members appointed before July 1, 1989, may be permitted to serve three (3) additional consecutive terms. This limit on consecutive terms may be waived for members of regulatory boards (i.e., planning and zoning board, board of appeals, code enforcement, etc.) with the recommendation of the city manager where, in the sole discretion of the city manager, special circumstances exist which warrant the appointment of a particular member to an additional term.

(b) There shall be no limit to consecutive terms served by an elected or appointed trustee on a board established for the purpose of administering an employee retirement plan.

(4) *Limit on concurrent appointments.* No person shall serve on more than two (2) boards, commissions or committees at the same time with the following exceptions:

A. No person shall serve on more than one (1) pension board.

B. No person shall serve on more than one (1) regulatory board.

(5) *Appointment to regulatory boards.* All applicants seeking appointment to a regulatory board such as planning and zoning board, zoning board of appeals, code enforcement board, nuisance abatement board, and the like, shall be interviewed by the board chairman and the head of the department providing staff support to the particular board to ensure that the applicants understand the duties and responsibilities of the board, are capable of performing such duties and responsibilities and are willing to fulfill the requirements of serving on the board. Said interviews shall be open to the public. Following the interviews, the board chairman and department head shall provide the city commission with their recommendations for appointment.

(6) *Applications for appointment.* The city manager may, in his/her sole discretion, delay the forwarding of applications to the city commission until there are a sufficient number of applicants to fill all vacant positions on a particular board, committee or commission.

(7) *Nepotism.* Members of the immediate family of elected officials shall not be appointed to serve on a board, commission or committee. Members of the immediate family of a municipal officer shall not be appointed to serve on a board, commission or committee which relates to the area of responsibility of that municipal officer. Board, commission or committee members shall be required to resign if a member of the immediate family becomes an elected official or municipal officer with duties relating to business conducted by that board, commission or committee. Such members appointed before July 1, 1989, shall be permitted to serve until the expiration of their current term.

(8) *Attendance.* Absence from three (3) consecutive meetings of a board, commission or committee shall operate automatically to vacate the seat of that member, unless such absence is excused by that board, commission or committee by motion duly passed and recorded in the official minutes.

(9) *Sunset provision.* Inactive boards, commissions and committees may be discontinued by the city commission provided there is no statutory requirement that such board, commission or committee exists. Boards, commissions and committees shall be declared inactive if no meeting is called or no official business is conducted at least once in a twelve (12) month period.

(Code 1962, § 1-10; Ord. No. 89-14, § 1, 6-20-89; Ord. No. 2002-27, § 1, 10-15-02; Ord. No. 2004-20, § 1, 8-3-04; Ord. No. 2005-16, § 1, 5-3-05; Ord. No. 2006-19, § 1, 5-16-06; Ord. No. 2006-47, § 3, 12-5-06; Ord. No. 2008-07, § 1, 2-19-08; Ord. No. 2008-09, § 1, 3-18-08; Ord. No. 2008-27, § 1, 9-2-08; Ord. No. 2009-11, § 1, 5-5-09)

Division 2. Airport Authority

§ 2-41. Created; number, appointment, terms of members, duties.

Effective: Wednesday, January 02, 2019

(a) *Title.* This section shall be known and may be cited as the "Lake Wales Airport Authority Ordinance."

(b) *Created.* There is hereby created an authority to be known as the Lake Wales Airport Authority which shall be a body politic and corporate. The Lake Wales Airport Authority is hereby constituted a public instrumentality and the exercise of said authority of the powers conferred by this Ordinance shall be deemed and held to be the performance of essential governmental functions.

(c)

(1) *Powers:*

a. The Lake Wales Airport Authority shall exercise its powers and jurisdiction over the property now known as the "Lake Wales Airport," as follows:

The Northeast $\frac{1}{4}$ and the East $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ of Section 9, Township 30 South, Range 27 East, Polk County, Florida.

AND

The South $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ of the Southwest $\frac{1}{4}$, West of the Peace Creek Drainage Canal, and the Southwest $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ lying West of the Peace Creek Drainage Canal, in Section 3, Township 30 South, Range 27 East, Polk County, Florida.

AND

The East $\frac{3}{4}$ of the South $\frac{1}{2}$, lying South of the railroad, less begin 2001.38 feet South of the Northwest corner of the Northeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ run east 830 feet, Northwesterly 786.49 feet, North $30^{\circ} 17'$ East 415 feet, North $24^{\circ} 9' 6''$ West 736.21 feet, South $60^{\circ} 57' 14''$ West 834.25 feet, South 1435.28 feet to the Point of Beginning, and less the West 3 feet thereof, and less the West 30 feet of the Northeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$, North of railroad and West of the Airport Road in Section 4, Township 30 South, Range 27 East, Polk County, Florida.

b. All of that property now owned by the City of Lake Wales and known as the Lake Wales Airport shall be under the jurisdiction of the Lake Wales Airport Authority, subject to any reservations or restrictions of record or existing leases, including but not limited to the Fixed Base Operator's Franchise Agreement approved by the Lake Wales City Commission on October 31, 1995, and subject to the restriction that none of said property may be sold or in any way encumbered at any time without the consent of the City of Lake Wales by and through its City Commission.

(2) The Lake Wales Airport Authority is authorized to exercise its powers over properties in addition to the Lake Wales Airport so long as they are exercised pursuant to contract with other governmental entities for the operation and supervision of other airports, airfields, and related facilities.

(d)

(1) Members. The Lake Wales Airport Authority shall be governed by a board of seven (7) members known as the Lake Wales Airport Authority Board. At the expiration of each term, a successor shall be appointed to fill such vacancies for terms of three (3) years each, except the initial terms of the members shall be staggered so as to provide three (3) vacancies at the end of the initial first year, two vacancies at the end of the initial second year, and two (2) vacancies at the end of the initial third year. A City Commission member shall serve as a non-voting member of the said Board. The non-voting City Commission member may serve for the duration of his or her term as City Commissioner to serve in the same manner. Vacancies in office shall be filled by appointment of the mayor with the advice and consent of the city commission for the remainder of the unexpired term. All such appointments after the initial ones provided for in this Ordinance shall be selected by the City Commission from a list of applicants for any such vacancy or vacancies. At least two voting members of the board shall be qualified electors of the City of Lake Wales. Other members chosen can be persons owning property located in the City of Lake Wales; persons having a business tax receipt issued from the City of Lake Wales; persons who are airport tenants; or persons who are principals of an entity which is an airport tenant. Should the said City Commission be unable by a majority vote to select a successor from the original list submitted to it by said board, the board shall submit to said City Commission an additional list containing additional applicants for the vacancy or vacancies. Upon the reconsideration, the City Commission may select from the initial or replacement list. The original list shall be submitted to said City Commission within 10 days from the expiration of the term of any member of said authority, and within 20 days from the resignation, death, or removal for cause of any member of said authority. During any vacancy or vacancies for any reason or reasons, the remaining members of said board shall constitute said board with full power and authority to act as though there were no vacancy in the membership of said board. Members shall receive reimbursement for verified travel and other expenses as shall be provided for by general policy of the City of Lake Wales governing service on its voluntary boards. Four members shall constitute a quorum for meetings and an affirmative vote of a majority of the members present shall be necessary for any action taken by the authority.

(2) The seven (7) longest tenured members of the Airport Advisory Committee created by Ordinance 96-02 are hereby designated to serve as the Board for a period of up to ninety (90) days to allow appointment of a successor Board in accordance with the provisions of this ordinance.

(e) The Lake Wales Airport Authority shall select one (1) of its members as chair of the authority and another of its members to act as secretary of the authority, both of whom shall serve as such at the pleasure of the authority, and the authority may select such other members for such offices as it deems necessary.

(f) The Lake Wales Airport Authority, subject to approval by the Lake Wales City Commission, is hereby authorized and empowered:

(1) To adopt bylaws for the regulation of its affairs and the conduct of its business.

(2) To adopt an official seal and alter the same at pleasure.

(3) To maintain an office at such place or places as may be designated by the City of Lake Wales.

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- (4) To sue and be sued in its own name, plead, and be impleaded.
 - (5) To provide oversight of airport operations for the purpose of input and advice to the city manager in his or her capacity as Airport Manager.
 - (6) To acquire, lease as lessee or lessor, construct, reconstruct, improve, extend, enlarge, equip, repair, maintain, and operate any airport which may be located on the property of the authority. Nothing in this Ordinance shall exempt the Lake Wales Airport Authority from the provisions of chapter 333, Florida Statutes.
 - (7) To issue bonds of the authority, as hereinafter provided, to pay the cost of such acquisition, construction, reconstruction, improvement, extension, enlargement, or equipment.
 - (8) To issue refunding bonds of the authority as hereinafter provided.
 - (9) To fix and revise from time to time and to collect rates, fees, and other charges for the use of or for the services and facilities furnished by any airport facilities or tenant.
 - (10) To acquire in the name of the authority by gift, purchase, or the exercise of the right of eminent domain, in accordance with the laws of the state which may be applicable to the exercise of such powers by municipalities, any lands or rights in land, and to acquire such personal property as it may deem necessary in connection with the acquisition, construction, reconstruction, improvement, extension, enlargement, or operation of any airport facilities, and to hold and dispose of all real and personal property under its control.
 - (11) To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this Ordinance, including a trust agreement or trust agreements securing any bonds issued hereunder, and to employ such consulting and other engineers, superintendents, managers, construction and financial experts, accountants, and attorneys, and such employees and agents as may, in the judgment of the authority, be deemed necessary, and to fix their compensation; provided, however, that all such expenses shall be payable solely from funds made available under the provisions of this Ordinance.
 - (12) To accept grants or money or materials or property of any kind for any airport or other facilities from any federal or state agency, political subdivision, or other public body or from any private agency or individual, upon such terms and conditions as may be imposed.
 - (13) To issue revenue certificates of the authority as hereinafter provided.
 - (14) To do all acts and things necessary or convenient to carry out the powers granted by this Ordinance.
 - (15) To contract with other governmental entities to operate airports, airfields, and other related facilities and services, including providing all personnel, tools, equipment, supervision, and other materials and services required therefor.
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(g) The City of Lake Wales, a Florida municipal corporation, acting through its duly elected city commission, is hereby authorized to make grants of money to the Lake Wales Airport Authority and to lease, lend, grant, or convey to the Lake Wales Airport Authority, with or without consideration, real and personal property, or such sums of money for operating expenses as may be deemed necessary by the said city for the use by the authority for any of its corporate purposes; provided, however, that if the approval at an election by the freeholders, who are qualified electors of the City of Lake Wales, shall be required by the State Constitution, such election shall be called, noticed, and conducted and the results thereof determined and declared, in the manner required by general law.

(h) No contracts for the construction, repair, or alteration of any facility or part of the same, or the purchase of equipment, services, or supplies involving an expenditure of more than ten thousand dollars (\$10,000.00) shall be awarded by the authority unless the authority advertises for sealed bids at least once a week for two (2) consecutive weeks and such contract is awarded to the lowest responsible bidder. However, the authority may reject all bids.

(i) The Lake Wales Airport Authority, as hereby created, is authorized and empowered to enter into contracts with any individual, corporation, political subdivision, or agency of the state, and the United States of America, and to enter into operating contracts and/or leases for facilities owned by said airport authority and any and all other contracts for furthering the business, operation, and maintenance of said facilities as hereinbefore provided, including the right to lease any or all of such facilities and appurtenances to individuals, corporations, or government entities. The authority is further authorized to fix and revise from time to time rate, fees, and other charges for the use of and for the services furnished or to be furnished by any facilities owned or operated by the authority. Such rates, fees, and charges shall be fixed and revised so that the revenues of the authority, together with any other available funds, will be sufficient at all times to pay the cost, including salaries, for maintaining, operating, and repairing the airport facilities owned or operated by the authority, including reserves for such purposes, and to pay the principal or interest on all bonds or revenue certificates issued by the authority under the provisions of this Ordinance as the same shall become due and payable and to provide reserves therefor. Notwithstanding any of the foregoing provisions of this section, the authority may enter into contracts relating to the use of or for the services furnished or to be furnished by any such facilities which shall not be subject to revision except in accordance with their terms.

(j)

(1) The authority is hereby authorized to issue, at one (1) time or from time to time, bonds or revenue certificates of the authority for the purpose of paying the cost of acquiring, constructing, reconstructing, improving, extending, enlarging, or equipping any of its facilities. The bonds of each issue shall be dated, shall mature at such time or times not exceeding forty (40) years from their date or dates, and shall bear interest at such rate or rates as may be determined by the authority, not exceeding the maximum rate of interest on bonds allowed by the state, and may be made redeemable before maturity, at the option of the authority, at such price or prices and under such terms and conditions as may be fixed by the authority prior to the issuance of the bonds. The authority shall determine the form and the manner of execution of the bonds, including any interest to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the state. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes, the same as if he or she had remained in office until such delivery. Notwithstanding any of the other provisions of this section or any recitals in any bonds issued under the provisions of this section, all such bonds shall be deemed to be negotiable instruments under the laws of the State of Florida. The bonds may be issued in coupon or registered form, or both, as the authority may determine, and provisions may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The authority may sell such bonds in such manner, either at public or private sale, and for such price as it may determine to be for the best interests of the authority, but no such sale shall be made at a price so low as to require the payment of interest on the money received therefor at more than the maximum rate of interest on bonds allowed by the state, computed with relation to the absolute maturity or maturities of the bonds in accordance with standard tables of bond values, excluding, however, from such computation the amount of any premium to be paid on redemption of any bonds at more than the maximum rate of interest on bonds allowed by the state, computed with relation to the absolute maturity or maturities of the bonds in accordance with standard tables of bond values, excluding, however, from such computation the amount of any premium to be paid on redemption of any bonds prior to maturity.

(2) The proceeds of the bonds of each issue shall be used solely for the purpose for which such bonds shall have been authorized and shall be disbursed in such manner and under such restrictions, if any, as the authority may provide in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same. Unless otherwise provided in the authorizing resolution or in the trust agreement securing such bonds, if the proceeds of such bonds, by error of estimates or otherwise, shall be less than such costs, additional bonds may in like manner be issued to provide the amount of such deficit and shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued for the same purpose.

(3) The resolution providing for the issuance of bonds, and any trust agreement securing such bonds, may also contain such limitations upon the issuance of additional bonds as the authority may deem proper, and such additional bonds shall be issued under such restrictions and limitations as may be prescribed by such resolution or trust agreement.

(4) Prior to the preparation of definitive bonds, the authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The authority may also provide for the replacement of any bonds which shall become mutilated or be destroyed or lost.

(5) Bonds may not be issued under the provisions of this section without obtaining the prior consent of the city commission.

(6) Bonds issued by the authority under the provisions of this section shall not be deemed to constitute a debt of the City of Lake Wales or a pledge of the faith and credit of the city, but such bonds shall be obligations of the authority payable solely from the funds herein provided therefor, and a statement to that effect shall be recited on the face of the bonds.

(7) The maximum rate of interest on bonds allowed by the state is determined pursuant to the provisions of F.S. § 215.84.

(k)

(1) In the discretion of the authority, each or any issue of bonds may be secured by a trust agreement by and between the authority and a corporate trustee, which may be made by a trust company or bank having the powers of a trust company within or without the state. The resolution authorizing the issuance of the bonds or such trust agreement may pledge the revenues to be received from any airport facilities of the authority but shall not convey or mortgage any such facilities, and may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the acquisition, construction, reconstruction, improvement, maintenance, repair, operation, and insurance of any such facilities, the fixing and revising of rates, fees, and charges, and the custody, safeguarding, and application of all moneys, and for the employment of consulting engineers in connection with such acquisition, construction, reconstruction, or operation. It shall be lawful for any bank or trust company incorporated under the laws of the state which may Ordinance as depositary of the proceeds of bonds or of revenues to furnish such indemnifying bonds, or to pledge such securities as may be required by the authority. Such resolution or trust agreement may set forth the rights and remedies of the bondholders and of the trustee, if any, and may restrict the individual right of action by bondholders. Such resolution or trust agreement may contain such other provisions in addition to the foregoing as the authority may deem reasonable and proper for the security of the bondholders. The authority may provide for the payment of the proceeds of the sale of the bonds and the revenues of any airport facilities to such officer, board, or depositary as it may designate for the custody thereof, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out the provisions of such resolution or trust agreement may be treated as a part of the cost of operation.

(2) All pledges of revenues under the provisions of this section shall be valid and binding from time to time when such pledges are made. All such revenues so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledges without any physical delivery thereof or further action, and the lien of such pledges shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise, against the authority, irrespective of whether such parties have notice thereof.

(l) All moneys received pursuant to the authority of this Ordinance shall be deemed to be trust funds, to be held and applied solely as provided in this section. The resolution authorizing the issuance of bonds or the trust agreement securing such bonds shall provide that any officer to whom, or bank, trust company, or fiscal agent to which, such moneys shall be paid shall Ordinance as trustee of such moneys and shall hold and apply the same for the purposes hereof, subject to such regulation as the resolution or trust agreement may provide.

(m) Any holder of bonds issued under the provisions of this section or of any of the coupons appertaining thereto, and the trustee under any trust agreement, except to extend the rights herein given as may be restricted by the resolution authorizing the issuance of such bonds or such trust agreement, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any and all rights under the laws of the state or granted hereunder or under such resolution or trust agreement, and may enforce and compel the performance of all duties required by this section or by such resolution or trust agreement to be performed by the authority or by any officer thereof, including the fixing, charging, and collecting of rates, fees, and charges for the use of or for the services and facilities furnished by any airport facilities.

(n) The authority is hereby authorized to issue from time to time refunding bonds for the purpose of refunding any bonds of the authority then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds. The authority is further authorized to issue from time to time bonds of the authority for the combined purpose of refunding any bonds of the authority then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and paying all or any part of the cost of acquiring or constructing any additional facilities or of any improvements. The issuance of such bonds, the maturities and other details thereof, the rights and remedies of the holders thereof, and the rights, powers, privileges, duties, and obligations of the authority with respect to the same, shall be governed by the foregoing provisions of this section insofar as the same may be applicable.

(o) The Lake Wales Airport Authority, as hereby created, shall have no power or authority to bind or commit the City of Lake Wales, a Florida Municipal Corporation, in any manner directly or indirectly and the City of Lake Wales shall not be liable or responsible in any manner for any of the debts, liabilities, obligations, Ordinances, or omissions of the Lake Wales Airport Authority, or any of its officers or employees. All persons dealing with the said authority are hereby charged with full notice of this limitation of its powers.

(p) As a dependent special district, the Lake Wales Airport Authority will comply with the applicable financial reporting requirements of F.S. ch. 189, and shall maintain acceptable books of account reflecting all income and expenditures and said books shall be open to reasonable public inspection. In addition, the Lake Wales Airport Authority Board shall prepare on or before the first of each year a budget and no money shall be spent or obligations incurred by the board or authority except in accordance with the terms of said budget. An audit of the affairs of the Lake Wales Airport Authority shall be conducted annually by a certified public accountant and shall, at the option of the authority or the City of Lake Wales, be submitted to the finance director for his or her review by March of each year. Within two (2) weeks after completion of said audit, the authority shall cause to be published once in a newspaper published and circulated in the City of Lake Wales a notice that the audit is available for public inspection at the Lake Wales Airport Authority's office.

(q) The Lake Wales Airport Authority shall, with the consent of the City Commission of Lake Wales, evidenced by resolution of said commission, exercise any powers relating to aviation conferred upon municipalities by general law, including the provisions of F.S. ch. 332, or the Federal Aviation Administration.

(r) The Lake Wales Airport Authority shall hold regular meetings at least once every month and at such other times as the authority shall determine to be reasonably necessary from time to time.

(s) This section shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of or as repealing any powers now existing under any other law, whether general, special, or local. The issuance of bonds or refunding bonds under the provisions of this section shall comply with the requirements of any other law applicable to the issuance of bonds.

(t) The Lake Wales Airport Authority is authorized from time to time to issue revenue certificates of the authority to fund its operations, acquisitions, construction, or reconstruction, or the improving, enlarging, or equipping of its functions and facilities, under this section. Revenue certificates shall pay no more than the maximum interest payable upon bonds issued by the state. The interest rate paid may vary provided that it does not exceed the maximum paid by the state. Revenue certificates may pledge only the revenues generated by one (1) or more of the authority's facilities or improvements and shall not be an obligation of the state or the City of Lake Wales.

(u)

(1) The Lake Wales Airport Authority is authorized to budget and use the funds accruing to it from auxiliary enterprises, gifts, and concessions for promotion and public relations, including expenditures for hospitality of business guests, and industry recruitment (including funds for travel, meals, and lodging at the actual expense, rather than the otherwise legally established per diem rates).

(2) The accrual and expenditures of said funds shall be considered part of the authority's budget and shall be answerable to the provisions as stated in subsection (p) of this section.

(Ord. No. 2005-44, 9-29-05; Ord. No. 2005-48, 12-6-05; Ord. No. 2006-10, § 3(1—21), 4-4-06; Ord. No. 2007-07, § 1, 3-20-07; Ord. No. 2016-10, § 2, 8-16-16; Ord. No. 2018-11, § 1, 01-02-2019)

§ 2-42. Reserved.**EDITOR'S NOTE**

Ord. No. 2005-44, § 2, adopted Aug. 29, 2005, repealed § 2-42 in its entirety. Formerly, said section pertained to duties of the airport advisory committee as enacted by Code 1962, § 2½-3; as amended. The users attention is directed to § 2-41 of this article for similar provisions.

Division 3. Code Enforcement Board**EDITOR'S NOTE**

Ord. No. 2005-44, § 2, adopted Aug. 29, 2005, repealed § 2-42 in its entirety. Formerly, said section pertained to duties of the airport advisory committee as enacted by Code 1962, § 2½-3; as amended. The users attention is directed to § 2-41 of this article for similar provisions.

§ 2-56. Creation and composition.

(a) There is hereby created a board of this city which shall be known as the Lake Wales Code Enforcement Board.

(b) The city commission shall appoint seven (7) residents of the City of Lake Wales to serve on this board. Two (2) members shall be initially appointed for a term of one (1) year; three (3) members shall be initially appointed for a term of two (2) years; two (2) members shall be initially appointed for a term of three (3) years. Each appointment thereafter shall be made for a term of three (3) years. Whenever possible, the membership of this board shall include an architect, a business person, an engineer, a general contractor, a subcontractor and a realtor. The board shall elect a chairperson from among its ranks.

(Code 1962, § 1-8(a)(1))

§ 2-57. Powers.

The code enforcement board shall have all powers contained in F.S. ch. 162 as it is amended from time to time. The board shall also conduct its business in accordance with the procedures contained in F.S. ch. 162.

(Code 1962, § 1-8(a)(2); Ord. No. 87-3, 2-17-87)

§ 2-58. Civil action.

In addition to the orders and liens promulgated by the Lake Wales Code Enforcement Board, the city commission has the authority to prosecute a civil nuisance or injunctive action against any code violation in any appropriate court of law.

(Code 1962, § 1-8(c); Ord. No. 87-3, 2-17-87)

Division 4. Community Redevelopment Agency Board

§ 2-71. Community redevelopment agency board of commissioners established.

There is hereby created in accordance with F.S. ch. 163, part III, a community redevelopment agency board of commissioners hereinafter referred to as the CRA board. Said CRA board is hereby created to implement the community redevelopment plan for the expanded community redevelopment area approved by Resolution 99-6 of the city commission.

(Code 1962, § 2-40; Ord. No. 99-06, § 1, 8-17-99)

§ 2-72. Governing body as the community redevelopment agency board of commissioners.

(a) The city commission shall serve as the CRA board and shall exercise all rights, powers, duties, privileges, and immunities vested in a community redevelopment agency by Chapter 163, Part III, Florida Statutes, as it may be amended from time to time.

(b) In its capacity as CRA board, the commission constitutes the head of a legal entity that is separate, distinct and independent from the city commission as governing body of the City of Lake Wales.

(c) The CRA board shall annually designate a chairperson and vice-chairperson from among its members.

(d) The CRA board shall meet as necessary to conduct the business and exercise the powers of the agency.

(e) A majority of the members of the CRA Board shall constitute a quorum for the purpose of conducting business and exercising the powers of the agency and for all other purposes. Action may be taken by the CRA Board upon the vote of a majority of the members present.

(Code 1962, § 2-41; Ord. No. 90-10, § 1, 7-17-90; Ord. No. 99-06, § 1, 8-17-99; Ord. No. 2009-17, § 1, 7-7-09; Ord. No. 2010-27, § 1, 11-16-10)

STATE LAW REFERENCE

Downtown development boards may be designated the community redevelopment agency, F.S. § 163.357(2).

§ 2-73. CRA citizen advisory committee.

Effective: Tuesday, February 07, 2017

(a) *Committee established.* A citizen advisory committee is hereby established to assist the CRA board in implementing redevelopment activities within the redevelopment area and to make recommendations to the CRA board on redevelopment matters as necessary.

(b) *Membership.* The CRA citizen advisory committee will consist of five (5) members appointed by the Mayor with the advice and consent of the city commission. Any person may be appointed to serve if he or she resides or is engaged in business, which means owning a business, practicing a profession or performing a service for compensation, or serving as an officer or director of a corporation or other business entity so engaged, within the area of operation of the agency, which shall be coterminous with the area of operation of the City. One (1) qualified person appointed shall reside or be engaged in business within voting District 19, one (1) qualified person appointed shall reside or be engaged in business within voting District 122, one (1) qualified person appointed shall reside or be engaged in business in voting District 27, one (1) qualified person appointed shall reside or be engaged in business in voting District 28, and one (1) qualified person shall be appointed at-large and shall reside or be engaged in business in any of the four voting districts of the City stated above.

- (c) *Term.* Members shall serve a two (2) year term beginning on the first day of July of the applicable year. The terms of members appointed to the first CRA citizen advisory committee formed after the adoption of this ordinance shall begin on the first day of the month following adoption and shall expire as follows:

Seat 1 (At-Large)	2018
Seat 2 (District 19)	2018
Seat 3 (District 122)	2017
Seat 4 (District 27)	2017
Seat 5 (District 28)	2018

- (d) *Chairperson.* The CRA citizen advisory committee shall annually elect a chairperson at its first meeting in July to preside at meetings.
- (e) *Meetings.* The CRA citizen advisory committee shall meet at the call of the chairman of the CRA board or upon the request of city staff but shall meet no less than once each year.
- (f) *Duties.* The CRA citizen advisory committee shall provide advice and recommendations as needed to implement the CRA plan adopted by the city commission.
- (g) *Applicability of legal requirements.* Members of the CRA citizen advisory committee are subject to section 2-26 of this Code which regulates city boards and committees, the Florida Sunshine Law, the Public Records Law, financial disclosure requirements and all other laws which govern members of public agencies.
- (Code 1962, § 2-42; Ord. No. 90-03, § 1, 5-15-90; Ord. No. 99-06, § 1, 8-17-99; Ord. No. 2010-27, § 1, 11-16-10; Ord. No. 2017-03, § 1, 02-07-2017)

§ 2-74. Reserved.

EDITOR'S NOTE

Ord. No. 99-06, § 1, adopted Aug. 17, 1999, repealed section 2-74 in its entirety. Former section 2-74, pertained to advisory committees and derived from Ord. No. 90-10, § 1, adopted July 17, 1990; and Ord. No. 91-07, § 1, adopted Aug. 20, 1991.

Division 6. Open Housing Board

EDITOR'S NOTE

Ord. No. 99-06, § 1, adopted Aug. 17, 1999, repealed section 2-74 in its entirety. Former section 2-74, pertained to advisory committees and derived from Ord. No. 90-10, § 1, adopted July 17, 1990; and Ord. No. 91-07, § 1, adopted Aug. 20, 1991.

§ 2-101. Created. [Repealed]

Effective: Tuesday, February 07, 2017

There is hereby created an open housing board of the City of Lake Wales to exercise the authority granted in this article. The city commission shall serve as such board.

(Code 1962, § 9½-19; Ord. No. 2017-02, § 1, 02-07-2017)

§ 2-102. Filing of complaints. [Repealed]

Effective: Tuesday, February 07, 2017

Any person subjected to a discriminatory act or practice in contravention of this article may file with the board a complaint in writing, sworn to or affirmed, which shall state the name and address of the complainant and the person or persons against whom complaint is made. It shall also state the alleged facts surrounding the alleged commission of an unfair housing practice and such other information as the board may require. The board, upon recommendation of a majority of its members, may initiate a complaint in accord with the provisions set forth above. A complaint shall be filed within forty-five (45) days after the date of the alleged discriminatory housing practice.

(Code 1962, § 9½-20; Ord. No. 2017-02, § 1, 02-07-2017)

§ 2-103. Processing complaints. [Repealed]

Effective: Tuesday, February 07, 2017

(a) Upon filing a complaint as set forth in this division, the board shall make such investigation as seems appropriate to ascertain facts and issues and present them to the full board. If the board shall determine that there are reasonable grounds to believe a violation has occurred and is susceptible of conciliation, it shall attempt to conciliate the matter by methods of initial conference and persuasion with all interested parties and such representatives as the parties may choose to assist them. Conciliation conferences shall be informal.

(b) The terms of conciliation agreed to by the parties may be reduced to writing and incorporated into a consent agreement to be signed by the parties, which agreement is for conciliation purposes only and does not constitute an admission by any party that the law has been violated. Consent agreements shall be signed on behalf of the board by the mayor.

(c) If the board determines that the complaint lacks reasonable grounds upon which to base a violation of this article, the board may in its discretion recommend that the matter be closed or order such further investigation as may be necessary.

(d) If the board, with respect to a matter which involves a contravention of this Code:

- (1) Fails to conciliate a complaint after the parties have, in good faith, attempted such conciliation; or
 - (2) Fails to effect an informal conciliation agreement or a formal consent agreement; or
 - (3) Determines that a complaint is not susceptible of conciliation;
-

the board shall thereafter schedule a public hearing to determine the facts. The board shall serve upon all interested parties a notice of the time and place of the hearing. The respondent or his authorized counsel may file such statements with the board prior to the hearing date as it deems necessary in support of its position. The hearing shall be held not less than fifteen (15) days after service of the statement of charges and notice to the respondent signed by two (2) members of the board. The interested parties may, at their option, appear before the board in person or by duly authorized representative and may have the assistance of an attorney. The parties may present testimony and evidence, and the right to cross-examine witnesses shall be preserved. All testimony and evidence shall be given under oath or by affirmation. The board shall not be bound by strict rules of evidence prevailing in courts of law or equity. The board shall keep a full record of the hearing, which records shall be public and open to inspection by any person, and upon request by any principal party to the proceedings, the board shall furnish such party a copy of the hearing record, if any, at such cost as the board deems appropriate. The board shall make a finding of fact.

(e) The purpose and effect of the procedure before the board and of its findings is to obtain:

- (1) The resolution of differences and postures which are not consistent with the law; and
- (2) Where conciliation has failed to resolve the discriminatory postures, to clarify the issues and to assist an aggrieved person to formulate his case, if he elects to seek remedies afforded by the law, particularly, but not limited to the United States Civil Rights Act of 1968. However, if in the opinion of the open housing board, such action is warranted, the matter shall be turned over to the city prosecutor or state attorney for further investigation with a view towards filing charges against the offending party in the appropriate court. Nothing herein shall prevent any person from exercising any right or seeking any remedy to which he might otherwise be entitled or from filing of any complaint with any other agency or any court having jurisdiction.

(Code 1962, § 9½-21; Ord. No. 2017-02, § 1, 02-07-2017)

Division 7. Library Board

§ 2-116. Adoption of provisions by reference; tax levy.

(a) The provisions of Chapter 57-1488, Laws of Florida Special Acts of 1957 are hereby adopted and the provisions of said act authorizing a board of directors of said library are hereby invoked and all of said act be, and the same is hereby adopted by reference and made a part of the ordinances of the city in all respects, other than the provisions referring to referendum.

(b) Any tax levy in compliance with said Act shall be levied on a year-to-year basis in the same manner as the general operating tax levy is made by said city, provided, said tax shall be used solely for the purposes and in the manner contained in said act.

(Code 1962, § 2-4)

EDITOR'S NOTE

Printed herein is the special act regarding the library board adopted by reference and enacted as Laws of Fla. ch. 57-1488.

CHAPTER 57-1488

HOUSE BILL NO. 750

AN ACT to authorize and empower the City of Lake Wales, a city located in Polk County, and incorporated under the laws of Florida, to establish and maintain a library; to establish a library board; to provide funds for support and maintenance; disbursements; to establish general powers of the library board; appointment of librarian; use of library; reports of library board to commissioners; amendments of by-laws; penalty for violation of rules recovered by civil action; donations to library; property exempt from execution and taxation; circulating library and providing referendum, providing effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. *Establishing and Maintaining Library.*—In addition to the powers which it may now have, the city commission of Lake Wales, be and it is hereby authorized and empowered by ordinance to establish and maintain and operate a public municipal library and reading room, to be known as Lake Wales public library, for the use of the inhabitants of such city, and may levy a tax of not more than one (1) mill on the dollar annually, to be levied and collected in like manner as any other taxes of said City of Lake Wales, and to be known as the "library fund."

Section 2. *Library Board.*—When the City Commissioners of the City of Lake Wales shall have decided by ordinance to establish, maintain and operate a public municipal library and reading room, they shall appoint a library board to consist of five (5) directors, of which board neither the mayor-commissioner nor any member of the city commission shall be a member. Such directors first appointed shall hold their offices, one (1) for the term of one (1) year, one (1) for the term of two (2) years, one (1) for the term of three (3) years, one (1) for the term of four (4) years, one (1) for the term of five (5) years, from the first (1st) day of July following their appointment, and one (1) director shall be appointed annually thereafter for the term of five (5) years; and in cases of vacancies by resignation, removal or otherwise, the commissioners shall fill such vacancy for the unexpired term, and no director shall receive any pay or compensation for any service rendered as a member of such board, and such directors shall give such bond as the commissioners shall require. Such directors shall immediately after their appointment meet and organize by electing one of their number president, and such other officers as may be necessary.

Three (3) of such board shall be a quorum. They may make and adopt such by-laws, rules and regulations for their own guidance and for the government of the library and reading room as they may deem expedient, subject to the supervision and control of the city commissioners, and not inconsistent with law. They shall have exclusive control of expenditures of all monies collected or donated to the credit of the library fund, and of the renting or construction of any library building; and the supervision, care and custody of the grounds, rooms or buildings constructed, leased or set apart for the purpose.

Section 3. *Funds for Support and Maintenance; Special Fund; Disbursements.*—All taxes levied or collected and all funds donated or in any way acquired for the erection, maintenance or support of said public library shall be kept for the use of such library, separate and apart from all other funds of said city, and shall be drawn upon and paid out by the city manager, attested by the city clerk of said city, upon vouchers signed by the president of the library board, and authenticated by the secretary of such board, and shall not be used or disbursed for any other purpose or in any other manner.

Section 4. *General powers of Library Board; Appointment of Librarian, etc.*—The library board may purchase or lease grounds; erect, lease or occupy an appropriate building or buildings for the use of such library; appoint a suitable librarian and assistant; fix their compensation, and remove their appointments at pleasure; establish regulations for the government of such library as may be deemed necessary for its preservation and to maintain its usefulness and efficiency; fix and impose by general rules, penalties and forfeitures for trespasses or injury to the library grounds, rooms, books or other property, or failure to return any book, or for violation of any by-law or regulation; and shall have and exercise such power as may be necessary to carry out the spirit and intent of law, in establishing and maintaining a public library and reading room.

Section 5. *Free use of library by inhabitants; Proviso.*—Said library and reading room shall be forever free to the use of the inhabitants of the City of Lake Wales, subject always to such reasonable regulation as the library board may adopt, to render said library and reading room of the greatest use to the inhabitants of said city, and the librarian may exclude from the use of the library and reading room any person who shall wilfully violate or refuse to comply with rules and regulations established for the government thereof; persons so excluded may appeal to the library board.

Section 6. *Reports of Library Board to Commissioners.*—The library board shall, on or before the second (2nd) Monday in June of each year, make a report to the city commissioners of the condition of their trust on the first (1st) day of June of such year, showing all monies received or expended, the number of books and periodicals on hand, newspapers and current literature subscribed for or donated to the reading room department, the number of books or periodicals ordered by purchase, gift or obtained during the year, the number lost or missing, the number of visitors attending, the number of and character of the books loaned or issued, with such statistics, information and suggestions as it may deem of general interest, or as the city commissioners may require, which report shall be verified by affidavit of the proper officers of said board.

Section 7. *Amendment of By-laws.*—Any by-law or regulation established by the library board may be amended by the commissioners of the City of Lake Wales.

Section 8. *Penalty for violation of rules recovered by civil action.*—Penalties imposed or accruing by any by-law or regulation of the library board may be recovered in a civil action before any justice of the peace, or other court having jurisdiction; such action to be instituted in the name of the library board of the city library, and monies collected in any such action shall be forthwith placed in the city treasury to the credit of the library fund.

Section 9. *Donations to library; Title to vest in Library Board.*—Any person may make any donation of money or lands for the benefit of such library, and the title of the property so donated may be made to and shall vest in the library board of the City of Lake Wales, and their successors in office, and such board shall thereby become the owners thereof in trust to the uses of the public library of the City of Lake Wales.

Section 10. *Property exempt from execution and taxation.*—The property of such library shall be exempt from execution, and shall also be exempt from taxation as other public property.

Section 11. *Supplemental powers.*—The powers conferred by this act shall be in addition and supplemental to the existing powers of the city commission, and this act shall not be construed as repealing any of the provisions of any other law, general or local, or charter.

Section 12. This act shall take effect immediately upon its becoming a law, subject to its ratification by a majority of the qualified freeholder electors of the City of Lake Wales, voting at a special election to be called by the city commissioners and held prior to December 31, 1957.

Became a law without the Governor's approval.

Filed in Office Secretary of State May 9, 1957.

Division 8. Parks And Community Appearance Advisory Board

EDITOR'S NOTE

Printed herein is the special act regarding the library board adopted by reference and enacted as Laws of Fla. ch. 57-1488.

CHAPTER 57-1488

HOUSE BILL NO. 750

AN ACT to authorize and empower the City of Lake Wales, a city located in Polk County, and incorporated under the laws of Florida, to establish and maintain a library; to establish a library board; to provide funds for support and maintenance; disbursements; to establish general powers of the library board; appointment of librarian; use of library; reports of library board to commissioners; amendments of by-laws; penalty for violation of rules recovered by civil action; donations to library; property exempt from execution and taxation; circulating library and providing referendum, providing effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. *Establishing and Maintaining Library.*—In addition to the powers which it may now have, the city commission of Lake Wales, be and it is hereby authorized and empowered by ordinance to establish and maintain and operate a public municipal library and reading room, to be known as Lake Wales public library, for the use of the inhabitants of such city, and may levy a tax of not more than one (1) mill on the dollar annually, to be levied and collected in like manner as any other taxes of said City of Lake Wales, and to be known as the "library fund."

Section 2. *Library Board.*—When the City Commissioners of the City of Lake Wales shall have decided by ordinance to establish, maintain and operate a public municipal library and reading room, they shall appoint a library board to consist of five (5) directors, of which board neither the mayor-commissioner nor any member of the city commission shall be a member. Such directors first appointed shall hold their offices, one (1) for the term of one (1) year, one (1) for the term of two (2) years, one (1) for the term of three (3) years, one (1) for the term of four (4) years, one (1) for the term of five (5) years, from the first (1st) day of July following their appointment, and one (1) director shall be appointed annually thereafter for the term of five (5) years; and in cases of vacancies by resignation, removal or otherwise, the commissioners shall fill such vacancy for the unexpired term, and no director shall receive any pay or compensation for any service rendered as a member of such board, and such directors shall give such bond as the commissioners shall require. Such directors shall immediately after their appointment meet and organize by electing one of their number president, and such other officers as may be necessary.

Three (3) of such board shall be a quorum. They may make and adopt such by-laws, rules and regulations for their own guidance and for the government of the library and reading room as they may deem expedient, subject to the supervision and control of the city commissioners, and not inconsistent with law. They shall have exclusive control of expenditures of all monies collected or donated to the credit of the library fund, and of the renting or construction of any library building; and the supervision, care and custody of the grounds, rooms or buildings constructed, leased or set apart for the purpose.

Section 3. *Funds for Support and Maintenance; Special Fund; Disbursements.*—All taxes levied or collected and all funds donated or in any way acquired for the erection, maintenance or support of said public library shall be kept for the use of such library, separate and apart from all other funds of said city, and shall be drawn upon and paid out by the city manager, attested by the city clerk of said city, upon vouchers signed by the president of the library board, and authenticated by the secretary of such board, and shall not be used or disbursed for any other purpose or in any other manner.

Section 4. *General powers of Library Board; Appointment of Librarian, etc.*—The library board may purchase or lease grounds; erect, lease or occupy an appropriate building or buildings for the use of such library; appoint a suitable librarian and assistant; fix their compensation, and remove their appointments at pleasure; establish regulations for the government of such library as may be deemed necessary for its preservation and to maintain its usefulness and efficiency; fix and impose by general rules, penalties and forfeitures for trespasses or injury to the library grounds, rooms, books or other property, or failure to return any book, or for violation of any by-law or regulation; and shall have and exercise such power as may be necessary to carry out the spirit and intent of law, in establishing and maintaining a public library and reading room.

Section 5. *Free use of library by inhabitants; Proviso.*—Said library and reading room shall be forever free to the use of the inhabitants of the City of Lake Wales, subject always to such reasonable regulation as the library board may adopt, to render said library and reading room of the greatest use to the inhabitants of said city, and the librarian may exclude from the use of the library and reading room any person who shall wilfully violate or refuse to comply with rules and regulations established for the government thereof; persons so excluded may appeal to the library board.

Section 6. *Reports of Library Board to Commissioners.*—The library board shall, on or before the second (2nd) Monday in June of each year, make a report to the city commissioners of the condition of their trust on the first (1st) day of June of such year, showing all monies received or expended, the number of books and periodicals on hand, newspapers and current literature subscribed for or donated to the reading room department, the number of books or periodicals ordered by purchase, gift or obtained during the year, the number lost or missing, the number of visitors attending, the number of and character of the books loaned or issued, with such statistics, information and suggestions as it may deem of general interest, or as the city commissioners may require, which report shall be verified by affidavit of the proper officers of said board.

Section 7. *Amendment of By-laws.*—Any by-law or regulation established by the library board may be amended by the commissioners of the City of Lake Wales.

Section 8. *Penalty for violation of rules recovered by civil action.*—Penalties imposed or accruing by any by-law or regulation of the library board may be recovered in a civil action before any justice of the peace, or other court having jurisdiction; such action to be instituted in the name of the library board of the city library, and monies collected in any such action shall be forthwith placed in the city treasury to the credit of the library fund.

Section 9. *Donations to library; Title to vest in Library Board.*—Any person may make any donation of money or lands for the benefit of such library, and the title of the property so donated may be made to and shall vest in the library board of the City of Lake Wales, and their successors in office, and such board shall thereby become the owners thereof in trust to the uses of the public library of the City of Lake Wales.

Section 10. *Property exempt from execution and taxation.*—The property of such library shall be exempt from execution, and shall also be exempt from taxation as other public property.

Section 11. *Supplemental powers.*—The powers conferred by this act shall be in addition and supplemental to the existing powers of the city commission, and this act shall not be construed as repealing any of the provisions of any other law, general or local, or charter.

Section 12. This act shall take effect immediately upon its becoming a law, subject to its ratification by a majority of the qualified freeholder electors of the City of Lake Wales, voting at a special election to be called by the city commissioners and held prior to December 31, 1957.

Became a law without the Governor's approval.

Filed in Office Secretary of State May 9, 1957.

§ 2-131. Created; members, appointment. [Repealed]

Effective: Tuesday, February 07, 2017

There is hereby created and constituted the parks and community appearance advisory board which shall consist of seven (7) persons to be appointed by the mayor-commissioner and confirmed by the city commission. A majority of the members shall reside or own property within the city limits. The director of planning or designee and public services director or designee shall serve as ex-officio members.

(Ord. No. 2007-10, § 1, 4-4-07; Ord. No. 2017-02, § 2, 02-07-2017)

§ 2-132. Terms; chairman. [Repealed]

Effective: Tuesday, February 07, 2017

The members of the parks and community appearance advisory board shall be appointed for terms of three (3) years, except that the initial terms of the members shall be staggered so as to provide two (2) vacancies at the end of each year. Terms of office of such members shall begin on the first day of July in each year. The board shall elect a chairman at its first meeting after the first day of July in each year.

(Ord. No. 2007-10, § 1, 4-4-07; Ord. No. 2017-02, § 2, 02-07-2017)

§ 2-133. Regular meetings; seat vacated for failure to attend. [Repealed]

Effective: Tuesday, February 07, 2017

The parks and community appearance advisory board shall meet at regular meetings at least six (6) times per year, and absence from three (3) consecutive regular meetings of the parks and community appearance advisory board shall operate to vacate the seat of a member, unless such absence is excused by the parks and community appearance advisory board by motion setting forth the fact of such excuse duly passed and entered upon the minutes.

(Ord. No. 2007-10, § 1, 4-4-07; Ord. No. 2017-02, § 2, 02-07-2017)

§ 2-134. Duties. [Repealed]

Effective: Tuesday, February 07, 2017

The parks and community appearance advisory board shall, in coordination with the planning board and other boards, committees and civic groups of the city, prepare plans and make recommendations to the city manager and city commission regarding the following matters:

- (1) *Lake Wailes Park System.* Maintaining and upgrading the park around Lake Wailes and nearby parks including adjacent athletic facilities, Crystal Lake Park, North Lake Wailes Park, and Lake Alta.
- (2) *Neighborhood park system.* Maintaining and expanding the neighborhood park system to provide neighborhood and mini parks to all existing neighborhoods within the city in compliance with the policies of the comprehensive plan; establishing guidelines for developers regarding neighborhood and mini parks required in new developments.
- (3) *Community parks.* Maintaining and upgrading existing community parks and facilities; developing new community parks and facilities to serve the expanding population of the city in compliance with the policies of the comprehensive plan; budgeting recreation impact fees in compliance with city ordinances and policies; securing grants and other funding to provide such facilities.
- (4) *Streets and city entrances.* Upgrading the appearance of city streets through landscaping, signage control and other measures; creating attractive entrances to the city through landscaping and signage; providing consistent and attractive signage to guide visitors to landmarks, parks, civic buildings, and other features throughout the city.
- (5) *Maintenance programs.* Systems for regular maintenance of parks, streetscapes, and entrances, including facilities, landscaping, and signage to ensure high quality appearance; regulations for use of parks.

(Ord. No. 2007-10, § 1, 4-4-07; Ord. No. 2017-02, § 2, 02-07-2017)

Division 9. Parking Authority

§ 2-146. Creation. [Repealed]

Effective: Tuesday, February 07, 2017

There is hereby created a Lake Wales Parking Authority which shall consist of five (5) members. Two (2) of the members shall be appointed by the community redevelopment agency. Two (2) of the members shall be appointed by the Lake Wales Downtown Merchants' Association, or its successor. One (1) of the members shall be appointed by the Lake Wales City Commission. Each seat shall be for a term of three (3) years.

(Code 1962, § 2-46; Ord. No. 2017-02, § 3, 02-07-2017)

§ 2-147. Duties. [Repealed]

Effective: Tuesday, February 07, 2017

The parking authority shall:

- (1) Elect a chairperson from among its ranks to preside at the meetings;
- (2) Recommend to the city commission on matters involving the creation of and enforcement of parking rules for the Commercial District (Zoned C).

(Code 1962, § 2-47; Ord. No. 2017-02, § 3, 02-07-2017)

Division 10. Recreation Commission

§ 2-161. Created; appointment and terms of members; election of officers; adoption of bylaws.

There is hereby created a recreation commission for the City of Lake Wales which shall consist of members representing each of the community organizations providing a recreation program for the community and members representing the citizens at large.

(a) Each community organization named in this paragraph shall be entitled to a seat on the recreation commission and shall appoint one (1) delegate who shall serve for a term of three (3) years.

- (1) Green and Gold Foundation.
- (2) Historic Lake Wales Society.
- (3) Lake Wales Boys and Girls Club.
- (4) Lake Wales Charter Schools.
- (5) Lake Wales Little League.
- (6) Lake Wales PAL.
- (7) Lake Wales Pram Fleet.
- (8) Lake Wales Public Library.
- (9) Lake Wales Soccer Club.
- (10) Lake Wales YMCA.
- (11) Polk County School Board.
- (12) Steelers Football and Cheerleading.
- (13) Webber International University.

(b) Three (3) seats on the recreation commission shall be occupied by citizens who reside within the city limits. Citizen members shall be appointed by the city commission for a term of three (3) years except that initially one (1) of the citizens shall be appointed for a term of one (1) year, one (1) citizen shall be appointed for a term of two (2) years, and one (1) citizen shall be appointed for a term of three (3) years. A citizen member shall serve no more than three (3) consecutive terms.

(c) A community organization that is formed for the purpose of providing a recreation program for the youth of the community shall be entitled to one (1) delegate on the recreation commission provided that a majority of the existing members vote to expand the commission to include a delegate from said organization.

(d) The members shall select a chairperson from among their ranks and such other officers as may be necessary. The chairperson shall serve as the liaison between the recreation commission and city staff for purposes of carrying out the intent of this division.

(e) The recreation commission shall have the power to adopt by-laws, set meeting times and dates, and decide other matters of procedure. A quorum shall consist of six (6) members.

(Code 1962, § 2-1; Ord. No. 69-10, § 1, 8-5-69; Ord. No. 79-5, § 1, 3-20-79; Ord. No. 80-1, § 1, 3-18-80; Ord. No. 84-3, § 1, 4-3-84; Ord. No. 2002-28, § 1, 10-15-02; Ord. No. 2002-33, § 1, 11-19-02; Ord. No. 2003-24, § 1, 9-3-03; Ord. No. 2011-10, § 1, 7-19-11)

§ 2-162. Duties.

(a) During budget cycles when the city funds a municipal recreation program that includes a recreation director, the recreation commission shall:

(1) In coordination with public school officials, all local church organizations, all local service organizations and all local civic clubs, assist in any manner possible the recreation director in matters of public relations between all organizations and the general public.

(2) Aid and assist the recreational director in the carrying out of all of the director's powers and duties.

(b) During budget cycles when the city is unable to fund a municipal recreation program that includes a recreation director, the recreation commission shall:

(1) Serve as a steering committee to:

- a. Coordinate publication of and participation in recreation programs currently run by various parent, church, or other community organizations;
- b. Identify recreation needs that are not currently being met; and
- c. Facilitate development of programs by various parent, church, or other community organizations to meet those unmet needs.

(2) Serve as liaison between the various parent, church, and other community organizations that provide recreation programs and city staff for the maintenance and improvement of the city's recreation facilities.

(3) Make recommendations to city staff for recreation improvements to be included in the city's capital improvement plan.

(4) Make recommendations to city staff for program funding assistance to be included in the city's operating budget.

(c) The recreation commission shall also have the duty to review rules and regulations for use of recreation facilities and make recommendations to the city commission for approval or disapproval of said rules.

(Code 1962, § 2-2; Ord. No. 69-10, § 1, 8-5-69; Ord. No. 80-1, § 1, 3-18-80; Ord. No. 2011-10, § 1, 7-19-11)

§ 2-163. Reserved.

EDITOR'S NOTE

Ord. No. 2006-48, § 2, adopted Dec. 19, 2006, repealed § 2-163 in its entirety. Formerly, said section pertained to rules and regulations of the recreation commission as enacted by Code 1962, § 2-3. The user's attention is directed to ch. 18, art. V for similar provisions.

Division 11. Lakes Advisory Commission

EDITOR'S NOTE

Ord. No. 2006-48, § 2, adopted Dec. 19, 2006, repealed § 2-163 in its entirety. Formerly, said section pertained to rules and regulations of the recreation commission as enacted by Code 1962, § 2-3. The user's attention is directed to ch. 18, art. V for similar provisions.

§ 2-171. Created; members; appointments. [Repealed]

Effective: Tuesday, February 07, 2017

There is hereby created a board to be known as the Lakes Advisory Board which shall consist of seven (7) persons to be appointed by the mayor-commissioner and confirmed by the city commission. The city manager or his designee shall serve as an ex officio member. A member from Polk County Natural Resources will also serve as an ex officio member.

(Ord. No. 2003-23, § 1, 9-3-03; Ord. No. 2017-02, § 4, 02-07-2017)

NOTATION

refnote

See editors note at div. 11

§ 2-172. Qualifications; terms; chairperson. [Repealed]

Effective: Tuesday, February 07, 2017

At least six (6) of the members of this board shall reside within the City of Lake Wales. The members shall be appointed for terms of three (3) years, except that the initial terms of the members shall be staggered so as to provide two (2) vacancies at the end of the initial first year, two (2) vacancies at the end of the initial second year and one (1) vacancy at the end of the initial third year. Terms of office of such members shall begin on the first day of July in each year. The board shall elect a chairperson at its first meeting after the first day of July in each year.

(Ord. No. 2003-23, § 1, 9-3-03; Ord. No. 2017-02, § 4, 02-07-2017)

NOTATION

refnote

See editors note at div. 11

§ 2-173. Regular meetings; seat vacated for failure to attend. [Repealed]

Effective: Tuesday, February 07, 2017

The board shall meet at regular intervals, but in any event at least once each quarter. Meetings shall be called by the chairperson. The mayor-commissioner of the city shall have the authority to call special meetings of the board.

Absence from three (3) consecutive regular meetings of the board shall operate to vacate the seat of the member absent, unless such absence is excused by the board by a motion setting forth the fact that such excuse and the motion being duly passed and enter upon the board minutes.

(Ord. No. 2003-23, § 1, 9-3-03; Ord. No. 2017-02, § 4, 02-07-2017)

NOTATION

refnote

See editors note at div. 11

§ 2-174. Duties. [Repealed]

Effective: Tuesday, February 07, 2017

This board shall have the following duties:

- (1) To advise the city commission on matters involving the restoration, preservation or maintenance of the lakes and waterways found within the City of Lake Wales.
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(2) To seek and solicit and make applications for any grants or funds offered by any entity, public or private, if such funds could be used by the city in the preservation, restoration and maintenance of the lakes and waterways found in the City of Lake Wales. Any decision to accept offered funds or grants shall remain within the city commission.

(Ord. No. 2003-23, § 1, 9-3-03; Ord. No. 2017-02, § 4, 02-07-2017)

NOTATION

refnote

See editors note at div. 11

Division 12. Historic Preservation Board

NOTATION

refnote

See editors note at div. 11

§ 2-181. Establishment. [Repealed]

Effective: Tuesday, February 07, 2017

There is established a City of Lake Wales Historic Preservation Board (HPB) in order to carry forward the purposes of the National Historic Preservation Act, as amended in 1980, PL 96-515, and such other purposes as may be created by ordinance or law.

(Ord. No. 2002-18, § 1, 9-17-02; Ord. No. 2017-02, § 5, 02-07-2017)

§ 2-182. Membership; terms; professional qualifications. [Repealed]

Effective: Tuesday, February 07, 2017

(a) *Membership.* The board shall consist of nine regular members. At least four (4) members must be residents of the City of Lake Wales. Up to four (4) members may be non-residents but must own property within the city limits or hold business tax receipt issued by the city as required by section 2-26 of this chapter. One (1) member shall be a member of the city commission. Up to four (4) ex-officio members who are not residents and do not meet the other requirements of section 2-26 may also be appointed to serve on the board provided they meet the professional qualifications requirement of paragraph (c).

(b) *Terms.* Of the first regular members appointed, three (3) shall be appointed for two (2) years and five (5) shall be appointed for three (3) years, but thereafter all appointments shall be for three (3) years or until their successors are qualified and appointed. The commissioner member shall be appointed for the duration of his or her term on the city commission. Ex-officio members shall be appointed for three (3) years.

(c) *Professional qualifications.* To meet the requirements of the certified local government program, as provided in the National Historic Preservation Act, as amended in 1980, PL 96-515, and to carry out its responsibilities under this chapter, the membership of the board shall include, to the extent available, three (3) persons who are educated or who practice in one (1) of the disciplines of architecture, history, architectural history, planning, archaeology or related disciplines. Whenever an individual is nominated to the board, the mayor and the city commission shall consider the professional qualifications of the individual to ensure that the requirements of the certified local government program are met.

(Ord. No. 2002-18, § 1, 9-17-02; Ord. No. 2003-06, § 1, 3-18-03; Ord. No. 2006-47, § 3, 12-5-06; Ord. No. 2017-02, § 5, 02-07-2017)

**§ 2-183. Manner of appointment; vacancies; removal from office.
[Repealed]**

Effective: Tuesday, February 07, 2017

(a) *Manner of appointment.* Members of the board shall be appointed by the mayor, subject to confirmation by the city commission.

(b) *Vacancies.* When a vacancy occurs on the board, it shall be filled as quickly as possible with due consideration to the qualifications of any candidate. No position shall remain unfilled on the board for a period exceeding sixty (60) days.

(c) *Removal from office.* A member of the board may be removed during his or her term by the mayor, with the approval of the city commission.

(Ord. No. 2002-18, § 1, 9-17-02; Ord. No. 2017-02, § 5, 02-07-2017)

§ 2-184. Organization. [Repealed]

Effective: Tuesday, February 07, 2017

(a) *Officers.* The board shall annually elect a chairperson, vice-chairperson, and a secretary from among its members. The officers shall have such duties of chairing the meetings and other responsibilities as are assigned to them by the rules of the board.

(b) *Task forces.* The board may from time to time, authorize the establishment of task forces or work groups to carry out specialized and detailed projects within the scope of its purposes; any task force or work group may include, but membership composition is not limited to, persons who are not members of the board.

(Ord. No. 2002-18, § 1, 9-17-02; Ord. No. 2017-02, § 5, 02-07-2017)

§ 2-185. Powers and duties. [Repealed]

Effective: Tuesday, February 07, 2017

The board shall have the following powers and duties, which shall be complementary to and carried out in accordance with the responsibility of the state historic preservation officer as described in 36 CFR 61.4(b), as may be amended;

(a) *Regular meetings.* The board shall hold regular meetings, but no less than four (4) times per year.

(b) *Reporting.* The board shall, on a bi-annual basis, make a written report to the city commission of its activities.

(c) *Survey and inventory.* The board shall conduct an ongoing survey and inventory of historic buildings, areas and archaeological sites in the city, which shall be compatible with the state master site file, and to plan for their preservation. Copies of the final work products of such survey and inventory shall be forwarded to the state preservation office.

(d) *Potential landmarks.* The board shall identify potential landmarks and potential landmark sites and make recommendations to the city commission as to whether those potential landmarks and landmark sites should be officially designated as landmarks and landmark sites.

(e) *Review authority.* Upon application by the property owner or his designated agent for the nomination of local property to the National Register of Historic Places, or in extraordinary circumstances, upon application by the city commission for the nomination of local property to the National Register of Historic Places and with respect to the National Register of Historic Places, the board shall have the following authority:

(1) To review all nominations of local property to the National Register of Historic Places pursuant to the regulations established by the state historic preservation officer.

(2) To request the mayor or his/her designee to render written opinions as to whether each property should be nominated to the national register.

(3) To review the nomination following due public notice and hearing requirements and after notifying the applicant and property owner thirty (30) days prior to the public hearing.

(4) To seek expert advice while reviewing the nomination, subject to budgetary restrictions.

(5) To forward to the state historic preservation officer its recommendation on the nomination and the recommendations of the local official.

(f) *Certified local government program.* In the development of the certified local government program, as provided in the National Historic Preservation Act, as amended in 1980, PL 96-515, the city commission may ask the board to perform such other responsibilities as may be delegated to the city from time to time pursuant to the National Historic Preservation Act.

(g) *Public hearings and records.* The board shall promulgate appropriate rules providing for the establishment and maintenance of a record of all board meetings and public hearings, which record shall be filed with the city clerk and retained with the official records of the city. A verbatim record is not required, but the board shall establish the record in sufficient degree to disclose the factual basis for its determinations and recommendations. The board shall prepare and file with the city clerk for public inspection a written annual report of its historic preservation activities, cases, decisions and qualifications of its members.

(h) *Other matters.* Except as specified herein, all matters pertaining to citizen boards, commissions and committees established by the Lake Wales City Commission shall apply.

(Ord. No. 2002-18, § 1, 9-17-02; Ord. No. 2017-02, § 5, 02-07-2017)

Division 13. Fire And Building Code Administration Board

§ 2-187. Fire and building code administration board established. [Repealed]

Effective: Tuesday, February 07, 2017

There is hereby established a fire and building code administration board in accordance with provisions of the Florida Building Code, F.S. § 553.73(9).

(Ord. No. 2003-18, § 1, 7-1-03; Ord. No. 2017-02, § 6, 02-07-2017)

§ 2-188. Membership; terms; qualifications, etc. [Repealed]

Effective: Tuesday, February 07, 2017

(a) *Membership.* The board shall consist of five (5) regular members and two (2) alternate members who shall be appointed by the city commission in accordance with the provisions of section 2-26 of this chapter. Alternate members shall act in the absence of any regular member or when a regular member is otherwise disqualified in a particular case that may be presented to the board. No member shall serve on this board when such membership results in a violation of the dual office-holding provisions of the Florida Constitution.

(b) *Terms.*

(1) *Regular members.* Of the first regular members appointed, two (2) members shall be appointed for three (3) years, two (2) members shall be appointed for two (2) years, and one (1) member shall be appointed for one (1) year. Thereafter all appointments shall be for a term of three (3) years.

(2) *Alternate members.* Of the first alternate members appointed, one (1) alternate member shall be appointed for two (2) years and one (1) alternate member shall be appointed for one (1) year. Thereafter all appointments of alternate members shall be for a term of three (3) years.

(c) *Qualifications.* To the greatest extent possible, the board shall be composed of members with expertise in building construction and firesafety standards.

(d) *Vacancies.* When a vacancy occurs on the board, it shall be filled as quickly as possible with due consideration to the qualifications of any candidate. No position shall remain unfilled on the board for a period exceeding sixty (60) days.

(e) *Removal from office.* A member of the board may be removed during his or her term by the mayor, with the approval of the city commission.

(Ord. No. 2003-18, § 1, 7-1-03; Ord. No. 2017-02, § 6, 02-07-2017)

§ 2-189. Officers; meetings; application and fee for appeal. [Repealed]

Effective: Tuesday, February 07, 2017

(a) *Officers.* The board shall elect a chairperson and vice-chairperson at the first meeting held after creation of the board and annually at the first meeting in July thereafter. The officers shall preside at meetings and perform other duties as are assigned by this chapter.

(b) *Meetings*. At least one (1) meeting will be held during the calendar year in order to elect officers, but, because of the nature of the responsibilities assigned to the board, it is possible that no other meetings will be held during a calendar year. Meetings shall be held at the call of the chairman as follows:

(1) When notified by the fire marshal or the building official that a conflict between the fire codes and building codes must be resolved, a meeting shall be convened no later than ten (10) business days after receiving such notification.

(2) When notified by the city clerk that an application has been filed to appeal a decision of the fire marshal or building official, a meeting shall be convened no later than ten (10) business days after receiving such notification.

(3) When a request is made by the building official to review a proposed local amendment to the technical provisions of the Florida Building Code, a meeting shall be convened no later than thirty (30) days (one (1) month) after receiving such notification. A copy of the proposed local amendment shall be forwarded to each board member for review no later than ten (10) business days prior to the meeting.

(c) *Application and fee for appeal*. An applicant appealing to the fire and building code administration board shall file a written application with the city clerk and, at the time of filing such application, shall pay the fee required by section 23-320 paragraph (5) for appeals board review unless specifically exempted by section 23-320 paragraph (7).

(Ord. No. 2003-18, § 1, 7-1-03; Ord. No. 2017-02, § 6, 02-07-2017)

§ 2-190. Responsibilities and duties. [Repealed]

Effective: Tuesday, February 07, 2017

(a) Any decision made by the city fire marshal and building official may be appealed to the fire and building code administration board. If the decision of the fire marshal and building official is to apply the provision of either the Florida Building Code or the Florida Fire Prevention Code and the Life Safety Code, the board may not alter the decision unless the board determines that the application of such code is not reasonable. If the decision of the fire marshal and the building official is to adopt an alternative to the codes, the board shall give due regard to the decision rendered by the fire marshal and building official and may modify that decision if the board adopts a better alternative, taking into consideration all relevant circumstances. In any case in which the board adopts alternatives to the decision rendered by the fire marshal and the building official, such alternatives shall provide an equivalent degree of life safety and an equivalent method of construction as the decision rendered by the fire marshal and the building official.

(b) If the fire marshal and the building official are unable to agree on a resolution of a conflict between the Florida Building Code and the Florida Fire Prevention Code and the Life Safety Code, the fire and building code administration board shall resolve the conflict in favor of the code which offers the greatest degree of life safety or alternatives which would provide an equivalent degree of life safety and an equivalent method of construction.

(c) All decisions of the fire and building code administration board are subject to review by a joint committee composed of members of the Florida Building Commission and the Fire Code Advisory Council. If the joint committee is unable to resolve conflicts between the codes as applied to a specific project, the matter shall be resolved pursuant to the provisions of F.S. § 553.73(1)(d).

(d) All decisions of the fire and building code administration board shall be in writing and shall be binding upon all persons but shall not limit the authority of the state fire marshal or the Florida Building Commission pursuant to F.S. § 553.73(1)(d).

(e) All proposed amendments to the technical provisions of the Florida Building Code which provide for more stringent requirements within the city limits than those specified in the Florida Building Code shall be reviewed by the local fire and building code administration board and forwarded to the city commission with a recommendation for or against approval of said proposed amendments.

(f) Except as specified herein, all matters pertaining to citizen boards, commissions and committees established by the Lake Wales City Commission shall apply.

(Ord. No. 2003-18, § 1, 7-1-03; Ord. No. 2017-02, § 6, 02-07-2017)

Division 14. Enterprise Zone Development Agency

§ 2-191. Enabling statute. [Repealed]

Effective: Tuesday, February 07, 2017

The provisions of this Division, Enterprise Zone Development Agency, are hereby enacted in accordance with the enabling statute, F.S. §§ 290.001—290.016, (2001) and Ch. 2002-296, Laws of Florida. In the event any conflict exists between the provisions herein and the Florida Statutes, the Florida Statutes shall prevail.

(Ord. No. 2004-05, § 1, 4-7-04; Ord. No. 2017-02, § 7, 02-07-2017)

§ 2-192. Definitions. [Repealed]

Effective: Tuesday, February 07, 2017

For the purposes of this article, the following terms shall mean:

Act shall mean The Florida Enterprise Zone Act of 1994 and cited herein as "The Act".

Agency shall mean the City of Lake Wales Enterprise Zone Development Agency, a public body corporate and politic, created by the City Commission, pursuant to the Act, for purposes of exercising the powers and responsibilities designated herein.

Area shall mean the City of Lake Wales Enterprise zone, its boundaries created and delineated by the city commission in for purposes of participating in the Florida Enterprise Zone Program pursuant to the Act. The area shall be approved and designated by the State of Florida as an area targeted for economic revitalization by way of offering businesses financial incentives to encourage private investment and employment opportunities for the Area's residents.

Strategic plan shall mean the enterprise zone development plan adopted by the city commission in accordance with the Act.

(Ord. No. 2004-05, § 1, 4-7-04; Ord. No. 2017-02, § 7, 02-07-2017)

§ 2-193. Agency established. [Repealed]

Effective: Tuesday, February 07, 2017

The agency is hereby established for the purpose of carrying out the activities and responsibilities designated to it by the city commission, pursuant to the Act.

(Ord. No. 2004-05, § 1, 4-7-04; Ord. No. 2017-02, § 7, 02-07-2017)

§ 2-194. Composition; terms; removal; vacancies. [Repealed]

Effective: Tuesday, February 07, 2017

Except as provided in this section, the provisions of section 2-26 shall apply to the enterprise zone development agency.

(1) The agency shall consist of a board of commissioners which shall be composed of eight (8) commissioners and, at a minimum, six (6) commissioners must be residents of the City of Lake Wales. The commissioner seats shall be designated as seat #1 through #8 respectively. Each agency commissioner shall be appointed to a specific designated seat by majority vote of the city commission. The city commission shall appoint one (1) representative from each of the following groups: (One (1) individual may represent more than one (1) of the groups.)

- a. The local Chamber of Commerce;
- b. A local financial or insurance entity;
- c. The businesses operating within the area;
- d. The residents residing within the area;
- e. A non-profit community-based organization operating within the area;
- f. The local private industry council;
- g. The local police department;
- h. The local code enforcement agency.

(2) The terms of office for the commissioners shall be staggered; thus the initial term of each seat, beginning from the effective date of this division, shall be: Seat #1 and #2, three (3) years; seat #3 and #4, two (2) years; seat #5, one (1) year; and seat #6 through #8, four (4) years. Thereafter, all commissioners shall be appointed to serve a four (4) year term. Each commissioner shall hold office until a successor has been appointed and qualified. A certificate of appointment or reappointment of any commissioner shall be filed immediately with the city clerk.

(3) The city commission may, by majority vote, remove a commissioner for inefficiency, neglect of duty, or misconduct in office, providing the commissioner has been given a copy of written charges at least ten (10) days prior to a hearing in which the commissioner is given an opportunity to be heard on said charges in person or by counsel.

(4) A seat on the agency shall be deemed vacant when a member has more than three (3) consecutive absences or five (5) absences within a calendar year, or because of death, resignation, removal, or completion of the term by any commissioner. A seat vacated prior to the expiration of its term shall be filled for its unexpired term by majority vote of the city commission.

(Ord. No. 2004-05, § 1, 4-7-04; Ord. No. 2017-02, § 7, 02-07-2017)

§ 2-195. Proceedings of the agency. [Repealed]

Effective: Tuesday, February 07, 2017

(a) A majority of the appointed commissioners shall constitute a quorum for the purpose of conducting business and exercising the powers of the agency and for all other purposes. Action taken by the agency shall be upon a vote of a majority of the commissioners present.

(b) The city commission, by majority vote, shall designate a chairperson and vice chairperson of the agency, and the chair and vice chair shall serve in such capacity for one (1) year. The chair and vice chair may succeed themselves.

(c) In addition to the foregoing, the agency shall adopt rules necessary to the conduct of its affairs, and in keeping with the provisions of the article. Meetings shall be held at the call of the chairperson and at such other times as a majority of the commissioners may determine. All meetings shall be open to the public. The agency shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be public record and be immediately filed with the city clerk for the agency.

(Ord. No. 2004-05, § 1, 4-7-04; Ord. No. 2017-02, § 7, 02-07-2017)

§ 2-196. Powers and responsibilities. [Repealed]

Effective: Tuesday, February 07, 2017

The agency may only exercise those powers and responsibilities expressly granted to it by the city commission and/or state law. Absent from such an express grant, the city commission hereby reserves all other powers and duties including, but not limited to those powers delegated to the city commission under the Act. The agency shall have the following powers and responsibilities:

- (1) To assist in the development and implementation of the strategic plan for the area;
- (2) To oversee and monitor the implementation of the strategic plan. The agency shall make quarterly reports to the city commission evaluating the progress in implementing the strategic plan;
- (3) To identify and recommend to the city commission ways to remove regulatory barriers; and
- (4) To identify to the city commission the financial needs of, and local resources or assistance available to, eligible businesses in the area.

(Ord. No. 2004-05, § 1, 4-7-04; Ord. No. 2017-02, § 7, 02-07-2017)

§ 2-197. Expenditures of funds. [Repealed]

Effective: Tuesday, February 07, 2017

The expenditure of funds by the agency shall comply with the following requirements:

- (1) The agency shall have no authority to obligate or expend any funds, including grant funds, without the authorization of the city commission.
- (2) The agency shall perform its functions and responsibilities within the resources made available by the city, and shall not exceed its budget approved by the city.
- (3) The agency shall not incur any expense, debt, or obligation to be paid by the city, unless such expense, debt, or obligation is previously authorized by the city commission.
- (4) The agency commissioners shall not receive any compensation for service, but are entitled to payment of necessary and reasonable expenses incurred in the discharge of their duties if said expenses comply with the agency's approved budget.

(Ord. No. 2004-05, § 1, 4-7-04; Ord. No. 2017-02, § 7, 02-07-2017)

§ 2-198. Reports. [Repealed]

Effective: Tuesday, February 07, 2017

The agency shall prepare and be responsible for all necessary reports as required by federal, state, and/or local law, in fulfillment of its duties and responsibilities.

(Ord. No. 2004-05, § 1, 4-7-04; Ord. No. 2017-02, § 7, 02-07-2017)

Division 15. Bicycle/Pedestrian Advisory Commission

§ 2-199. Created; members; appointments; purpose. [Repealed]

Effective: Tuesday, February 07, 2017

(a) There is hereby created a commission to be known as the Bicycle/Pedestrian Advisory Commission which shall consist of seven (7) regular members and three (3) alternate members to be appointed by the city commission. The city manager, planning and development director, and police chief or their respective designees shall also serve as ex officio members.

(b) It shall be the purpose of the Bicycle/Pedestrian Advisory Commission to ensure that the City of Lake Wales is a bicycle/pedestrian friendly community to the maximum extent possible through promoting an infrastructure that includes, roads, sidewalks, bike paths, intersection crossings, and other bicycle/pedestrian facilities and safety devices. It shall also be the purpose of the commission to educate the public on bicycle/pedestrian safety matters to the maximum extent possible.

(Ord. No. 2005-26, § 1, 7-5-2005; Ord. No. 2005-45, § 1, 10-4-2005; Ord. No. 2017-02 § 8, 02-07-2017)

§ 2-199.1. Qualifications; terms; chairperson. [Repealed]

Effective: Tuesday, February 07, 2017

At least five (5) regular members and two (2) alternate members of the commission shall reside within the City of Lake Wales. The regular members shall be appointed for terms of three (3) years, except that the initial terms of the members shall be staggered so as to provide two (2) vacancies at the end of the initial first year, two (2) vacancies at the end of the initial second year, and one (1) vacancy at the end of the initial third year. The alternate members shall be appointed for terms of three (3) years, except that the initial terms of the members shall be staggered so as to provide one (1) vacancy at the end of the initial first year, one (1) vacancy at the end of the initial second year, and one (1) vacancy at the end of the initial third year. Alternate members shall serve on a rotational basis when regular members are unavailable. Terms of office of such members shall begin on the first day of July in each year. The regular members shall elect a chairperson and such other officers as it deems necessary at its first meeting after the first day of July in each year. Members of the commission shall be appointed on the basis of a demonstrated interest and/or expertise in bicycle/pedestrian safety to the greatest extent possible.

(Ord. No. 2005-26, § 1, 7-5-2005; Ord. No. 2005-45, § 1, 10-4-2005; Ord. No. 2017-02 § 8, 02-07-2017)

***§ 2-199.2. Regular meetings; seat vacated for failure to attend.
[Repealed]***

Effective: Tuesday, February 07, 2017

The commission shall meet at regular intervals, but in any event at least once each quarter. Meetings shall be called by the chairperson. The mayor-commissioner and the city manager shall have the authority to call special meetings of the commission. Absence from three (3) consecutive regular meetings of the commission shall operate to vacate the seat of the member absent, unless such absence is excused by the commission by a motion setting forth the fact of such excuse and the motion being duly passed and entered upon the commission minutes.

(Ord. No. 2005-26, § 1, 7-5-2005; Ord. No. 2005-45, § 1, 10-4-2005; Ord. No. 2017-02 § 8, 02-07-2017)

§ 2-199.3. Duties. [Repealed]

Effective: Tuesday, February 07, 2017

The commission shall have the following duties:

- (a) To make recommendations regarding the implementation of roadway and transportation improvements as it pertains to bicycle and pedestrian needs;
- (b) To promote the safe and convenient enjoyment of the city's bicycle/pedestrian facilities through safety/educational programs and activities, community events and clinics, and other activities as necessary;
- (c) To promote communication and exchange of ideas and concerns among users of the city's bicycle/pedestrian facilities, city staff and the city commission;
- (d) To make reports and recommendations to the city commission and city staff with respect to the development and management of bicycle/pedestrian facilities;

- (e) To receive public input pertaining to bicycle and pedestrian transportation and infrastructure issues;
- (f) To make recommendations regarding the allocation of funds for capital expenditures relating to bicycle and pedestrian transportation;
- (g) To assist the planning and development department and the planning board in the preparation and adoption of an up-to-date bicycle/pedestrian facilities master plan;
- (h) To assist in the design of the Lake Wales Trailway and provide a public forum for citizens to participate in the planning effort for the trail;
- (i) To help ensure that the Lake Wales Trail (around Lake Wailes) continues to serve the needs of the many citizens who use it;
- (j) To suggest changes in the land development regulations that ensure that we become a city that welcomes walking and bicycling; and
- (k) To have such other duties and responsibilities granted by the mayor and city commission consistent with the bicycle and pedestrian needs of the city.

(Ord. No. 2005-26, § 1, 7-5-2005; Ord. No. 2005-45, § 1, 10-4-2005; Ord. No. 2017-02 § 8, 02-07-2017)

Division 16. Tree Advisory Board

§ 2-200. Establishment

Effective: Wednesday, April 06, 2022

There is established a Lake Wales Tree Advisory Board.

(Ord. No. 2022-08, § 1, 4-06-22)

§ 2-201. Created; number, appointment, terms of members, duties

Effective: Wednesday, April 06, 2022

a) Members. The Lake Wales Tree Advisory Board shall be governed by a board of five (5) members known as the Lake Wales Tree Advisory Board. At the expiration of each term, a successor shall be appointed to fill such vacancies for terms of three (3) years each, except the initial terms of the members shall be staggered so as to provide one (1) vacancies at the end of the initial first year, two (2) vacancies at the end of the initial second year, and two (2) vacancies at the end of the initial third year. All such appointments after the initial ones provided for in this Ordinance shall be selected by the City Commission from a list of applicants for any such vacancy or vacancies. A majority of the members must reside or own property within the city limits. One (1) member shall be a current or retired professional arborist, landscape architect, or landscape planner. One (1) member shall be a current or retired real estate investor, developer or equivalent. During any vacancy or vacancies for any reason or reasons, the remaining members of said board shall constitute said board with full power and authority to act as though there were no vacancy in the membership of said board. Three members shall constitute a quorum for meetings and an affirmative vote of a majority of the members present shall be necessary for any action taken by the authority. The tree advisory board shall meet at regular meetings at least four (4) times per year, and absence from three (3) consecutive regular meetings of the tree advisory board shall operate to vacate the seat of a member, unless such absence is excused by the tree advisory board by motion setting forth the fact of such excuse duly passes and entered upon the minutes

b) Responsibilities. The Tree advisory board shall study and advise city administration on the following matters:

1. Inventory of trees on city maintained property
2. Development and maintenance of a written plan for the care, preservation, pruning, planting, replanting, removal of trees in parks, in city ROW and other public areas.
3. Promote awareness of the city's tree canopy and develop educational programs to communicate the benefits of trees
4. The beautification of the City through maintenance of the city's trees
5. Aide the City in its goal to achieve membership in organizations such as Tree City USA, and America in Bloom
6. Aide the City in pursuit of relevant grant opportunities
7. Advise city Horticulturist on matters concerning trees and related resources
8. Keep abreast of current trends in urban forestry through appropriate training and development

(Ord. No. 2022-08, § 1, 4-06-22)

Article III. Personnel Administration

Division 1. General Policies

§ 2-201.01. Purpose.

It is the intent of the city commission and city manager to attract and retain employees of the highest caliber, to encourage the development of individual acceptance of responsibility for the attainment of outstanding public service, to select, direct, and evaluate employees based on criteria of ability, training, experience and other work related considerations, to provide clean, safe, and pleasant working conditions, to provide training for supervisory personnel that will assist them to lead and motivate their employees in an effective manner, to provide opportunity to employees to better themselves through training and tuition aid, to provide a grievance procedure that will provide prompt and appropriate settlement of employee grievances through the implementation and maintenance of policies, procedures, practices, rules and standards. The purpose of these personnel administration policies (hereafter referred to as "PAP," "rules," or "policies") is to establish procedures which will serve as a guide to administrative actions covering most personnel actions which will arise.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-201.02. Positions covered.

(a) Unless a specific section or subsection provides otherwise, the provisions of these rules shall be applicable to all employees except:

- (1) Elected officials.
- (2) Persons hired as independent contractors on a contractual, fee, or retainer basis.
- (3) Temporary, non-regular part-time, or casual employees.
- (4) Persons employed under the provisions of government programs or grants.

(b) Provided, however, the sections or subsections with an asterisk (*) beside them apply to all employees.

(c) For persons and employees covered by these rules, continued employment, discipline and position placement shall be at the will and pleasure of the city under such terms and conditions as are determined by the city, or its designee.

(d) Employees who serve as division directors, department heads or in higher level positions:

- (1) Shall be supervised and evaluated by the city manager or his designee, and shall serve in their capacity and as city employees at his pleasure.
- (2) Shall not have access to sections 2-212 or 2-213 but shall present their grievances directly to the city manager who shall resolve same as he deems in the best interest of city operations.

(e) The final interpretation and application of the PAP shall be made by the City of Lake Wales (hereinafter "city"), or its designee. The city reserves the right to amend, alter, modify, delete and add to the PAP as it deems appropriate to serve the best interest of the residents and citizens of the city.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-201.03. Administration.

(a) The city manager is responsible for the administration and interpretation of the PAP.

(b) Department heads/managers are responsible for the administration of these policies within their respective departments/divisions.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-201.04. Amendments.

(a) Amendments to the PAP shall be recommended by the city manager and adopted by the city commission. Copies will be distributed to all department/divisions and employees.

(b) A committee will be established by the city manager, from each department of the city for the purpose of suggesting amendments to the PAP. Suggested amendments will be forwarded to the city manager for approval prior to submission to the city commission for adoption.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-201.05. Department policies.

(a) Departmental policies and standard operating procedures will be reduced to writing and submitted to and reviewed by the city manager for approval.

(b) Departmental policies and standard operating procedures approved by the city manager will serve as supplements to these policies. In the event of conflict, the PAP shall prevail unless the departmental rule has been specifically approved as an exception by the city manager.

(c) Approved changes in departmental policies and standard operating procedures shall be distributed to the affected employees and the human resources director.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-201.06. Overall employment policy.

(a) The overall employment policy of the city shall include:

(1) There shall be no illegal discrimination in employment, employment opportunities or job actions on the basis of race, color, religion, age, sex, national origin, legally recognized disability, political affiliation, or marital status unless one (1) or more of the above constitute a bona fide occupational qualification within the meaning of the law. No job applicant or present employee will be illegally discriminated against or given preference because of any of the above characteristics, unless otherwise required by law.

(2) Persons with known legally recognized disabilities will be given full consideration for employment and opportunities for advancement in all departments and divisions. The city will offer to such persons reasonable accommodation with respect to the essential functions of the job, provided the person is otherwise qualified to perform the job, and provided further accommodation does not create undue hardship on city operations.

(3) The city will take affirmative recruitment actions to expand employment opportunities for groups that are underutilized in the city workforce, but not in any way which violates applicable law.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-201.07. Collective bargaining agreement.

Where these rules or departmental rules and regulations are in conflict with the express terms of the CBA, the terms of the CBA shall take precedence.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-201.08. Policy statement.

(a) In accordance with applicable laws, regulations, and provisions of the City Charter, but not limited to the following, the city has the right to:

- (1) Determine the organization of city government;
- (2) Determine the purpose of each of its departments;
- (3) Exercise control and discretion over the organization and efficiency of operations of the city;
- (4) Set standards for services to be offered to the public;
- (5) Manage and direct the employees of the city;
- (6) Hire, examine, classify, promote, train, transfer, assign, schedule, evaluate and retain employees in positions with the city;
- (7) Suspend, demote, discharge, or take other disciplinary action;
- (8) Increase, reduce, change, modify, or alter the composition and size of the work force, including the right to relieve employees from duties, or furlough employees from duties because of lack of work, funds, or other legal reasons;
- (9) Determine the location, methods, means and personnel by which operations are to be conducted, including the right to contract and subcontract existing and future work;
- (10) Determine the number of employees to be employed by the city;
- (11) Establish, change, or modify the number, types, and grades of positions or employees assigned to an organization, unit, department or project;
- (12) Establish, change, or modify duties, hours of work, tasks, responsibilities, or requirements within job descriptions in the interest of efficiency, economy, technological change, or operating requirements;
- (13) Take or refuse to take any action allowed by or not prohibited by law for the purpose of attempting to promote the efficient operation of the city;
- (14) Take any other action it deems appropriate subject only to applicable law.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-202.01. Definitions.

Anniversary date means the date an employee begins employment and the same date in following years. This is the date upon which entitlement to fringe benefits are based unless a specific benefit provides otherwise. The anniversary date may be changed in accordance with these rules.

Appeal means a request for review of an alleged grievance submitted or instituted by an employee to higher authority.

City commission means the City Commission of Lake Wales, Florida, or its designee.

City seniority means the length of time an employee has been continuously employed with the city.

Classification seniority (also referred to as job or position seniority) means the length of time an employee has been continuously employed in his current position classification. Classification seniority will be lost or changed upon the loss of seniority under section 2-209, the permanent transfer, promotion, demotion or reassignment to or from one (1) job classification to another.

City Code means the Code of Ordinances of the City of Lake Wales, Florida.

City manager means the city manager, or the city manager's designee.

Job classification means a job title based on the job description.

Classification plan means an official or approved system of grouping positions into appropriate classification.

Collective bargaining agreement (also referred to as "CBA") means an agreement between an employee organization certified by the public employee relations commission and the city commission negotiated and ratified as required by the Public Employees Relations Act.

Compensation plan means the official schedule of pay assigning rates of pay to each classification.

Compensatory time (also referred to as comp time) means compensated time off in lieu of overtime pay.

City seniority means the total time an employee has worked for the city without loss of seniority under section 2-209.02.

Demotion means permanent reassignment of an employee to a lower level job classification for a disciplinary reason.

Department head means department head, director or their designee.

Departmental seniority means the length of time an employee has been continuously employed in a department.

Dismissal or termination means involuntary separation from city employment.

Employee means:

(1) *Regular full-time employee* is any employee who is non-probationary who is assigned a regular schedule of a minimum of forty (40) hours per week and is designated as a regular full-time employee by the city.

(2) *Regular part-time employee* is any non-probationary employee who is assigned a regular schedule of less than forty (40) hours per week.

(3) *A probationary employee* is any full-time or part-time employee who has not completed the initial probationary period.

(4) *Temporary employee* is any employee who is not classified as a regular full-time, regular part-time or probationary employee, such as a casual or a part-time employee who does not work a regular schedule.

Exempt employee means an employee exempt from the minimum wage and/or overtime under the Fair Labor Standards Act and paid a salary for all hours worked in a work week.

FLSA means the Fair Labor Standards Act.

means the Family Medical Leave Act.

He/his/him are generic and used for reference purposes only to signal reference to both males and females.

Human resources department means HR.

Human resources director means the employee in charge of the HR.

Insubordination means the refusal to perform work when and as assigned, failure to obey a direct legal order and/or any other act or acts of disrespect or disregard of proper managerial authority.

Job description means a written description of some but not all of the duties and responsibilities of a job.

Job performance evaluation (also referred to as "JPE") means a written report of an employee's job performance.

Layoff means a reduction of the number of employees due to lack of work, funds, reorganization or other operational reason.

May means the word "may" shall be interpreted as permissive.

Pay grade means the salary range which is assigned to a particular classification title expressed as a pay range number.

Probationary period means the first six (6) calendar months of continuous employment with the city as a full-time or part-time employee. After successful completion of the probationary period, the employee will be classified as a regular full-time or regular part-time employee.

Promotion means permanent assignment of an employee to a higher level job classification.

Reclassification means a change in classification, title, description and/or pay grade of a job or job classification.

Reemployment means the hiring of a person who formerly worked for the city. Persons rehired shall be new employees for all purposes.

Resignation means the act of voluntarily withdrawing from city employment.

Retirement means leaving the service of the city upon meeting the requirements set forth in the retirement plan.

Shall means the word "shall" will be interpreted as mandatory.

Suspension means temporary dismissal from work with or without pay.

Transfer means the temporary or permanent reassignment of an employee from one (1) position to another.

Work day means the scheduled number of hours an employee is required to work per day.

Work week or *work period* means the number of hours regularly scheduled to be worked during any seven (7) consecutive days or other work period allowed by the Fair Labor Standards Act and adopted by the city commission for an employee or group of employees.

Working time means and shall be all time the employee performs actual work for the city.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-203.01. Standards of conduct.

(a) To an unusual extent and in a special way, employees in the city organization are "good will ambassadors". Such status involves a degree of duty and obligation regarding public and private conduct, which is not common to other classes of employment. The attitude and deportment of a city employee should at all times be such as to promote the good will and favorable attitude of the public toward the city, its programs, and policies.

(b) All employees are encouraged to develop skills and seek formal training that will enhance their personal development and add to the overall expertise of the organization.

(c) It is the policy of the city to expect from employees compliance with the PAP, state statutes, federal regulations and departmental rules in the performance of duties, as well as compliance with all safety rules and standards. An employee who violates any of the standards of conduct, departmental rules, or the PAP shall be subject to disciplinary action.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-203.02. Conflict of interest.

(a) Employees in a position to influence actions and decisions of the city or a member of the managerial staff shall refrain from relationships which may adversely affect the exercise of their independent judgment in dealing with suppliers of goods or services and other persons not employed by the city.

(b) Employees shall not accept loans, advances, gifts, gratuities, or favors the value of which exceeds twenty-five dollars (\$25.00) from a supplier, bidder, or other person doing business with the city.

(c) An employee shall not use his position with the city to obtain or attempt to obtain any special preferences, favors, privileges or exemptions for himself or for any other person.

(d) No employee shall disclose confidential information gained by reason of his official position with the city except in and as a part of his normal duties as a city employee; nor shall such employee use such confidential information not available to the public for personal gain or benefit.

(e) When an employee has or anticipates creating a business relationship with another person, partnership, firm, corporation or other business entity which does or seeks to do business with the city, or any division thereof, the employee shall advise the department head in writing as soon as that relationship is known. Failure to so advise the department head may result in immediate termination.

(f) Employees shall not accept employment or engage in any business or professional activity which they might reasonably expect would require or induce them to disclose confidential information acquired by them by reason of their official position or that by nature of the employment give rise to a public perception of a compromise of duties.

(g) Any employee of the city who is or becomes an officer, director, agent, or member of, or owns controlling interest in any corporation, firm, partnership, or other business entity which is subject to the regulation of, or which has substantial business commitments with the city, shall file a statement to this effect according to state statutes.

The department head will notify the city manager of any situation covered by paragraphs (a) —(g), above, who will determine whether there is a conflict of interest or a potential conflict of interest and direct the employee's activities in such a way that the conflict of interest no longer exists. The city manager's determination as to whether there is a conflict of interest or a potential conflict of interest shall be final.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-203.03. Political activity.

(a) Employees may engage in political activities during their non-duty time so long as their activities do not interfere with the operation of city business.

(b) Employees shall not wear or display political badges, buttons or stickers when on duty, riding in or on city equipment or when in a city uniform.

(c) Employees shall comply with all state and local laws involving political activity.

(d) Employees may run for elective office or be appointed to non-elective office other than those involving the city so long as the position in no way interferes with their work as a city employee.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-203.04. Employment of relatives.

The city does not automatically prohibit members of the same family from working for the city. Each situation involving employment of a relative must be reviewed on its own individual merits. As a general guideline, however, employees should know that the city will not allow the employment of relatives in any situation where a conflict of interest exists or where there is a substantial likelihood that a conflict of interest will arise. Employees' relatives will not be employed by the city under any of the following circumstances:

- (1) Where a relative directly supervise, evaluate, appoint, discharge or discipline the other.
- (2) Where one of the parties is a department head.
- (3) Where the parties authorizes payroll actions of the other.
- (4) Where one of the parties has possession of confidential information about the other.

It is the obligation of all affected employees to immediately advise their department head if a change in his situation occurs or is anticipated that will result in his becoming related to another employee so the effect, if any, of the relationship on city operations may be fully explored and appropriate action taken.

"Relatives" include an employee's parent, child, spouse, brother, sister, in-laws, step relationships and employees in a relationship and sharing living quarters.

(Ord. No. 2001-08, § 1, 6-19-01; Ord. No. 2002-26, § 1, 10-15-02; Ord. No. 2005-23, § 1, 6-21-05)

§ 2-203.05. Outside employment.

(a) Employees are not restricted from engaging in other employment during their off duty hours. However, city employment shall be considered the primary employment and no employee may engage in outside employment which would interfere with the interest of city service.

(b) Employees who have other jobs or who seek to have other jobs, must give written notification to his/her immediate supervisor on Form 0208—Notification of outside employment.

(c) Employees sustaining injuries while engaged in outside employment are ineligible to receive benefits under city workers' compensation because of disability resulting from outside employment.

(d) Equipment of any nature, facilities, vehicles or property of the city shall not be used by employees for outside employment.

(e) If in the judgment of the department head, the employee's other employment causes or may cause absences, tardiness, or otherwise interferes or may interfere with the operations of the city or his responsibility as an employee of the city, including but not limited to availability for scheduled and unscheduled overtime and/or call-ins, the employee may be required to quit the other job or leave city employment.

(f) If permission to engage in other employment is granted, it may be withdrawn at any time if in the opinion of the department head the responsibilities of the job are inconsistent with the employee's responsibilities or in any way interferes with his duties as an employee of the city.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-203.06. Release of information.

(a) Employees shall at all times be courteous, friendly and helpful to those members of the public who seek information.

(b) Unless release of information concerning personnel records or the operations of city business is a normal part of their duties, or unless under subpoena, employees will not release and, if asked will courteously decline, to reveal information pertaining to personnel records and other city business and shall direct such inquiries to the human resources department.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-203.07. Solicitation and distribution.

(a) Employee contributions to recognized charitable organizations are purely voluntary. No coercion of an employee to make contributions shall be permitted.

(b) Employees of the city are prohibited from conducting or promoting private business for gain during on-duty hours or within any city building.

(c) Employees are prohibited from soliciting for any reason during time they or the person they seek to solicit are being paid to perform actual work. Such solicitation includes solicitations on behalf of or in opposition to a labor organization.

(d) Employees are prohibited from distributing literature of any kind during hours they are being paid to perform actual work or in any area where employees are engaged in work at any time.

(e) The solicitation and distribution prohibitions set forth in paragraphs (c) and (d) above shall not apply to solicitation and/or distribution by the city or its managerial staff when such is part of the normal operation of city business.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-203.08. Employees' personal life and debts.

Employees shall handle their personal life, including their financial obligations, in such a manner that it will not interfere with the efficient operation of city business or the performance of their own job responsibilities.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-203.09. Use of city property.

Employees shall not use city property, equipment, or vehicles except in the performance of official duty, nor permit their use by an unauthorized person, either on or off duty. Employees may be allowed to use vehicles to and from work by permission of the city manager, on a case-by-case basis.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-203.10. Uniforms, dress and appearance.

(a) Employees supplied uniforms by the city, are expected to wear uniforms in the performance of their job and shall report in a clean full uniform on each day worked. Failure to report in a clean uniform may result in the employee being sent home for the day without pay. Repetition of such conduct shall subject the employee to discipline.

(b) Employees are expected to report to work in appropriate, well maintained and clean clothes. Shorts are not allowed unless part of a city uniform or specifically allowed by a department head after approval by the city manager.

(c) Employees are expected to observe normal and reasonable standards of personal hygiene. Failure to do so may result in the employee being sent home to correct the situation or for the day without pay. Repetition of such conduct shall subject the employee to discipline.

(d) Beards and mustaches will be allowed, except as otherwise prohibited by law or where in the opinion of the department head they interfere or tend to interfere with the safe and efficient performance of the job. All hair, beards and mustaches must be of a length so as not to create operational or possible safety problems and must be maintained in a clean, neat and orderly fashion.

(e) Uniforms and equipment supplied by the city will be replaced by the city when they become unusable through normal wear and tear.

(f) The employee is responsible to reimburse the city for uniforms and equipment lost or damaged through the employee's negligence.

(g) Procedure for issuance of uniforms and safety items provided for the employee by the city shall be governed by departmental operating procedures.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-203.11. General prohibitions.

(a) Employees are expected to be aware that they are public service employees and to conduct themselves in a manner which will in no way discredit the city, public officials, fellow employees or themselves.

(b) Employees shall avoid conduct or speech that is inconsistent with good order and discipline. They shall treat each other with the utmost courtesy and respect, and at all times refrain from making any derogatory remarks concerning each other. They shall direct and coordinate their efforts toward establishing and maintaining the highest level of efficiency, morale and achievement, and shall conduct themselves in such a manner as to bring about harmony among the various units of the city.

(c) No employee whose duties involve the use of a badge, card or clothing insignia as evidence of authority or for identification shall permit such badges, cards or insignia to be used or worn by anyone who is not authorized to use or wear them. Such badges, cards and insignia shall be used only in the performance of the official duties of the position to which they are related.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-203.12. Bulletin boards.

There shall be an official city bulletin board in each department. Announcements of special events, changes in policies, transfer/promotional opportunities and other items relating to official city business will be posted there. No other information is to be posted on such bulletin boards.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-203.13. Loyalty oath.

To the extent allowed by law, applicants and employees may be required to sign a loyalty oath as a condition of employment or continued employment.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-204.01. Basis of employment.

Employees are employed by the city as either regular full-time, regular part-time, probationary or temporary employees.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-204.02. Participation in benefits.

Regular full-time employees shall receive full fringe benefits. Other classifications of employees do not receive any fringe benefit other than their wage, unless required by law or otherwise specifically provided in the PAP.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-204.03. Term of employment.*

(a) Regular full-time and regular part-time employees are employed at the will and pleasure of the city and shall be entitled to have their grievances resolved under sections 2-212 and 2-213 of the PAP.

(b) All other employees serve at the will and pleasure of the city manager and may be disciplined or dismissed for any reason or no reason, subject only to applicable law. Such employees shall not have access to the grievance procedure set forth in these PAP or any applicable collective bargaining agreement. All decisions concerning their retention, wages, hours, and working conditions shall be made by the city manager, or his designee.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-204.04. New hires/probation.

(a) A new employee may be hired as full-time, part-time or temporary as recommended by the department head and approved by the city manager.

(b) New employee compensation will start at the beginning of the pay grade unless otherwise approved by the city manager.

(c) Full-time and part-time employees shall be classified as regular full-time or regular part-time employees after successful completion of their employment for six (6) continuous calendar months. The requirement for completion of six (6) months may be reduced to completion of less than six (6) months when it is determined by the city manager that the employee has demonstrated exceptional performance documented by the completion of a performance evaluation.

(Ord. No. 2001-08, § 1, 6-19-01; Ord. No. 2007-13, § 1, 5-15-07)

§ 2-205.01. Vacancies.

All persons inquiring about employment should be directed to the HR department where they will be required to complete the standard application form. Assistance will be provided for those persons who cannot read or write or who have a language problem.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-205.02. Basis for selection.

Employment with the city shall be based on skills, experience, training, education, ability, physical and mental ability to do the available work and other factors that are related to the performance of the job in question.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-205.03. Testing.

At its option, the city may use valid written or oral examination and performance tests to assist it in the selection process.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-205.04. Drug testing.

The city may require submission to and successful passing of testing for the use of illegal controlled substances as a condition for consideration for employment with the city.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-205.05. Disability and medical examinations.

(a) At the option of the city, applicants may be required to take a medical examination after they have been offered employment.

(b) If, with the prior approval of the human resources director, an applicant is placed on the payroll prior to having completed a required medical examination, he shall be advised at the time he is placed on the payroll that his employment will be conditioned upon taking a medical examination.

(c) Employees may be required to take a medical and/or psychological examination at any time by the city for reasons connected with their job (e.g., an accident on the job).

(d) Applicants and employees who are directed to take a medical examination under paragraphs (a), (b) or (c) above and who refuse to do so will be automatically terminated.

(e) Applicants and employees who take a medical examination pursuant to paragraphs (a), (b) or (c) above shall not be employed, or, if previously employed, shall be terminated immediately if the results of the medical examination show that they are either mentally or physically unable to perform the essential functions of the job; however, if they have a legally recognized disability, they will be terminated only if they cannot be reasonably accommodated to perform the essential job functions of the job without undue hardship to the city and such action shall be subject to applicable federal, state and local laws dealing with handicap status.

(f) All medical examinations required to be taken under paragraphs (a) and (b) above shall include testing to determine the presence or absence of illegal controlled substances in their body. Drug testing under paragraph (c) above will be conducted under the drug and alcohol policy of the city.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-205.06. Job opportunities for non-employees.

(a) All advertisements and notices shall contain the title of the position, the essential functions of the job, the minimum qualifications for the job, and the date beyond which applications will no longer be received, contain the phrase "The City of Lake Wales is an Equal Opportunity Employer," and shall state that all applications or inquiries shall be directed to the human resource director's office.

(b) All applications for employment shall be on a form provided by HR.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-206.01. Types of separations.*

Separations and/or terminations from positions in the city service are designated as one (1) of the following types. Change of status forms shall show the reason for the separation, and the last day and hour worked. The effective date of the separation shall be the last day on which the employee is present for duty.

(1) Resignation.

(2) Retirement.

(3) Disability.

(4) Death.

(5) Reduction in force (layoff).

(6) Dismissal or discharge.

(7) End of assignment.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-206.02. Resignation.*

(a) An employee wishing to leave the city in good standing shall file with his supervisor a written resignation, stating the date and reasons for his resignation. Such notice must be given at least two (2) weeks prior to the date of separation. Employees who give such notice may be considered for reemployment.

(b) In certain situations where in the sole discretion of the city manager it is determined to be in the best interest of the city, an employee may receive wages in lieu of notice.

(Ord. No. 2001-08, § 1, 6-19-01; Ord. No. 2007-08, § 1, 4-4-07)

§ 2-206.03. Retirement.

Retirement from city employment occurs when an employee retires under the terms and conditions set forth in the city pension plans.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-206.04. Death.*

All compensation and benefits due a deceased employee, if any, shall be paid to the employee's legal representative as determined by law.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-206.05. Reduction in force (layoff).

Reductions in force shall be in accordance with section 2-209.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-206.06. Dismissal or discharge.*

Employees are subject to dismissal from city employment pursuant to sections 2-204 and 2-211.

(a) In certain situations where in the sole discretion of the city manager it is determined to be in the best interest of the city, employees may receive pay-out of accrued but unused sick and vacation leave. Employees may be required to sign a settlement agreement and release in order to receive pay-out of sick leave or vacation hours.

(Ord. No. 2001-08, § 1, 6-19-01; Ord. No. 2007-08, § 1, 4-4-07)

§ 2-206.07. Return of property and financial obligations.*

(a) At the time of separation from employment, the employee shall return all records, books, assets, uniforms, keys, tools and other items of city property to his department. Failure to return same in usable condition shall result in the maximum deduction allowed by law from the employee's final paycheck. Any balance due over and above the amount deducted from the employee's paycheck may be collected by the city through appropriate legal action.

(b) All outstanding voluntary debts to the city incurred by the employee, such as the cost of non-compensatory training, shortages or advance of leave and other standing debts due to the city will be deducted from the employee's final paycheck.

(c) All deductions under paragraphs (a) and (b) above shall be subject to the applicable state and federal law.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-206.08. Exit interviews.

Where possible, each employee who resigns or is terminated from the city will be interviewed by a representative in the HR and must complete an exit interview form. The completed exit interview form and interview information is to remain in the human resources department.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-207.01. Temporary transfers/work out of classification.

(a) Non-exempt employees who are assigned all the responsibilities of a higher classified job will be paid in accordance with section 2-239(d).

(b) Except as provided in paragraph (c) below, a non-exempt employee who temporarily works in the same or a lower paid job classification or pay grade, shall receive the rate of pay for his regular job classification.

(c) If the temporary assignment is requested by the employee or is due to the employee's inability to perform his normal job because of illness, injury or other reasons, his salary shall be adjusted, if needed, to ensure that he does not make more than the maximum rate for the lower position.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-207.02. Permanent transfers and reclassification.

(a) Subject to the approval of the city manager, an employee may be permanently transferred from one (1) job classification or department to another job classification or department.

(1) At the employee's request if, in the opinion of the department head it is in the city's best interest.

(2) By the department head for operational or efficiency reasons.

(3) By the department head for disciplinary reasons under section 2-211.

In all cases involving more than one (1) department, both department heads must agree to the transfer, unless in a particular case, the city manager decides otherwise.

(b) Any job may be reclassified upon the approval of the city manager based on a modification of the responsibilities, duties and qualifications to perform the job and/or a re-evaluation of the responsibilities, duties and qualifications of an existing job.

(c) In the case of a permanent transfer or reclassification, pay adjustments shall be determined based on section 2-238(d).

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-207.03. Anniversary date.

A permanent transfer or a reclassification will not change the employee's anniversary date.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-208.01. Posting vacant positions.

Except when determined operationally inefficient by the city manager, all full-time, non-managerial vacancies within the city will be posted on bulletin boards for five (5) working days.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-208.02. Application.

Employees who wish to be considered for a vacancy must apply by completing a promotional request form and turning it into HR during the posting period. While selection is being made, the department head may utilize any employee or other person he wishes to perform the work.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-208.03. Pool of qualified applicants.

The human resources director and, when appropriate, in coordination with the department head, will determine which of the employees, if any, who apply for the job meet the minimum qualifications for the job.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-208.04. Interviews.

Those applicants determined to meet the minimum qualifications for the job will be interviewed.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-208.05. No sufficiently qualified applicants.

If after completing the interview and evaluation process, the human resources director and department head determine that none of the applicants who meet the minimum qualifications for the job are sufficiently qualified for the job, the city manager, or his designee, may fill the position in any manner he wishes.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-208.06. Basis of selection among employees.

In determining whom to promote from among qualified applicants, if any, the following shall be considered:

- (1) Qualifications and ability to perform the job.
- (2) The employee's past work related experience with the city and elsewhere.
- (3) The employee's past performance record with the city.
- (4) City seniority.

When factors (1), (2) and (3) are equal in the opinion of the department head, the promotion shall be awarded to the employee with the most city classification seniority.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-208.07. Wage rate for promoted employees.

The wage rate of promoted employees shall be determined in accordance with section 2-238(b).

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-208.08. Probation upon promotion.

(a) A promoted employee will serve a minimum six (6) month probationary period or a maximum one (1) year as designated by the department head. If the promoted employee does not successfully complete the probationary period, the employee may be returned to the position from which he was promoted with the approval of the department head only if a vacancy exists. If the former position is filled, reasonable effort will be made to place the employee in a comparable position. However, if a vacancy does not exist and if it is impractical to create a new position, the employee will be released.

(b) Upon approval of the city manager, a portion of the promotion probation period may be waived if the employee's performance is satisfactory.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-208.09. Demotion.

An employee may be demoted to a classification or lower pay grade for which the employee is qualified for any of the following reasons:

(1) When an employee would otherwise be laid off because the position is being abolished.

(2) When an employee does not possess the necessary qualifications to render satisfactory service in the position.

(3) If an employee voluntarily requests such demotion, the employee will be given consideration if a vacancy exists.

(4) A demoted employee's pay schedule shall be set in accordance with section 2-239(b).

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-209.01. Seniority, layoff and recall accrual.

For the purposes of this section 2-208.6 and section 2-209, city, departmental and job classification seniority shall continue to accrue during all types of leave of absence approved by the city.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-209.02. Loss of seniority.

An employee shall lose all seniority and be terminated from employment as the result of any one (1) of the following:

(1) Discharge.

(2) Retirement.

(3) Voluntary resignation.

(4) Layoff exceeding six (6) months.

(5) Failure to report to the department head the intention to return to work within three (3) calendar days of receipt of a recall notice.

(6) Failure to report from military leave within the time limits prescribed by law or any other leave unless an extension has been approved in advance by management.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-209.03. Reduction in force.

The city manager may lay off employees when it is deemed necessary by reason of shortage of funds or work, the elimination of positions, changes in duties or organization, or any other operational reason.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-209.04. Lay off selection.

(a) In the event the city manager decides to lay off employees within a department, the city manager, or his designee, will first lay off those employees employed on a temporary, probationary and part-time basis. If further layoffs are necessary, selection among regular full-time employees shall be based upon the department head's assessment of their:

- (1) Ability to perform all of the work available.
- (2) Special skills essential to the performance of the available work.
- (3) Job performance as reflected by the job evaluations for the past three (3) years or the most recent evaluations available.
- (4) Departmental seniority.

(b) When, in the opinion of the department head, factors (1), (2) and (3) are equal among employees, factor (4) shall be determinative.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-209.05. Reassignment of duties.

The duties performed by any employee laid off may be reassigned to other employees already working who hold positions in appropriate job classifications or the work may be otherwise performed in a manner deemed in the best interest of operational efficiency.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-209.06. Permanent layoffs.

In some cases, the city may utilize a layoff under circumstances where there is no reasonable expectancy to return to work. Such layoffs will be designated permanent and the employees will be terminated and immediately lose all seniority.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-209.07. Recall.

(a) Regular full-time and regular part-time employees laid off shall be given consideration along with other qualified applicants for openings in their classification or in other classifications which, in the opinion of the city manager, or his designee, the employee is qualified to perform for up to six (6) months.

(b) Except for employees laid off pursuant to section 2-209.06 above, regular full-time employees who are recalled by the city within twelve (12) months shall have their city departmental and job classification seniority restored. However, they will not be given credit for the period of the layoff nor shall they receive wages or benefits during the period of the layoff.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-209.08. Decisions final.

Decisions made pursuant to this section shall be final and shall not be subject to sections 2-212 or 2-213.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-210.01. Attendance and tardiness.

All employees are expected to report for duty at the scheduled time and remain there until the scheduled leaving time. Each department head shall be responsible for the on-time attendance of all persons within his department.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-210.02. Call-in.

Employees are required to call in before they are scheduled to report to work when they are going to be absent or late. Failure to call in before the employee's shift begins will subject the employee to discipline, unless the department head is satisfied that the failure to call in was for a reason beyond the employee's control.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-210.03. Verification.

The department head may require an employee to establish to his satisfaction that an absence or tardiness was for a legitimate reason. Such proof, in the case of sickness or injury, may include the presentation of a medical doctor's excuse from a doctor acceptable to the city.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-210.04. Continuing absence.

In the case of a continuing absence, the employee must call in each day unless otherwise instructed by his department head or supervisor.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-210.05. Person to call.

Call-ins are to be directed to the employee's immediate supervisor; however, in the event the immediate supervisor is not available, the employee must speak with the administrative assistant of the department head.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-211.01. Disciplinary action—General statement.

(a) It is the hope of the city that effective supervision and employee relations will avoid most difficulties which otherwise might necessitate employee discipline. However, disciplinary action is necessary in some instances as a tool to correct and eliminate unacceptable conduct or performance and in these situations to end the employment relationship.

(b) The city recognizes the fact that each situation differs in many respects from others that may be similar in some ways. Thus, the city retains the right to treat each incident on an individual basis without creating a precedent for other cases which may arise in the future as to a particular employee or groups of employees and to determine the appropriate discipline in every matter on a case-by-case basis.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-211.02. Forms of discipline.

(a) The city recognizes the following types of discipline:

- (1) Documented verbal warnings.
- (2) Written reprimands.
- (3) Suspension without pay.
- (4) Demotion.
- (5) Combination of the above.
- (6) Termination of employment.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-211.03. Temporary suspension.

The department head, with approval of the city manager, or his designee, may suspend the employee, with or without pay, pending an investigation and a final decision on the disciplinary action, if any, that will be taken.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-211.04. Basis for disciplinary action.

(a) Continued employment with the city and in any position with the city is at the will and pleasure of the employee and the city and may be terminated by either without cause.

(b) Employees should also understand they may be disciplined, up to and including termination, for violation of any of the offenses listed in section 2-211.07 below; for violating departmental rules; for any action or failure to act which in the opinion of the city manager, or his designee, adversely affects the ability of the employee and/or fellow employees to perform their responsibilities and/or adversely affects the efficient operation of the city government; or, for any other or no reason except one (1) made illegal by applicable law.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-211.05. Notice of disciplinary action.

(a) Employees who are disciplined by documented verbal warning will have the reasons for said warning explained by their supervisor.

(b) In all cases of written reprimand, suspension without pay, demotion, any combination of same, or termination, the employee will be notified in writing of the action taken and a copy of such notice shall be retained in the employee's official personnel file.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-211.06. Coordination with human resources.

The department head shall notify the human resources director of any documented verbal warnings. The department head shall obtain approval for all other proposed disciplinary actions from the HR director prior to taking action.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-211.07. Types of offenses.

(a) There are two (2) groups of sample offenses for which employees may be disciplined up to and including termination, and the guidelines for recommended penalties for those examples of unacceptable conduct are set forth below; however, the principles concerning application of discipline to these sample offenses as set forth in sections 2-211.01 and 2-211.04 above shall apply. Nothing herein shall be construed to require the city to have just cause for any form of disciplinary action, including termination, or to limit disciplinary action to the sample offenses enumerated below.

(b) This paragraph provides recommended but not mandatory penalties to apply to the specific example offenses listed here; however, the penalty utilized shall be discretionary with management in all matters of discipline and nothing herein shall require that a particular form of discipline be utilized in any case prior to the utilization of another form of discipline; provided, however, in the event a department head wishes to deviate from the recommended penalty, he shall first obtain approval from the human resources director and the city manager, or his designee.

Group I Offenses

First offense—Documented verbal warning.

Second offense—Written reprimand.

Third offense—Up to ten (10) days suspension without pay.

Fourth offense—Up to termination.

- (1) Quitting work, wasting time, loitering or leaving assigned work area during working hours without permission.
 - (2) Taking more than allowable times for meal or rest periods.
 - (3) Unacceptable productivity or competency.
 - (4) Sleeping on the job unless authorized to do so.
 - (5) Reporting to work or working while unfit for duty, either mentally or physically, unless the condition is a legally recognized disability in which case the matter will be dealt with in accordance with applicable law.
 - (6) Violating a safety rule or practice.
 - (7) Engaging in horseplay, scuffling, wrestling, throwing things, malicious mischief, and distracting the work of others, catcalls, or other disorderly conduct.
 - (8) Failure to report the loss of city equipment or other city property entrusted in the employee's custody.
 - (9) Failure to keep the city and department notified of the employee's current proper address and telephone number, if required to do so.
 - (10) Gambling, lottery or engaging in any other game of chance while on duty on city property, or in any fashion that brings disrepute upon the city.
 - (11) Violation of published city or departmental policies, rules, standards, orders, operating procedures or regulations not specifically included in Group 2.
 - (12) Failure to report illegal activity involving city business.
 - (13) Solicitation of money or anything of value on city property, in a city vehicle, or while wearing a city uniform.
 - (14) Engaging in any private activity, other than being at home at rest, in the hospital, visiting a doctor, or engaging in other medically related required activities, after reporting being off sick.
 - (15) Unexcused tardiness or absence.
 - (16) Untidy appearance or failure to wear the proper uniform.
 - (17) Failure to possess and maintain a current and valid Florida motor vehicle operator's license, if driving a vehicle is required by the city as an essential part of the employee's job.
 - (18) Use of city issued equipment or uniforms when not on duty without permission of the department head, or his designee.
 - (19) Operating, using, or possessing tools, equipment or machines to which the employee has not been assigned.
 - (20) Failure to report an accident or personal injury in which the employee was involved while on the job or in a city vehicle.
 - (21) Creating or contributing to unsafe and unsanitary conditions or poor housekeeping.
 - (22) Posting or removal of materials from the city's official bulletin boards.
-

(23) Failure to report a request for information or receipt of a subpoena from a law firm or an attorney for a matter relating to city business.

(24) Knowingly harboring a serious communicable disease which may endanger other employees without advising the city.

Group II Offenses

First offense— Up to termination.

(1) Conviction of a felony.

(2) Abuse of leave privileges.

(3) Use of official position for personal advantage.

(4) Deliberately or negligently misusing, destroying, losing or damaging any city property or property of an employee.

(5) Falsification of personnel, city, or departmental records, including employment applications, accident records, work records, purchase orders, time sheets, or any other report, record, or document.

(6) Making false claims or intentional misrepresentation in an attempt to obtain sickness or accident benefits, workers' compensation, or any other benefit.

(7) Insubordination or the refusal to perform work assigned, or to comply with written or verbal instructions of a supervisor.

(8) Use, possession, or display of explosives, or weapons on or in city property, unless specifically permitted by law or by the city.

(9) Removal of city property or any other employee's property from city locations without proper authorization; theft of city property or any employee's property.

(10) Failure to return at the end of an authorized leave of absence.

(11) Concerted curtailment, restriction of production, or interference with work in or about the city's work stations including, but not limited to, instigating, leading, or participating in any walkout, strike, sit down, stand-in, slowdown, or refusal to return to work at the scheduled time for the scheduled shift.

(12) Absent without permission or leave (AWOL).

(13) Acceptance of a gift, service, or anything of value in the performance of duty or under any other circumstances where the employee knew or should have known it was given with an expectancy of obtaining a service or favored treatment.

(14) Possession, use, sale, attempt to sell, or procure illegal controlled substances at any time whether on or off city property or whether on or off duty; and possession, use, sale or attempt to sell or procure alcoholic beverages while on duty, on city property, or while operating or riding in or on city equipment.

(15) Refusal to fully and truthfully cooperate in an investigation conducted by or at the direction of the city.

(16) On or off the job conduct which adversely affects the ability of the employee to perform his duties and/or adversely affects the efficient operation of the city government or any department, division, or area of city government.

(17) Discourteous, insulting, abusive, or inflammatory language or conduct toward the public or co-workers.

(18) Improper racial or sexual comments, harassment or acts directed to any city employee or the general public.

(19) Threatening, intimidating, coercing, or interfering with fellow employees or supervision at any time.

(20) Provoking or instigating a fight, fighting while on duty, except in self-defense.

(21) Unauthorized personal use of the tax exempt number for any reason.

(22) Accepting a bribe or gratuity, committing an illegal act or accepting a gratuity for performing the normal duties as a city employee.

(23) Failure to report in writing an offer of a bribe or gratuity to permit an illegal act.

(24) Communicating or imparting confidential information either in writing or verbally to any unauthorized person.

(25) Removal of city property or any employee's property from city locations without proper authorization; theft of city property or any employee's property.

(26) Incompetence, inefficiency, or negligence in the performance of duty.

(c) The above list does not include all of the reasons for which an employee may be subject to disciplinary action, but as stated earlier, is intended to provide examples of inappropriate conduct.

(Ord. No. 2001-08, § 1, 6-19-01; Ord. No. 2008-22, § 1, 7-15-08; Ord. No. 2011-20, § 6, 9-20-11)

§ 2-211.08. Suspension pending resolution of criminal charges.

(a) In the event an employee is charged with any crime, the employee may be suspended with or without pay.

(b) At any time, the city manager, or his designee, shall have the option of taking disciplinary action based on his own investigation without regard to the existence, status or final disposition of the criminal charges.

(c) The city manager may elect to wait until the criminal proceeding, or a particular phase thereof, is concluded before considering disciplinary action. In such a case, the city manager will take the resolution of the criminal proceeding, or phase thereof, under consideration but shall not be bound thereby and shall make his own determination as to the facts and the appropriate disciplinary action, if any.

(d) Under paragraphs (b) and (c) above, the city manager will not consider anything less than a finding by a judge or a jury, whichever is applicable, of not guilty as relevant to the issue of whether the employee engaged in the conduct in question.

(e) If an employee charged with a crime is found not guilty by a judge or jury, and the city manager determines no disciplinary action is warranted, the employee will be reinstated with back pay less amounts earned, unemployment compensation and periods of time the employee was unavailable to work or did not make every reasonable effort to find work.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-212.01. Grievance policy disciplinary matters.

The grievance procedure is established to provide opportunity to regular full-time and regular part-time employees who have successfully completed their initial probationary period to appeal disciplinary actions more serious than a written reprimand under section 2-211. The submission of an appeal by an employee in good faith shall in no way adversely affect the employee or his employment with the city.

Step 1—Department Head

(1) The employee may appeal the discipline in writing by filing his appeal with the department head, his administrative assistant, or the HR within five (5) working days from receipt of notice of disciplinary action.

(2) The appeal shall be in writing, and shall include:

- a. The date the grievance arose.
- b. The policy, rule, and/or procedure claimed to have been violated.
- c. A statement of the facts as seen by the employee.
- d. The relief requested.

(3) The department head shall meet with the employee within five (5) working days after receipt of the grievance. The department head shall give the employee an opportunity to explain his position, and listen to any witnesses the employee brings to the meeting. The department head may require other employee witnesses to be present or may conduct further investigation into the matter on his own. The department head shall give a written answer to the employee within five (5) working days after the investigation is completed.

Step 2—Appeal From Department Head Decision

(1) Appeals from the department head decision over suspension without pay and demotion, shall be made directly to the city manager in writing within five (5) working days of the decision of the department head in Step 1.

(2) Appeals from the department head decision over a termination may be made to either the hearing board in Step 3 or directly to the city manager as outlined in Step 4. The appeal shall be in writing to HR within five (5) working days of the decision of the department head in Step 2.

Step 3—Hearing Board Terminations

When a termination is appealed in a timely fashion to the hearing board, the board shall meet with the employee and the department head, give them an opportunity to explain their respective positions, listen to any witnesses they wish to present, call any witnesses the board feels will be helpful in making its recommendation, review all documents submitted, and make a recommendation to the city manager.

Step 4—City Manager

(1) In the case of an appeal to the hearing board, the recommendation of the hearing board and all documents it considered will be forwarded to the city manager for his review. In such cases as well as a direct appeal to the city manager of termination, suspension without pay or demotion, the city manager will:

- a. Give both the employee and the department head an opportunity to explain their positions;
- b. Consider the information before him;
- c. Further investigate the matter if he feels it is necessary; and
- d. Make the final decision for the city.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-212.02. Make up of the hearing board.

The hearing board shall be made up of one (1) employee selected by the grieving employee, one (1) employee by the department head and one (1) employee selected by the other two (2) selectees. Employees selected will not be employed in the same department as the employee submitting the appeal. If the two (2) selectees cannot agree on the third board member, the third member shall be appointed by the HR director. Only employees with five (5) or more years of continuous service with the city and whose last two (2) annual employee performance review's overall ratings were "above average" or above shall be eligible to be selected to serve on a hearing board.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-212.03. General provisions.

(a) Attorneys will not be allowed to participate in the meetings without permission of the city manager unless in a particular case the law requires it. However, an employee may be represented by a fellow employee or other representative if he wishes.

(b) The time limits of this grievance procedure may be extended for reasons considered appropriate by the human resources director. Failure of an employee to file a grievance or an appeal in a timely fashion will constitute an automatic abandonment of the grievance unless he has obtained an extension in advance.

(c) Grievance forms are available from the departmental administrative assistant or from HR, HR is available to assist employees in completing the written grievance forms and in processing the grievance through the various steps of the procedure.

(d) In the event the department head does not respond in writing within the time provided in section 2-212.01, Step 1(3) above, the response will be automatically deemed a denial of the grievance on the sixth day and the time for appealing to Step 2 shall begin.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-212.04. Police officers.

Employees in the police department covered by the Florida Policeman's Bill of Rights shall have the option of appealing suspensions without pay and demotions under this section of the PAP or the police department SOP (standard operating procedures), but not both.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-213.01. Grievance procedure non-disciplinary matters.

It is the purpose of this grievance procedure to assure regular full and regular part-time employees that their non-disciplinary problems and complaints will be considered fairly, expeditiously and without reprisal. It is expected that the procedures set forth below will encourage employees to discuss with their supervisors matters pertaining to conditions of employment as they affect individual employees. In addition, free discussion between employees and supervisors will lead to better understanding of practices, policies, and procedures, which affect employees. This will serve to identify and eliminate conditions which may cause misunderstandings and grievances.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-213.02. Definition.

A grievance is a complaint about the misapplication or misinterpretation of the PAP, City Code article III, or applicable departmental rules and regulations. Disciplinary matters shall not be considered under this Section but only under section 2-212.

§ 2-213.03. Procedure.

Step one. An employee shall present his grievance to his immediate supervisor within five (5) working days from the time of occurrence of the problem. The supervisor shall attempt to resolve the problem within five (5) working days after the complaint is made to him.

Step two. If the employee has not received an answer from the immediate supervisor within five (5) working days, or if the employee feels the answer received is not satisfactory, he will reduce to writing the facts and circumstances of the problem and present the written statement to his department head within five (5) working days after the supervisor's deadline in step one. The department head will investigate the grievance and meet with the employee to discuss the grievance within five (5) working days. The department head will notify the employee of his decision within five (5) days following the meeting date.

Step three. If the employee has not received an answer from the department head within five (5) working days, or if the employee feels the answer received is not satisfactory, he may appeal in writing to the city manager within five (5) working days after the supervisor's deadline in step two. The city manager, or his designee, will investigate the grievance and meet with the employee to discuss the grievance within five (5) working days. The city manager, or his designee, will notify the employee of his decision within five (5) days following the meeting date. The decision will be final and binding.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-213.04. Employee assistance.

Assistance will be provided by the human resources director if requested, including those employees who cannot read or write or have a language problem.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-213.05. Other matters of concern.

The city has and is proud of its open-door policy and all employees are encouraged to discuss matters of concern with members of management, including the city manager at any time, without having to file a formal grievance.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-214.01. Hours of work.*

(a) The city shall establish the hours of work in accordance with the operational needs of the city.

(b) The department heads shall schedule the work as necessary to provide full service, but should attempt to avoid overtime work except where operationally necessary.

(c) Unless otherwise provided by a CBA, employees shall be scheduled for an unpaid lunch break of not less than one-half ($\frac{1}{2}$) hour but not more than one (1) hour and a paid break before and after lunch, not to exceed fifteen (15) minutes each.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-214.02. Regular work week or period.*

Except for employees on a section 207(k) schedule in the fire or police department or as otherwise provided by a CBA:

(1) The regular workweek for regular full-time employees shall be forty (40) hours in a seven (7) day period. The city manager may establish the basic work schedule and hours of work best suited to meet the needs of the departments and the city to provide proper service to the community. Nothing in these rules shall be construed as a guarantee or limitation of the number of hours to be worked per week.

(2) The basic work schedule shall be from Monday through Friday of each week unless specified or scheduled by the city manager to meet the particular requirements of the city or individual departments. When the city manager deems it necessary, work schedules may be established other than the basic Monday through Friday schedule.

(3) Lunch and break periods are scheduled at the discretion of the department heads or designee.

a. Breaks are a privilege, not a fringe benefit, and must be arranged so as not to interfere with city business.

b. Employees may be allowed one (1) work break during the first half of their work shift and one (1) break during the second half, provided:

1. Breaks will be taken on the job site unless the supervisor has approved departure from the job site.

2. A break shall not exceed fifteen (15) minutes in duration.

3. Unused work breaks shall not be accumulated.

4. Break time will not be authorized to cover an employee's late arrival or early departure from work.

c. All employees shall ensure there is no disruption in service to the public during absence from the work areas for break purposes.

d. If the work load of the department is such that an employee break will impair service to the public, the department head or supervisor may deny a work break or reduce the time allowed for a work break.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-214.03. Assignment and working overtime.*

(a) Overtime will be authorized or directed only when it is in the interest of the city and is the most practical and economical way of meeting workloads or deadlines. Employees are to work only overtime as authorized but must report all hours worked to ensure compliance with the FLSA regardless of whether the work is authorized or not.

(b) Employees are required to work overtime when assigned unless excused by their supervisor. An employee desiring to be excused from overtime work assignments shall submit a request to his immediate supervisor who shall rule on the request.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-215.01. Holidays observed.

(a) The city recognizes the ten (10) holidays as enumerated below. The days such holidays shall be celebrated may be changed by the city manager for operational reasons. Notice of a change will be given as far in advance as practical.

Holiday	Normal Day	Celebrated
(1) New Year's Day	January 1	
(2) Martin Luther King Day	3rd Monday in January	
(3) Memorial Day	Last Monday in May	
(4) Fourth of July	July 4	
(5) Labor Day	1st Monday in September	
(6) Thanksgiving Day	4th Thursday in November	
(7) Day after Thanksgiving	4th Friday in November	
(8) Christmas Day	December 25	
(9), (10) Optional holidays		

(b) When a holiday falls on a Saturday, the preceding Friday shall be observed as the official holiday. When a holiday falls on a Sunday, the following Monday shall be observed as the official holiday.

(c) The city manager may determine that any department or operation will be open for business on a holiday.

(d) The actual calendar date of the holiday will be the designated paid holiday for all employees who work scheduled shifts. Because departments work various shifts, it has been left to the discretion of the department head to designate a single twenty-four (24) hour period which will comprise the holiday for employees on scheduled shifts (12:01 [p.m.] to midnight; 6:01 a.m. to 6:00 a.m.; 7:01 a.m. to 7:00 a.m.; etc.).

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-215.02. Eligibility for holiday pay.

To be eligible for holiday premium pay, the employee must work his scheduled workday or shift immediately preceding and after the holiday unless the absence is approved or excused by the department head.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-215.03. Holiday pay.

(a) Non-exempt regular full-time employees who meet the eligibility requirements shall be paid holiday pay at eight (8) hours times their straight time hourly rate. Regular part-time employees who meet the eligibility requirements shall be paid holiday pay based on the number of hours in their normal weekly schedule at their straight time hourly rate.

(b) If, in the opinion of the department head, it becomes necessary for an employee to work on a designated holiday, the employee shall be paid holiday premium pay for up to eight (8) hours worked at time and one-half ($1\frac{1}{2} \times$ hourly rate) in addition to holiday pay. In the case of employees who work scheduled shifts, holiday premium pay will be paid for hours worked on the holiday up to the number of hours worked in a normal shift. Only those hours worked within the designated twenty-four (24) hour period will be paid at the holiday premium rate. Comp time may be substituted for holiday premium pay.

(c) Holidays must be taken as they occur. Accumulation of holidays shall not be allowed. Employees will not be paid for holidays unused at time of termination.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-215.04. Absence due to sickness.

An employee scheduled to work a holiday who fails to work because of sickness or injury shall not receive holiday pay unless (1) he notifies his department head at least one (1) hour before he is scheduled to report for work and (2) upon request, he presents evidence satisfactory to the department head, which may be a medical doctor's excuse, that his absence was due to a bona fide, unforeseen serious illness or injury. The department head may excuse the first requirement if he is convinced that failure to notify as required was for a reason clearly beyond the employee's control.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-215.05. Holiday on a leave day.

(a) When a holiday falls within an employee's scheduled vacation and the employee meets the eligibility requirements for holiday pay, the city shall give the employee an extra day off with pay on a mutually convenient day.

(b) Otherwise, if a holiday falls during an approved leave of absence with or without pay for an employee on active pay status, the employee shall receive holiday pay less any amount received from worker's compensation or other compensation received from the city or under any city or other governmental benefit plan.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-215.06. Optional holiday.

The optional holidays:

- (1) Two (2) days become available on the first anniversary date of employment and every anniversary date thereafter.
- (2) Are cumulative, however, will not be paid out at termination.
- (3) May be used for any reason.
- (4) The request to use an optional holiday will comply with requirements in section 2-216.02
- (5) In no event will an employee be allowed to take optional holidays in conjunction with termination, i.e. to extend the termination date.

(Ord. No. 2001-08, § 1, 6-19-01; Ord. No. 2002-07, § 1, 5-7-02)

§ 2-216.01. Vacation eligibility and rate of earning.

(a) Each regular full-time employee will accrue or be credited vacation leave with pay at the rates set forth below.

Continuous Employment	Vacation Leave
Category 1: 0 through 9th Year	3.0769 hours per pay period
Category 2: 10th through 19th year	4.6154 hours per pay period
Category 3: After 20 years	6.1537 hours per pay period

Deputy Chiefs—Fire

Continuous Employment	Vacation Leave
Category 1: 0 through 9th Year	4.712 hours per pay period
Category 2: 10th through 19th year	7.068 hours per pay period
Category 3: After 20 years	9.424 hours per pay period

(b) Vacation leave credits are accrued by the two (2) week pay period on the basis of the schedule in paragraph (a), calculated from the first day of employment.

(c) Although employees accrue vacation during their first six (6) months of employment, it is not earned and may not be taken until after the probationary period has been completed.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-216.02. Request for leave.

(a) Leave may be taken only after approval by the department head.

(b) Leave may be used only as earned and will not be advanced.

(c) Leave should be requested as far in advance as possible but not less than three (3) working days in advance of the time requested.

(Ord. No. 2001-08, § 1, 6-19-01; Ord. No. 2002-07, § 1, 5-7-02)

§ 2-216.03. Payment/carryover.

(a) Employees may carry over up to the following amounts of vacation each year based on the categories set forth in section 2-216.01, above.

Category 1—80 hours

Category 2—120 hours

Category 3—160 hours

Deputy Chiefs—Fire

Category 1—122 hours

Category 2—183 hours

Category 3—245 hours

Vacation accrued but not taken by the employee's anniversary date that exceeds two (2) years accrued vacation leave shall be lost; unless a written request is submitted to the city manager to carry over hours exceeding the maximum.

(Ord. No. 2001-08, § 1, 6-19-01; Ord. No. 2002-07, § 1, 5-7-02)

§ 2-216.04. Use.

(a) Vacation time may be taken only in full hour or shift increments.

(b) Subject to subsection (c) below, accrued vacation may be used with prior approval of the department head for the following purposes:

(1) Approved vacation.

(2) Absences for transacting personal business which cannot be conducted during off-duty hours.

(3) Religious holidays other than those designated by the city as official holidays.

(4) For uncompensated approved absences due to medical or dental or optical reasons once paid sick leave has been exhausted.

(5) Any approved uncompensated leave of absence, including leave under the FMLA.

(6) Employees who become sick on vacation leave may use sick leave for such period of illness (full days only) but must present a doctor's certificate and will be given another vacation day or pay at the option of the city.

(c) Vacation pay may be used to supplement workers' compensation approved leave; providing the total week compensation received from all city sources by the employee, including workers' compensation, shall be no more than forty (40) times the employee's straight time hourly rate of pay.

(d) Except at termination, the employee cannot be compensated for vacation time during a period in which the employee was not absent from work in a vacation status for the number of hours compensated with vacation time.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-216.05. Scheduling.

Subject to operational needs:

(1) Scheduling of vacation time shall be approved by the department head.

(2) For that portion of scheduled leave that is vacation, a minimum of one (1) week advance request is required. Emergency requests for vacation leave may be granted unless scheduling or work commitments preclude permitting the leave.

(3) Where two (2) or more employees request the same vacation period, the employee with the most city seniority will be given preference; provided, where a junior employee's vacation time has already been approved it will not be changed without his agreement to accommodate a more senior employee.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-216.06. Vacation pay out.

(a) Employees who have more than six (6) months service with the city and leave in good standing shall be paid accrued but unused vacation pay upon cessation of their employment.

(1) With the exception of the employee hired on July 26, 1968 pay out of accrued and unused vacation leave shall not be granted prior to cessation of employment. This provision shall create no precedent as to any other employee.

(b) In no event will an employee be allowed to take vacation in conjunction with termination, i.e., to extend the termination date.

(c) In the event of an employee's death, his beneficiary shall be paid for accrued vacation.

(Ord. No. 2001-08, § 1, 6-19-01; Ord. No. 2002-15, § 1, 8-20-02)

§ 2-217.01. Sick and funeral leave eligibility.

(a) Sick leave, whether paid or unpaid, shall apply to leave for sickness, injury or disability that is not covered by workers' compensation. Sickness, injury or disability for pregnancy, childbirth, or related disabilities shall be treated the same as other sicknesses, injuries or disabilities.

(b) Regular full-time employees are eligible under paragraphs 2-217.02 and 2-217.03 for paid sick leave for absences due to sickness or injury, provided, upon request, they present evidence, including a medical doctor's excuse, if requested, satisfactory to their department head to establish their absence was due to sickness or injury. Sick leave may also be used for funeral leave as provided in 2-217.11 below.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-217.02. Rate of earning.

(a) Regular full-time employees shall earn four (4) hours paid sick leave each fourteen (14) day pay period and at six and one hundred twenty-five one thousandths (6.125) for the deputy chiefs in the fire department which may be used as sick or funeral leave as provided herein.

(b) Sick leave shall not accrue during unpaid leave of absence for any reason of more than thirty (30) days unless required by law.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-217.03. Probationary period.

Sick leave accrual shall begin from the first day of employment but is not earned and cannot be used until successful completion of the employee's initial probationary period.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-217.04. Charging leave.

(a) Sick leave taken shall be recorded, charged and paid in days, shifts or full hours, whichever is applicable.

(b) Paid holidays which occur during a paid sick leave shall not be chargeable to sick leave.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-217.05. Request for sick or funeral leave.

(a) To be eligible to receive pay for sick or funeral leave, the employee shall notify his immediate supervisor or department head as soon as possible but not less than one (1) hour prior to the time set for beginning the employee's shift. This provision may be waived by the department head if the employee submits evidence satisfactory to the department head that it was impossible to give such notification.

(b) Frequent claiming of sick leave, such as using sick leave as it accrues or showing a pattern of taking sick leave on Fridays or Mondays, constitutes evidence of malingering or deliberate abuse of sick leave and as such will result in disciplinary action.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-217.06. Extended unpaid medical leaves.

(a) When paid sick leave and accrued vacation leave are exhausted for absence due to sickness, disability or injury, the employee may be given extended sick leave without pay for up to six (6) months. However, no benefits such as holiday, vacation, funeral leave and paid sick leave will accrue during such unpaid leaves.

(b) The city retains the right to require the employee to submit to another medical examination at the city's expense to verify the employee's inability to work.

(c) The employee shall be required to return to work the work day after the last day of the leave granted, unless prior to that time the employee has obtained permission from the city manager to extend the medical leave or has applied for and been granted additional time off as allowed by these rules.

(d) The employee may continue his group medical coverage during such absence provided the employee pays the full premium by the time each month and in the manner required by HR. For continuation of insurance during FMLA leave, see section 2-219.07

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-217.07. Return from sick leave.

(a) At the option of the city, the employee may be required to supply a medical release from a doctor acceptable to the city to return to work from sick or disability leave whether the leave was with or without pay.

(b) An employee who is released from sick leave and who wishes to return to work shall notify the city. If the leave was less than thirty (30) days beyond pay status, the employee shall be placed in the job he held before the leave and there shall be no adjustment of his anniversary date or city or classification seniority date.

(c) Subject to applicable law FMLA, if the leave was longer than thirty (30) days beyond pay status, the employee will be given his job or a substantially equivalent job that is vacant if he is qualified to perform all the essential requirements of the vacant job. If the absence was due to a legally recognized disability, reasonable accommodation that will not cause undue hardship to the city will be offered. Adjustments of his anniversary date, city, departmental and classification seniority dates shall be as provided for other unpaid leaves under section 2-221.

(d) The department head may make exceptions to the above for operational reasons upon the request of the employee.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-217.08. Use of sick leave.

(a) Paid sick leave may be used provided it is approved for the following purposes:

(1) Sickness, injury or disability off the job.

(2) Medical, dental, optical or chiropractic examination or treatment which cannot be scheduled during non-duty hours.

(3) Serious illness (as defined in section 2-219.02) of a member of the employee's immediate family which requires the personal care or attention of the employee, or the death of a member of the employee's immediate family. Immediate family includes any of the following: Spouse, parent, child, sister, brother, mother/father-in-law, and other relatives who are members of the employee's household.

(4) Up to forty (40) sick leave hours may be used as vacation leave in addition to regularly earned vacation leave on an annual basis if the following criteria are met:

a. The employee has five (5) years of continuous service with the city.

b. The employee maintains a minimum of three hundred sixty (360) hours of credited sick leave accrued.

c. The department head has considered the employee's anniversary date to determine eligibility.

d. The time off has received the prior approval of the department head (see section 2-216.02).

e. Sick leave hours may only be converted to vacation if and to the extent that vacation, optional holiday, safety day and compensatory time accruals are not sufficient to cover non-sick leave time off in the current or next bi-weekly pay period. The sick leave will be converted as vacation leave is used.

f. Sick leave will not be converted to increase the vacation accrual balance.

(5) Funeral leave under section 2-217.12 below.

(6) Leave under FMLA.

(7) To supplement workers' compensation but not more than necessary to cover the employee's regular schedule times his normal hourly rate.

(b) Use of sick leave for any purpose not specified above may be considered misconduct and result in disciplinary action.

(Ord. No. 2001-08, § 1, 6-19-01; Ord. No. 2002-07, § 1, 5-7-02)

§ 2-217.09. Accumulation/pay out—Sick leave.

(a) There is no limit on the number of hours of sick leave which an employee may be eligible to accumulate for use for illness or injury.

(b) Accumulated sick leave will be payable upon termination at the rate of one-half ($\frac{1}{2}$) the sick leave hours accumulated up to a maximum of one-half ($\frac{1}{2}$) of four hundred (400) hours ($\frac{1}{2} \times$ four hundred (400) hours = two hundred (200) maximum hours payable upon termination). This policy shall apply only to those employees hired after 10/1/85. Sick leave payable upon termination for those employees hired prior to 10/1/85 shall be one-half ($\frac{1}{2}$) of the total hours accumulated. Employees who have more than six (6) months of service with the city and leave in good standing shall be paid accrued but unused sick leave pay upon cessation of their employment regardless of which policy applies.

(1) With the exception of the employee hired on July 26, 1968 pay out accrued and unused sick leave shall not be granted prior to cessation of employment except as provided in paragraphs (2) and (3). This provision shall create no precedent as to any other employee.

(2) Upon application to the human resources director, an employee hired prior to 10/1/85 who has entered a deferred retired option plan (DROP) may be paid for up to five hundred (500) hours of accrued and unused sick leave (up to one thousand (1,000) hours \times one-half ($\frac{1}{2}$)) prior to cessation of employment provided said accrued and unused leave was accrued prior to the employee's entrance into the DROP and provided, in the sole discretion of the city manager, the city's cash position will not be adversely affected by such pay out. An employee shall be eligible for pay out of unused accrued sick leave as specified in this paragraph only once during each year of participation in the DROP until the payable leave balance is fully paid. The city's record of accrued and unused leave shall be adjusted to reflect the pay out of accrued leave (i.e., a pay out for five hundred (500) hours shall result in a reduction of one thousand (1,000) hours from the employee's accrued sick leave balance).

(3) Upon application to the human resources director, an employee hired after 10/1/85 who has entered a deferred retired option plan (DROP) may be paid for up to two hundred (200) hours of accrued and unused sick leave (up to four hundred (400) hours \times one-half ($\frac{1}{2}$)) prior to cessation of employment provided said accrued and unused leave was accrued prior to the employee's entrance into the DROP and provided, in the sole discretion of the city manager, the city's cash position will not be adversely affected by such payout. An employee shall be eligible for payout of unused accrued sick leave as specified in this paragraph once during each year of participation in the DROP until the maximum payable leave balance is fully paid. The city's record of accrued and unused leave shall be adjusted to reflect the pay out (i.e., a pay out for two hundred (200) hours shall result in a reduction of four hundred (400) hours from the employee's accrued sick leave balance). An employee who has received the maximum allowable pay out while participating in the DROP shall not be eligible for additional pay out upon cessation of employment.

(Ord. No. 2001-08, § 1, 6-19-01; Ord. No. 2002-15, § 1, 8-20-02; Ord. No. 2005-49, § 1, 10-18-05)

§ 2-217.10. Light duty.

If an employee is released by his physician for "light duty," return to light duty shall be at the option of the city based on its operational needs. Refusal to accept a light-duty assignment by the city, which the employee is capable of performing in accordance with applicable law will result in termination of employment.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-217.11. Funeral leave.

(a) Approved funeral leave in the event of the death of a member of the employee's immediate family (as defined in section 2-217.08(a)(3)) will be granted as provided below:

(1) Up to three (3) working days and up to five (5) working days for funerals that take place out of the state.

(2) The minimum leave under this section shall be four (4) hours. Approved funeral leave will be charged against the employee's sick leave balance.

(b) The employee may be required to provide the department head with proof of death in the immediate family, as defined, before compensation is approved.

(c) If, in the opinion of the department head, additional days off are necessary to attend the funeral of a member of the immediate family, accrued vacation leave may be used or the employee may be given additional time off without pay.

(d) If the employee wishes to attend the funeral of someone outside his immediate family, the employee may be allowed time off without pay but only if the department head determines the absence will not affect operations. If approved, the employee may charge it against accumulated but unused vacation pay in full one (1) hour increments.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-218.01. Sick leave bank.

(a) A sick leave bank is hereby established for the purpose of providing sick leave with pay for employees of the city during periods of personal or prolonged illness, accident, or injury not otherwise compensated by the city.

(b) The sick leave bank shall function under rules and procedures adopted by the city manager, and administered by a committee comprised of three (3) employees elected by the employees, one (1) department head, appointed by the city manager and the HR director.

(c) Election. An election shall be held not more than thirty (30) and not less than ten (10) days prior to the commencement of the term for which the three (3) elected employees are to be elected. The city clerk's office shall administer the nominating and election procedure for each election in accordance with the procedures and policies provided herein.

(1) No less than thirty (30) days before the expiration of a regular term or immediately upon notice of a vacancy on the committee, the city clerk will notify all employees that an employee representative must be elected to the committee and request nominations. Such notification will be in writing and will include a nomination form and a list of all employees eligible for nomination. Employees eligible for nomination will include all members making contribution into the sick leave bank who have completed their six (6) month probationary period of employment. Nominations will be forwarded to the city clerk before the time and date specified on the nomination form.

(2) If one (1) nominee receives a minimum of fifty-one (51) percent of the nominations, that nominee shall be declared elected and shall take office immediately upon commencement of the term of office for which elected.

(3) If no nominee receives fifty-one (51) percent of all nominations, the city clerk will prepare an election ballot listing the nominees receiving the three (3) largest number of nominations and forward a ballot to all actively employed members. Election ballots shall be returned to the city clerk before the time and date specified on the ballot. The nominee receiving the highest number of votes for office shall be declared elected and shall take office immediately upon commencement of the term of office for which elected.

(4) If two (2) or more nominees tie for the highest number of votes, a runoff ballot shall be prepared and a runoff election shall be conducted as in paragraph (c)(3) herein.

(d) Elected employees. For the first committee constituted under this division, two (2) members shall be elected to an initial term of two (2) years and the other member shall be elected to an initial term of one (1) year.

(e) Appointed representative. The city manager shall appoint one (1) department head to serve a term of one (1) year.

(f) Any alleged abuse or misuse of the sick leave bank shall be investigated by the committee. If the investigation results in a finding of wrongdoing, the employee shall repay all sick leave days drawn from the bank and shall be subject to disciplinary action. Decisions made pursuant to this section shall be subject to appeal under section 213.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-218.02. Initial membership requirements.

(a) All employees who have been employed full-time for at least one (1) year and who have accumulated ten (10) days sick leave are eligible to join the sick leave bank by:

(1) Voluntarily contributing one (1) sick day of their sick leave and,

(2) Enrolling on the proper form.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-218.03. Maintenance of the sick leave bank.

(a) The sick leave bank shall be activated when a minimum of forty-five (45) days have been deposited. No further contribution shall be required of participating members unless the bank is depleted below thirty (30) days. All participating members who remain shall be required to contribute an additional day to the pool each time the bank is depleted below thirty (30) days. Participating members who do not have an additional day accrued at the time of replenishment may contribute the next available sick leave day and remain eligible for membership in the bank.

(b) Before the replenishment of the bank, notice will be given to the employees and participating members may withdraw from the bank upon written notice to the sick leave bank committee. If an employee has withdrawn and requests to be reinstated, the employee may be reinstated upon contributing an equal number of days as those who remained in the bank without withdrawing. An employee may be allowed to withdraw and be reinstated only one (1) time during the course of his employment. Employees who are not members of the bank shall be given an opportunity to become members of the sick leave bank during the month of December each year.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-218.04. Withdrawal procedures.

(a) Participating members are eligible to draw from the sick leave bank who are absent from employment because of his/her own illness or accident (excluding workers' compensation cases) or that of an employee's immediate family member as defined in section 2-217.08(a)(3).

(b) The following criteria must be met when applying to the sick leave bank committee for withdrawal of days from the sick leave bank:

(1) File an application on the proper form accompanied by a physician's statement which shall include the number of days the employee must be absent from work and the nature of the illness or injury.

(2) Exhaustion of all personal sick leave days, vacation days and personal leave days is required before sick leave may be withdrawn from the bank.

(3) The employee must be or have been absent from work for at least five (5) consecutive working days as a consequence of the illness, accident, or disability. Requests for sick leave from the sick leave bank due to the illness, accident or disability of an immediate family member will also be considered by the sick leave bank committee after the employee has been absent from work for at least five (5) consecutive working days.

(4) Application for use of the bank for elective surgery shall not be considered. The sick leave bank committee may require a second opinion from a physician if necessary to determine whether or not surgery is elective and such second opinion will be obtained at the employee's expense.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-219.01. Family medical leave eligibility.

(a) Employees who have worked for the city for at least twelve (12) months and have worked at least one thousand two hundred fifty (1,250) hours during the preceding twelve (12) months may take up to twelve (12) weeks of unpaid leave in a twelve (12) month period for the following reasons:

- (1) The birth of a son/daughter of an employee and to care for the child;
- (2) The placement of a son or daughter with an employee for adoption or foster care (entitlement to leave for birth, placement for adoption or foster care of a son or daughter expires twelve (12) months from the date of the birth or placement of a child);
- (3) In order to care for the employee's spouse, son, daughter or parent who has a serious health condition;
- (4) A serious health condition which renders the employee unable to perform the functions of the employee's position.

(b) Son or daughter means a biological, adopted or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is: (a) under eighteen (18) years of age; or (b) eighteen (18) years of age or older and incapable of self care because of a mental or physical disability.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-219.02. Serious health condition.

A "serious health condition" means an illness, injury, impairment, or physical or mental condition that involves either: (1) in-patient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity (for purposes of this policy defined to mean the inability to work, attend school, or perform other regular daily activities due to the serious health condition, treatment, recovery or any subsequent treatment in connection with in-patient care); or (2) continuing treatment by a health care provider.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-219.03. Intermittent leave.

In the case of unpaid leave for a serious health condition, the leave may be taken intermittently or on a reduced hours basis only if such leave is medically necessary. If intermittent or reduced hours leave is required, the city may in its sole discretion temporarily transfer the employee to another job with equivalent pay and benefits that better accommodates that type of leave.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-219.04. Verification.

(a) The city will require that an employee's leave to care for the employee's seriously ill spouse, son, daughter, or parent, or due to the employee's own serious health condition that makes the employee unable to perform one (1) or more of the essential functions of employee's position, be supported by a certification issued by the health care provider of the employee or the employee's ill family member.

(b) In accordance with the DOL rules, the city may request, at the city's expense, a second or third health care provider's opinion for leave taken because of a serious health condition. The city may also require subsequent recertification from the employee's health care provider on a reasonable basis, in accordance with DOL rules, which normally will not be more than every thirty (30) days. No second or third opinion will be required upon recertification.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-219.05. Children.

In the case of unpaid leave for the birth or placement of a child, or foster care, intermittent leave or working a reduced number of hours is not permitted unless both the city and employee agree.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-219.06. Spouses.

(a) If both spouses work for the city, the combined leave shall not exceed twelve (12) weeks in a twelve (12) month period if the leave is taken:

- (1) For the birth of the employee's son or daughter or to care for the child after birth;
- (2) For placement of a son or daughter with the employee for adoption or foster care, or to care for the child after placement; or
- (3) To care for the employee's parent with a serious health condition.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-219.07. Health insurance premiums.

(a) During family leaves of absence, the city will continue to pay its portion of the health insurance premiums and maintain the employee's coverage under the health plan in the same manner as if the employee had been continuously employed during the entire leave period; provided the employee continues to pay his or her share of the premiums.

(b) Should the employee fail to continue to pay his or her share of the premium, notices of proposed insurance cancellation and the opportunity to pay the premium as required by the FMLA will be provided before the cancellation.

(c) Employees will be advised well in advance of any changes in premiums so they will have ample opportunity to make arrangements to continue to pay their share of the premiums during the FMLA leave. To avoid required reimbursement, appropriate certification from a health care provider may be required if the employee does not return to work because of a serious health condition.

(d) If the employee does not return to work after the expiration of the leave, the employee will be required to reimburse the city for the city's portion of health insurance premiums during the family leave, unless the employee does not return because of the presence of a serious health condition which prevents the employee from performing his or her job for circumstances beyond the control of the employee.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-219.08. Accrual.

(a) During leave, the FMLA does not require accrual of employment benefits, such as vacation pay, sick days, seniority, etc. Accordingly, during FMLA leave, accrual of benefits and seniority shall be on the same basis as for any other unpaid leave of absence. Pension benefits will be determined in accordance with DOL rules. Employment benefits to which an employee may be entitled on the day on which the family and medical leave of absence begins will not be lost because of such leave, except for those paid leave days substituted for leave taken under this policy as described above. Upon return from FMLA leave, employees are entitled to any changes in benefit plans not dependent upon seniority or accrual during the leave period. (See section 2-221.05.)

(b) Employees will not be disqualified from bonuses based upon attendance or safety for which they qualified prior to leave because of the taking of FMLA leave.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-219.09. Relationship to paid leave.

(a) Employees may elect or may be required to substitute without limitation accrued paid vacation or personal leave for an equivalent portion of FMLA leave.

(b) Employees may elect or may be required to substitute accrued paid sick/medical leave for an equivalent portion of FMLA leave for a serious health condition.

(c) To the extent the city does not provide paid sick/medical leave for a condition covered by the FMLA, neither this policy nor the FMLA entitles the employees to paid leave. However, under paragraphs (a) and (b) above, paid leave and the FMLA leave will run concurrently.

(d) Leave covered by workers' compensation and/or long-term disability by the city will run concurrently with the FMLA leave when the reason for the leave is covered by the FMLA; however, the city will not require nor will it allow the use of a paid leave under paragraphs (a) or (b) above at the same time.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-219.10. Return from FMLA.

With the exception of certain key employees, employees who return to work from family leave of absence within or on the business day following the expiration of the leave are entitled to return to their job or an equivalent position with equivalent benefits, pay and other terms and conditions of employment. Designation of key employee status and whether such status will affect the employee's right of reinstatement will be made at the time the employee requests leave, or at the commencement of leave, whichever is earlier, or as soon as practical thereafter if such determination cannot be made at that time.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-219.11. Application.

Applications by the employee for family leave must be submitted in writing at least thirty (30) days before the leave is to begin if the need for the leave is foreseeable based on an expected birth, placement for adoption or foster care, or planned medical treatment for a serious health condition of the employee or of a family member. If thirty (30) days notice is not practicable, such as because of a lack of knowledge of approximately when leave will be required to begin, a change in circumstances or a medical emergency, notice must be given as soon as practical.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-219.12. Counting FMLA leave.

To the extent allowed by law, in the event an absence is for a reason covered by the FMLA, the city reserves the right to count it as FMLA whether the employee has applied for it or not. When this occurs, the employee will be promptly notified as required by law.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-219.13. Coordination.

Absences due to sickness or injury, whether paid or unpaid, including absences for work-related sickness or injury that are also covered by the FMLA will be considered as FMLA leave.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-219.14. Employee obligations.

During FMLA leave, employees must periodically report on their medical status and intent to return to work. Upon taking such leave, the employee will be advised of the reporting requirements. When the employee gives unequivocal notice of his intent not to return to work, the employment relationship will be terminated, and the employee's entitlement to continue leave, maintenance of health benefits, and reemployment will cease.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-219.15. Medical evidence upon return to work.

All employees of the city whose FMLA leave was taken because of the employee's own serious health condition must obtain and present certification from his health care provider that he is able to resume work before being allowed to return to work.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-219.16. Failure to cooperate.

Employees who fail to provide required information to the city, may have their leave delayed and be subject to discipline up to and including discharge as permitted by law.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-219.17. Domestic violence related leave.

The city will provide eligible employees with up to three (3) working days of unpaid leave in a 12-month period for domestic violence-related reasons.

In calculating the 12-month period under this policy, the city uses a "rolling, backward-looking" method. Under this method, a rolling 12-month period is measured backward from the date the employee uses any leave under this policy, such that each time an employee takes leave under this policy the remaining leave entitlement would be any balance of the three (3) days' of leave which has not been used during the immediately preceding twelve (12) months.

(a) *Eligibility.* To be eligible for leave under this policy, the employee must be employed by the city for at least three (3) months.

(b) *Circumstances where domestic violence-related leave is available.* Leave may be taken under the terms of this policy if the employee or a family or household member of the employee is a victim of domestic violence and the leave is necessary to:

- (1) Seek an injunction for protection against domestic violence or an injunction for protection in cases of repeat violence, dating violence or sexual violence;
- (2) Obtain medical care or mental health counseling, or both, for the employee or a family or household member to address physical or psychological injuries resulting from the act of domestic violence;
- (3) Obtain services from a victim-services organization including, but not limited to, a domestic violence shelter or program or a rape crisis center as a result of the act of domestic violence;
- (4) Make the employee's home secure from the perpetrator of the domestic violence or to seek new housing to escape the perpetrator; or
- (5) Seek legal assistance in addressing issues arising from the act of domestic violence or to attend and prepare for court related proceedings arising from the act of domestic violence.

(c) *Exhaustion of paid leave required.* Prior to receiving leave under this policy, the employee must exhaust any available paid leave.

(d) *Notice and supporting documentation required.* Except in cases of imminent danger to the health or safety of the employee or a family or household member, advance notice of the need for leave is required. Where advance notice is required, the employee is required to provide notice to the city as soon as the need for leave becomes known. Where advance notice is not required due to the imminent danger to the health or safety of the employee or a family or household member, the employee must inform the city that the leave was taken pursuant to this policy as soon as he or she returns to work.

Documentation supporting the need for the leave under this policy must be submitted with the request for leave. In cases of imminent danger to the safety of the employee or a family or household member, supporting documentation must be submitted as soon as the employee returns to work.

(e) *Confidentiality and prohibition of retaliation.*

(1) All information relating to leave under this policy shall be considered confidential and will not be disclosed to any other individuals unless required for legitimate business or otherwise compelled by law.

(2) Leave taken or requested under this policy will not result in any adverse action against the employee. Employees who believe they have been subjected to retaliation as a result of leave taken or requested under this policy must initiate a complaint in the same manner as required by the city's harassment and discrimination complaint procedure.

(Ord. No. 2007-34, § 1, ?-?-07)

§ 2-219.18. Military related leave.

The city will provide eligible employees with the following leave for military related leave:

(a) *New qualifying reason for leave.* Up to twelve (12) weeks of leave for qualifying exigencies arising out of a covered family member's active military duty, i.e. spouse, son, daughter, or parent, and

(b) *New leave entitlement.* An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered servicemember who is recovering from a serious illness or injury sustained in the line of duty on active duty is entitled to up to twenty-six (26) weeks of leave in a single twelve-month period to care for the servicemember. This provision became effective immediately upon enactment. This military caregiver leave is available during "a single twelve-month period" during which an eligible employee, is entitled to a combined total of twenty-six (26) weeks of all types of FMLA leave.

(c) *Exhaustion of paid leave required.* Prior to receiving leave under this policy, the employee must exhaust any available paid leave.

(d) *Certification for active duty because of any qualifying exigency.* In addition to an application for leave, employees will be required to furnish in a timely manner any certification that a family member is issued regarding their active duty or call to active duty in the Armed Forces.

(Ord. No. 2008-22, § 1, 7-15-08)

§ 2-220.01. Court/witness/jury duty.*

Employees who appear as witnesses on behalf of the city in any judicial or administrative proceeding or who are directed by the city to testify in any proceeding shall have all such time treated as compensable work time.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-220.02. Other court-related leave.

Those employees who become plaintiffs or defendants in personal litigation or who testify or appear on behalf of parties and other persons except the city are not eligible for leave with pay, but may use accumulated vacation leave subject to the conditions set forth in section 2-216.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-220.03. Jury leave.

The city shall make up the difference between the employee's pay for his normal schedule provided the employee:

(1) Advises his department head no later than three (3) working days before he is to report for jury duty or when he is first advised, whichever first occurs.

(2) Returns to duty each day he is released from jury duty when two (2) or more hours remain on his scheduled work day or shift unless he gets permission from his department head not to return.

(3) Endorses his check for jury pay over to the city.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-220.04. Return to work.*

Employees who attend court on any other legal proceeding for only a portion of a regularly scheduled work day are expected to report to their supervisor when excused or released.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-221.01. General leave without pay.

Except as required by applicable law, the decision to grant leave without pay (leave of absence) is a matter of administrative discretion. It shall be the responsibility of each department head to weigh each case on its own merits and not to provide such leave under circumstances that adversely affect city operations.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-221.02. Extension.

Employees on leave shall report for duty at the end of the leave unless they have obtained a written extension from their department head or have been notified not to return.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-221.03. Return to work.

An employee who is on approved non-medical or non-FMLA leave without pay for less than ten (10) working days shall be returned to his former position. When the leave is more than ten (10) but less than sixty (60) working days, the employee shall be returned to his former position or another position for which, in the opinion of the department head, he is qualified to perform all of the duties if one (1) is vacant, otherwise he shall be laid off.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-221.04. Other employment.

Employees on leave without pay of any kind, including unpaid medical leave, shall not accept employment elsewhere.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-221.05. Accrual of sick and vacation leave.

No pay or benefits such as paid sick leave, holiday, funeral leave and vacation leave will be earned while on any unpaid leave, including non-medical leave of more than thirty (30) working days.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-221.06. Conference leave.

When deemed in the best interest of the city, an employee may be granted leave with pay to attend professional and technical institutes, conferences, or other such meetings which may contribute to the effectiveness of the employee's service to the city. Requests for said leave shall be made to the department head and must be approved by the city manager. All such leave and travel expenses will be subject to the approval of the department head in accordance with the city travel procedure manual. Copies of said manual are available from the city clerk.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-221.07. Administrative leave.

Administrative and supervisory personnel who do not earn or accrue overtime may be granted reasonable time off without loss of pay, to conduct personal business which cannot be conducted during off-duty time.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-221.08. Effect of leaves on insurance coverage.

(a) *Compensable leave.* The city shall continue the employee's group life and hospitalization insurance during compensable leave of absence provided the employee pays his share of the premium.

(b) *Workers' compensation.* The city shall continue the employee's group life and hospitalization insurance during a leave of absence due to a valid workers' compensation injury or illness, provided the employee pays his share of the premium. If the employee's claim is later determined by law to be invalid, the employee shall reimburse the city for all premiums paid in his behalf during the injury. Failure to repay the city such premium upon demand or under terms agreeable to the city will result in termination of employment, and loss of accumulated sick and vacation leave to the extent necessary to cover the reimbursement. To the extent not fully reimbursed, the city may collect the premiums by any means allowed by law.

(c) *Other non-compensable leave.* Subject to the Family Medical Leave Act and subparagraph (a) above, if an employee is on an unpaid leave of any type, including medical leave covered by section 217.06(d), he shall be responsible to pay the premium for group life and hospitalization insurance beginning the month after the month in which the leave began. The employee shall be entitled to continue coverage for the period of the leave provided he pays the premiums subject to any restrictions imposed by the insurance carrier.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-221.09. Military leave.

(a) The city shall provide leave for military service, return from military service and accrual of benefits and seniority during military service in accordance with applicable law.

(b) Employees who are ordered to or need time off for military service or duty, should advise HR as soon as they become aware of their need so appropriate arrangements can be made.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-222.01. Sexual and other illegal or improper harassment.

The purpose of this policy is to make all employees of the city aware that it is the policy of the city that sexual, racial or other forms of illegal or improper harassment will not be tolerated.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-222.02. Statement of policy.

(a) Sexual harassment is included among the prohibitions of Title VII of the Civil Rights Act of 1964, which prohibits sex discrimination in employment, and is prohibited by the city.

(b) Sexual harassment consists of unwelcome sexual advances, requests for sexual favors, or other verbal or physical acts of a sex-based nature, where submission to such conduct is made a term or condition of employment, or an employment decision is based on an individual's acceptance or rejection of such conduct, or such conduct unreasonably interferes with an individual's work performance or creates an intimidating, hostile, or offensive working environment. Sexual harassment involves not only members of the opposite sex but also of the same sex.

(c) Other forms of harassment in addition to sexual harassment are illegal (such as racial harassment) and/or are improper and will not be tolerated. Such harassment involves unwelcome language or actions involving race, religion, national origin, age, marital status or disability.

(d) Sexual as well as other illegal or improper harassment of city employees by other employees or by persons who are not employed by but do business with the city will not be tolerated.

(e) In addition, the city will not allow any retaliation against any employee who raises a concern about improper or illegal harassment or participates in an investigation involving improper or illegal harassment and tells the truth to the best of his knowledge and belief.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-222.03. Examples of prohibited sexually related conduct.

The city considers the following conduct to be examples of conduct, which violates its prohibition of sexual harassment.

(1) Unwelcome physical assaults or touching of a sexual nature, including:

- a. Rape, sexual battery, molestation, or attempts to commit such acts.
- b. Intentional physical contact which is sexual in nature such as touching, pinching, patting, grabbing, rubbing, hugging, or poking another employee's body.

(2) Unwelcome sexual advances, propositions, and other sexual comments, such as sexually oriented gestures, noises, remarks, jokes, or comments about a person's sexuality or sexual experience directed at or made in the presence of an employee who has indicated in any way that such conduct in his or her presence is unwelcome.

(3) Job actions related to sexual matters such as:

- a. Preferential treatment for submitting to sexual activity, including soliciting or attempting to solicit an employee to engage in sexual activity for compensation or reward.
- b. Threatening to, or actually making an employee's job more difficult, or taking away any benefit or privilege to entice an employee to submit sexually.

(4) Display of sexually related material, such as:

- a. Pictures, posters, calendars, graffiti, objects, promotional material, reading or other material of a sexually suggestive or sexually demeaning nature is not permitted in the workplace.
- b. Reading or otherwise publicizing in the work environment materials that are sexually revealing, pornographic, or sexually demeaning.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-222.04. Examples of other illegal or improper harassment.

(a) Derogatory, critical or uncomplimentary jokes, comments, displays, posters, other written materials as well as actions based on age, race, religion, national origin, marital status, or disability are often unwelcome and hurtful to others and can be illegal. Such actions have no place in the work environment at the city and will not be tolerated.

(b) The above examples are not to be considered a comprehensive list of prohibited conduct, but set forth examples of the types of conduct which is prohibited.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-222.05. Making complaints of sexual or other illegal or improper harassment or retaliation.

(a) Anyone who has suffered sexual or other illegal or improper harassment or retaliation or who has observed such conduct should report it to his immediate supervisor, his division manager or department head, the city clerk, city manager, human resources director, or any member of the city commission.

(b) All complaints will be investigated expeditiously. Upon completion, and a determination that a complaint is valid, the city will take appropriate remedial action, including discipline up to termination of employment. If the complaint is found to be without merit, no disciplinary action will be taken against the employee against whom the complaint was made.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-222.06. Bad faith claims of sexual or illegal or improper harassment.

Bad faith claims of sexual or other illegal or improper harassment are claims made when the person making the claims knows the claim is false but makes it anyway. Persons who make bad faith claims under this subsection will be subjected to disciplinary action up to and including termination.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-223.01. Group medical, dental and vision insurance.

The city makes available to all full-time regular employees group medical, dental, vision and life insurance after a certain number of days of employment as follows:

(1) Participation is voluntary.

(2) For those employees who elect to participate, the city currently pays one hundred (100) percent for the employee's coverage. Family coverage is available at the employee's option, provided the employee pays the premium through payroll deduction. The current employee contribution rates are available from the HR as are the various options as to coverage and types of insurance available. A booklet explaining the plans, contributions, and how and where to file a claim is also available through HR.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-223.02. Section 125 Plan.

The city has an IRS-approved Section 125 Plan by which eligible employees may pay their share of group insurance premiums through payroll deduction with before-tax dollars. Contact HR for details.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-223.03. Retirees' medical insurance.

(a) [Retirees' medical insurance] will be provided in accordance with Florida Statutes.

(b) The city will comply with the PSOH (Public Safety Officers' Health Benefits) and the LLEBG (Local Law Enforcement Block Grant) requirements. Employees eligible for this benefit shall meet the definitions provided in Section 1204(5) of the Omnibus Crime Control and Safe Streets Act of 1968 for a public safety officer and an injury suffered as a direct result of a personal injury sustained in the line of duty while responding to an emergency situation or hot pursuit.

(Ord. No. 2001-08, § 1, 6-19-01; Ord. No. 2004-17, § 1, 6-1-04; Ord. No. 2009-13, § 1, 5-5-09)

§ 2-224.01. Pension.

(a) The city maintains a defined benefit pension plan for certain full-time and part-time employees who meet the eligibility requirements.

(b) The city maintains a defined contribution retirement plan for other employees. The contributions to the plan are made by the city and the eligible employee subject to the conditions set forth in the plan.

(c) All eligible employees will be provided a copy of the summary plan description for the plan applicable to them. All eligible employees may review a copy of the full text of the plan(s) upon request made to HR.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-225.01. The employee performance review system.

(a) Employee performance reviews are given to evaluate the employee's work attitude, quality, quantity and performance and to assist the employee and management in recognizing strengths and weaknesses and to assist in improving areas identified as weak.

(b) Employees performance reviews will be conducted: (1) before the employee's initial probation is completed to determine whether their employment will be continued or terminated, (2) annually for full and part-time regular employees, (3) the immediate supervisor will conduct a quarterly face-to-face counseling session on duties, responsibilities and performance objectives, and (4) on other occasions as determined necessary by the department head.

(Ord. No. 2001-08, § 1, 6-19-01; Ord. No. 2003-19, § 1, 7-1-03)

§ 2-225.02. Use.

In addition to assisting employees and management in achieving and maintaining acceptable or better job performance, employee performance reviews are considered in determining advancement, disciplinary actions and other job actions.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-225.03. Process.

(a) The process for rating the work performance and work attitude of employees accurately and fairly is set forth in the guidelines as part of the employee performance review form.

(b) The employee shall be allowed up to twenty-four (24) hours to review and draft comments to his or her review and should not be expected to rush through it in the supervisor's office.

(c) The evaluator shall transmit the evaluation and the employee's comments, if any, to HR no later than five (5) days prior to the employee's anniversary date.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-226.01. Safety and health purpose and intent.

It is the intent of the city to enhance occupational safety and health among city employees through the implementation and maintenance of policies, procedures, practices, rules and standards that improve workplace safety and reduce the incidence of employee accidents and occupational diseases.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-226.02. Workplace safety program.

Occupational safety and health regulations applicable to all city departments will be developed by the city administration and implemented in all locations to which city employees are assigned for the performance of their duties.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-226.03. Safety committee.

(a) *Purpose.* A safety committee, herein known as "the committee," is established in accordance with F.S. § 442.012 to promote a safe and healthy workplace by recommending policies and procedures to improve workplace safety and health, prevent workplace accidents, and enhance employee safety training.

(b) *Membership.* The committee shall consist of city employees who have an interest in the general promotion of workplace safety and health.

(1) Employee representative. Employees who do not normally perform in a supervisory capacity shall be elected in accordance with procedures specified in paragraph (f) herein. There shall be seven (7) employee representatives, each of whom represents a specific risk group as defined in Exhibit A attached to the ordinance from which this division is derived. Each employee representative shall be permitted to vote on matters presented to the committee.

(2) Employer representative. Employees who normally perform in a supervisory capacity shall be appointed by the city manager to serve on the committee. There shall be two (2) employer representatives, and each shall be permitted to vote on matters presented to the committee.

(3) The human resources director or the human resources director's designee will coordinate matters involving the committee and ensure that proper procedures are followed. The HR director shall serve on the committee as a non-voting member. The HR director shall ensure that employer representatives do not exceed the number of employee representatives and that employee representatives are elected by their peers.

(c) *Terms.* Each representative shall serve a regular term of two (2) years which commences with the first meeting in January following election or appointment. If a vacancy occurs on the committee, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled.

(d) *Meetings.* The committee shall elect annually by majority vote from among its members a chairman and vice-chairman. Meetings shall be held monthly and shall be called to order by the chairman. The presence of five (5) voting members shall constitute a quorum. Minutes will be recorded and filed with the city clerk for retention in the official records of the city.

(e) *Duties.* It shall be the duty of the committee to:

(1) Promote workplace safety;

(2) Establish and communicate procedures for conducting internal safety inspections;

(3) Establish and communicate procedures by which accident investigation will be conducted;

(4) Evaluate the effectiveness of the workplace safety program and make recommendations to the city manager for corrective action as necessary;

(5) Establish and communicate guidelines for safety training;

(6) Ensure that workplace safety rules, policies and procedures are implemented in all city departments; and

(7) Make recommendations to the city manager for corrective action when violation of workplace safety rules, policies or procedures results in a preventable accident.

(f) *Election.* An election shall be held not more than thirty (30) and not less than ten (10) days prior to the commencement of the term for which an employee representative is to be elected. The city clerk shall administer the nominating and election procedure for each election in accordance with the procedures and policies provided herein.

(1) No less than thirty (30) days before the expiration of a regular term or immediately upon notice of a vacancy on the committee, the city clerk will notify all members of the risk group that an employee representative must be elected to the committee and request nominations. Such notification will be in writing and will include a nomination form and a list of all employees eligible for nomination. Employees eligible for nomination will include all members of the risk group who have completed their six (6) month probationary period of employment. Nominations will be forwarded to the city clerk before the time and date specified on the nomination form.

(2) If one (1) nominee receives a minimum of fifty-one (51) percent of the nominations, that nominee shall be declared elected and shall take office immediately upon commencement of the term of office for which elected.

(3) If no nominee receives fifty-one (51) percent of all nominations, the city clerk will prepare an election ballot listing the nominees receiving the three (3) largest number of nominations and forward a ballot to all actively employed members. Election ballots shall be returned to the city clerk before the time and date specified on the ballot. The nominee receiving the highest number of votes for office shall be declared elected and shall take office immediately upon commencement of the term of office for which elected.

(4) If two (2) or more nominees tie for the highest number of votes, a runoff ballot shall be prepared and a runoff election shall be conducted as in paragraph (f)(3) herein.

(g) *Transition committee.* Members serving on the safety committee existing when this division is adopted [June 19, 2001] shall continue to serve until completion of the first regularly scheduled election required by this division.

(1) Employee representatives. For the first committee constituted under this division, members from risk group one, risk group two, and risk group three shall be elected to an initial term of two (2) years and members from remaining risk groups shall be elected to an initial term of one (1) year.

(2) Employer representatives. When appointing members to the first committee constituted under this division, the city manager shall appoint one (1) member to serve an initial term of two (2) years and one (1) member to serve an initial term of one (1) year.

§ 2-226.04. Safety incentive program.

(a) *Establishment*: One (1) safety day shall be awarded in a six (6) month period to each eligible employee in accordance with the accrual schedule provided the employee has no workplace accident(s) determined preventable by the safety committee.

Incentive: One (1) safety day shall be awarded at the end of a six (6) month period to each eligible employee in accordance with the accrual schedule provided the employee has no workplace accident that is determined preventable by the safety committee established in section 2-302. An employee shall not be eligible for the safety day award if the safety committee determines that a workplace accident was both caused by the employee in total or part and the accident was preventable. The six (6) month award period for each employee shall be maintained on the accrual schedule maintained by the human resources director or designee.

(b) *Use*. Safety days shall be taken as time off following the accrual and are subject to the following guidelines:

- (1) Are cumulative, however will not be paid out at termination.
- (2) In no event will an employee be allowed to take a safety day in conjunction with termination, i.e. to extend the termination date.
- (3) May be used for any reason.
- (4) The request to use a safety day will comply with requirements in section 2-216.02

(c) [Reserved.]

(d) *Eligibility*. All permanent full-time employees are eligible for participation in the incentive program. Probationary employees may accrue a safety day incentive during the period of probation but shall not use the safety day until permanent employment status has been achieved.

(e) *Administration*. The HR director shall notify the department head by memorandum when a safety day has been earned by the department. No safety day shall be considered earned and may not be taken as such until said memorandum is received by the department head. A copy of the memorandum shall be inserted in the payroll time book to notify the finance department that a safety day has been earned. The HR director shall notify the department head by memorandum when a safety day has been lost by an employee charged by the committee with a preventable accident. A copy of the memorandum shall be forwarded to the finance department by the HR department for adjustment of the employee's accrued leave balance.

Safety Committee Risk Groups

Risk Group	Workers' Comp Code	Group Members
One	7720 9410	Police officers Code enforcement officers
Two	7704	Firefighters and inspectors
Three	7520 7580 8601	Water operators, technicians and meter readers Wastewater operators and technicians Engineering manager, inspector and specialists
Four	5509 9102 9220	Streets division - all field employees Field services division - all field employees Cemetery division - all field employees

Five	9015 9410	Facilities maintenance - all employees Building official and inspectors
Six	8810	Library - all employees All other clerical and administrative employees

(Ord. No. 2001-08, § 1, 6-19-01; Ord. No. 2002-07, § 1, 5-7-02; Ord. No. 2012-21, § 1, 11-6-12)

§ 2-227.01. DUI, DWI and moving traffic violations.

The safety and health of all city employees, residents, and the public in general is of utmost importance to the city. Such concerns include attempting to ensure that employees who drive vehicles on the public roads, streets, and highways as part of their job maintain safe driving records and habits consistent with the city's mission of conducting safe and efficient city business, and to ensure the ability of the city to maintain acceptable insurance protection at reasonable cost.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-227.02. Dui/Dwi.

(a) An employee charged with a DUI or DWI offense shall be suspended from his driving job pending resolution of the charge or charges. The suspension will be without pay, except the city manager, at his option, may elect to transfer the employee to a vacant non-driving position which the employee is qualified to perform at the non-driving position rate of pay.

(b) Upon acquittal, the employee shall be reinstated to his driving position or a similar driving position with back pay less any interim earnings received from any source, including from the city, and unemployment compensation. Acquittal is defined as a finding of not guilty after trial or dropping of the charges. Acquittal shall not include a plea of nolo contendere or reduction of charges. Employees who refuse breath, blood, or urine testing in violation of Florida State Statutes regarding implied consent shall be considered as convicted.

(c) Upon first offense conviction, the employee shall be removed from his driving position for not less than twelve (12) months. Upon written request, the employee will be considered for placement in other non-driving vacancies in the city for which he is qualified; however, he shall be given no preferential treatment because he is a city employee. If the employee is not offered a non-driving job within thirty (30) days of his removal from the driving position, he shall be terminated. If the employee is offered and accepts a non-driving position within the thirty (30) day period, the employee's service record will remain unbroken.

(d) An employee placed in a non-driving position or ex-employee terminated pursuant to paragraph (c) above may not reapply for a driving job for twelve (12) months from the date of his removal from the driving job. Thereafter, those employees and ex-employees who reapply for a driving job will be given no preference but if otherwise qualified will be considered along with all other qualified applicants, and their past conviction will be considered along with other job related factors.

(e) Upon conviction of a second DUI or DWI, an employee in a driving position shall be terminated from employment with the city.

(f) Upon conviction of a second DUI or DWI, an employee in a non-driving position as a result of the application from paragraph (c), shall be permanently barred from a driving position within the city.

(g) Employees and applicants for employment who have never held a driving position with the city but who have been convicted of DWI or DUI not more than one (1) time, may be considered for driving positions under the same conditions as employees who have been removed from a driving position because of a DUI or DWI conviction under paragraph (c) above. Employees and applicants who have two (2) or more DUI or DWI convictions shall not be considered for driving positions.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-227.03. Moving violations.

(a) The official Florida State driving record of all employees under F.S. ch. 322 shall be reviewed by the city from time to time. If, upon such review, an employee's record reveals seven (7) or more points under F.S. § 322.27 within the past three (3) years as a result of moving violations, the employee shall be removed from his driving position.

(b) Upon written application, the employee will be considered for placement in other non-driving vacancies in the city for which he is qualified; however, he shall be given no preferential treatment because he is a city employee. If the employee is not offered a non-driving job within thirty (30) days of his removal from the driving position, he shall be terminated. If the employee is offered and accepts a non-driving job within thirty (30) days, the employee's service record will remain unbroken.

(c) An employee placed in a non-driving position or an ex-employee terminated pursuant to paragraph (b) above may not reapply for a driving position until periodic reviews of the driving records of all employees have been conducted by the city, and the employee's official Florida State driving record establishes that the employee does not have seven (7) or more points as a result of moving traffic violations in the three (3) year period immediately prior to the city review of employee's record. Thereafter, those employees and ex-employees removed from driving jobs pursuant to paragraph (b) who reapply for a driving job will be given no preference but if otherwise qualified applicants, and their past conviction of moving traffic violations will be considered along with job related factors.

(d) An employee who is removed from a driving position on two (2) different occasions as a result of the application of this section, shall be permanently barred from a driving position with the city.

(e) Employees who have never held a driving position with the city and applicants for employment who have seven (7) or more points for moving violations at the time they apply for driving positions shall not be considered. If such employees and applicants do not have seven (7) or more points at the time of their application, their official Florida State driving record will be considered along with other job related factors.

(f) Employees are obligated to inform the city of drivers license suspension or revocation for any reason. Employees are obligated to maintain a valid Florida drivers license, failure to do so will result in disciplinary action. Employees in driving positions who have suspensions or revocations are considered unqualified for that position and may be reassigned to a non-driving position or terminated if no vacancy exists.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-228.01. Tuition and books.

(a) The city may authorize payment for tuition and books for courses it considers will be helpful to successful completion of the mission of the city subject to budgetary constraints as follows:

(1) The city manager, or his designee, shall determine if the course or curriculum is related to the employee's job or contributes to the long range value of the employee to the city.

(2) If the course is reimbursable through some other source, then provisions of the city's education tuition payment plan shall not apply.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-228.02. Eligibility.

(a) Full-time employment with the city at least one (1) year.

(b) The education level will include a high school diploma, associate, bachelor or masters degree.

(c) No more than two (2) courses per quarter or semester (or equivalent period of time) may be taken.

(Ord. No. 2001-08, § 1, 6-19-01; Ord. No. 2007-08, § 1, 4-4-07)

§ 2-228.03. Requests and payment.

(a) The employee must request the method of funding (advance or reimbursement) by submitting Human Resources Form 007 for approval. In order to process the request in a timely manner, employees should make every effort to request necessary funding as soon as school schedules are released. Failure to obtain approval in advance will result in requests for reimbursement being denied.

(b) Employees receiving a tuition advance must submit a paid receipt from the college or university for classes and books to the HR. Employees requesting reimbursement upon completion of the class must also submit paid receipts.

(c) Employees are encouraged to attend any accredited Florida college or university; however, tuition reimbursement shall be paid at the public college or university tuition rate. Correspondence schools will not be considered for tuition reimbursement. Employees shall not be reimbursed for mileage or personal expenses unless they are required by the city manager to take the course.

(d) The employee shall submit to the city manager the final grade, certification, or degree immediately upon receipt from the school.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-228.04. Repayment by the employee.

(a) The employee shall reimburse the total cost of tuition and books if he fails to successfully complete the course. Reimbursement shall be within two (2) weeks of receipt of grade. For courses for which an employee receives a grade, reimbursement to the city will be as follows:

(1) Employees receiving a grade of C or better shall not be required to reimburse the city. Employees receiving a grade below a C shall reimburse the city at one hundred (100) percent. Employees who drop a class shall reimburse the city at one hundred (100) percent.

2. The employee who receives any funds under this program shall be required to work for the city for at least three (3) years from the date money is received, or shall reimburse the city for every dollar received upon termination. The city reserves the right to withhold the money owed from any final paycheck upon separation subject only to applicable law.

(Ord. No. 2001-08, § 1, 6-19-01; Ord. No. 2007-13, § 1, 5-15-07)

§ 2-228.05. Schedules.

The city will attempt to rearrange work schedules for classes if it does not interrupt the normal work flow.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-229.01. Drug-free workplace and alcohol policy.

The city's drug-free workplace policy is aimed at ensuring "zero" tolerance to illegal drugs at all times and its alcohol-free policy to "zero" tolerance under circumstances that affect or might affect the safety and well being of employees, citizens and others, or the effective operation of city business. This policy is consistent with all Florida State and federal laws including Florida Drug-Free Workplace Statutes [F.S. §§] 440.101 and 440.102, Drug-Free Workplace Program Requirements, the Agency for Health Care Administration (AHCA), Chapter 59A-24, Florida Administrative Code, Drug-Free Workplace Standards, and the Federal Drug-Free Workplace Act. In addition, all employees required to have a commercial driver's license (CDL) under Chapter 49 CFP, part 383, are subject to controlled substance and alcohol testing rules established by the Federal Highway Administration (FHWA) under the Omnibus Transportation Employee Testing Act of 1991 (revised February 1994), in accordance with 49 CFR, Parts 40, 383, 392, 4, and 392.5. Regulatory penalties for infractions are in addition to disciplinary action including termination of employment.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-229.02. Policy.

(a) *Illegal controlled substances.* The city prohibits the use, distribution, possession, manufacture, cultivation, sale or attempt to sell or distribute illegal controlled substances at any time whether on or off duty, whether on or off city property. Illegal controlled substances are defined by applicable state and federal laws.

(b) *Alcohol abuse.* Employees of the city are prohibited from using or possessing alcohol while on duty; while on city premises; while driving a city vehicle, operating a piece of the city's equipment, or being transported in city vehicles at any time; reporting to work under the influence of alcohol; or, from otherwise using alcohol in a manner at any time which adversely affects the business interests of the city.

Note: A sworn employee of the city police department, or an employee acting under the direction of such, may have cause in the course of conducting city business, to acquire and/or manipulate some form of alcohol or drugs for a duty purpose, and not for other non-job related reasons, and such shall be done in accordance with the officer's assigned duties and in accordance with police department policies.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-229.03. Use of legal drugs.

The use of legal drugs, that are prescribed by licensed physicians for a specific medical purpose is not prohibited. However, such drugs can and often do have a direct impact on the vigilance, judgment and/or coordination of the employee and may adversely affect the employee's job performance and the employee's ability to work in a safe and efficient manner. This is particularly true in safety-sensitive assignments involving the operation of motor vehicles and other moving equipment. Therefore, an employee for whom a licensed physician or dentist prescribes a controlled substance must advise the supervisor immediately in order that an evaluation can be made on the impact, if any, on the safe and efficient operation of the city. Detection of a controlled substance will be presumed to be in violation of this policy unless the employee advises the supervisor of its medicinal use in advance. The supervisor must immediately advise the department head of such use by the employee.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-229.04. Substances tested for.

(a) With respect to violation of policy 229.02(B), employees are subject to testing for the detection of alcohol while on duty or while operating or riding in or on a city-owned vehicle. The current positive test threshold for alcohol is two one hundredths (0.02)g percent.

(b) Employees will be subject to drug testing for the detection of the following illegal drugs/drug groups, as well as others that may from time to time be declared illegal by state or federal law:

- (1) Amphetamines;
- (2) Barbiturates;
- (3) Benzodiazepines;
- (4) Cannabinoids (marijuana);
- (5) Cocaine;
- (6) Methadone;
- (7) Methaqualone;
- (8) Opiates (heroin, morphine, codeine);

(9) Phencyclidine (PCP);

(10) Propoxyphene.

(c) Circumstances for testing:

(1) Subject to applicable law, all job applicants shall be subject to pre-employment drug testing as a prerequisite to employment with the city. It is the obligation of the job applicant to notify the approved testing facility of any controlled substances prescribed for the job applicant by a physician or dentist.

(2) When an employee is involved at any time directly in an equipment or vehicular work-related accident, or in any unsafe and/or negligent maintenance or operation of the city's equipment or vehicles at any time where in the opinion of the city manager the employee was at fault or the employee's conduct contributed to the accident.

(3) When reasonable suspicion exists to believe the employee is using drugs or alcohol in violation of this policy. A reasonable suspicion is a belief that an employee is using or has used drugs or alcohol in violation of this policy drawn from specific objective and articulatable facts and reasonable inferences drawn from those facts in light of experience. Among other things, such facts and inferences may be based upon:

- a. Observable phenomena while at work, such as direct observation of drug use or of physical symptoms or manifestations of being under the influence of a drug or alcohol;
- b. Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance;
- c. A report of drug use, provided by a reliable and credible source;
- d. Evidence that an individual has tampered with a drug test during his employment with the city;
- e. Information that an employee has caused, contributed to, or been involved in an accident while at work;
- f. Evidence that an employee has used, possessed, manufactured, cultivated, sold, solicited, or transferred drugs;
- g. Frequent absences from work without a satisfactory explanation.

(4) Unless prohibited by law, as a part of any medical examination required by the city whether or not that medical examination is required by the DOT or any other local, state or federal law or regulation.

(5) Unless prohibited by applicable law, the city reserves the right to test any employee for illegal drugs and alcohol to determine compliance with this policy at any time with or without prior announcement on a random or other basis.

(6) For the purpose of this policy, if a test reveals the presence of alcohol, the employee shall be deemed to have violated the city policy.

(7) Employees and job applicants have the right to consult with the testing laboratory for technical information regarding prescription and non-prescription medications. The name, address and telephone number of the testing laboratory will be provided to the employee or job applicant upon request.

(8) All test results will be kept confidential and will only be provided to managerial employees on a need-to-know basis.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-229.05. Reasonable suspicion searches.

To discourage the use and/or distribution of illegal drugs or alcoholic beverages in the workplace, upon reasonable suspicion, searches for alcohol, illegal drugs or paraphernalia may be conducted on city property or worksites of employee's personal property including but not limited to any box, bag, or other containers and vehicles brought on to city property at any time.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-229.06. Reporting and conviction of alleged crimes including drugs or alcohol.

(a) All employees must report to their supervisor any arrest, indictment or conviction of a drug or alcohol related violation or alleged violation of law not later than the next work day after the employee becomes aware of it. Failure to so report may result in immediate termination.

(b) Upon conviction of a crime involving illegal drugs, the employee will be immediately terminated.

(c) Without regard to prosecution or conviction by appropriate governmental entities, the city may, at its option, conduct its own independent investigation to determine whether or not there has been a violation of the city's drug and/or alcohol policy. If, in the opinion of the city, it believes a violation has occurred, it will take whatever disciplinary action it deems appropriate regardless of the ultimate outcome of any criminal case that may be brought against the employee.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-229.07. Discipline for violations of policy.

Employees who violate this policy or who are directed to take a physical examination, blood, breathalyzer, urinalysis or other test allowed by law, and refuse or fail to do so when and as directed; or who, after having taken such examination and/or test are determined to have utilized an illegal controlled substance at any time or to have violated the city's alcohol abuse policy, shall be subject to immediate termination; provided, however, if the presence of an illegal controlled substance is established as a result of the test, the employee or job applicant may, within five (5) working days of receipt of written notification of a positive result, request an opportunity to explain the result to the city and/or the medical review officer.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-229.08. Employee injured on the job.

Any employee injured on the job who refuses to submit to a drug test, or has a positive confirmation test, in addition to other provision of the policy, may forfeit his eligibility for all workers' compensation medical and indemnity benefits depending on applicable law.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-229.09. Employee assistance program.

(a) The city has an employee assistance program (EAP) with one (1) of its missions being to assist employees who voluntarily report drug or alcohol related problems, which have not yet adversely affected their job or city operations. Additionally, the city may require any employee in violation of this policy, whether he voluntarily reports his problem or not, to participate in the EAP or other medical and rehabilitative assistance programs as a condition for continued employment. For further information regarding the EAP, contact human resources.

(1) *Employees who voluntarily ask for help.* Employees with drug or alcohol related problems who wish assistance through the EAP may contact the EAP. If the employee has a satisfactory performance record, the city may grant the employee an unpaid leave of absence for a period determined by the city to participate in a city-approved treatment or rehabilitative program. This employee will be responsible for all expenses resulting from the treatment or program to the extent they are not covered by insurance.

(2) *Other employees.* In the event the city discovers a violation of this drug or alcohol policy, or if the city otherwise discovers an alcohol-related problem that adversely affects or may adversely affect the employee's performance or the city's business, the city at its option consistent with applicable law, may proceed to discipline the employee up to and including discharge, or at the city's option, require the employee to undergo approved medical or rehabilitative assistance. The employee will be responsible for all expenses resulting from the treatment or rehabilitation to the extent they are not covered by insurance. In the event the city requires the employee to participate in the employee assistance program, the EAP provider will keep the city fully advised with respect to the employee's participation and medical condition.

(3) *Return to work.* Employees who are granted a leave of absence under paragraph (1) and (2) above must successfully complete all EAP, medical and other rehabilitative requirements established by the city for them within a reasonable amount of time, in order to be considered for return to work.

(4) *Retesting.* Employees allowed to return to work under paragraph (3) shall be subject to retesting any time without notice and must submit to such test as and when directed by the city.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-229.10. Reporting violation of the policy.

(a) It is the obligation of every employee of the city to report violations of the city's drug and alcohol abuse policies. Failure to report may subject employees to discipline up to and including discharge.

(b) Any employee who in good faith, based upon reasonable suspicion or observation, reports an alleged violation of these policies, or any supervisory or managerial employee who investigates or takes action in good faith based on reasonable suspicion or observation shall not be harassed, retaliated against, or discriminated against in any manner for making reports, participating in the investigation or because of any reasonable action he takes as a result of the investigation.

(c) Bad faith claims. Any knowingly false reporting of a violation of the policies set forth herein shall subject the employee to immediate termination.

(Ord. No. 2001-08, § 1, 6-19-01)

Section 2-229 is subject to applicable law and all action taken by members of management hereunder must obtain approval from the human resources director to ensure compliance with all applicable laws.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-230.01. Smoking, Vaping and other tobacco products.

Effective: Tuesday, April 18, 2017

(a) The purpose of this policy is to protect the public health, comfort, and environment for citizens and employees by creating areas in public places and at public meetings that are reasonably free from tobacco products smoke, and to comply with Florida Statutes, the Florida Clean Air Act.

(b) No employee may smoke or vape in any city building, facility or vehicle. This includes, but is not limited to, private offices, hallways, rest rooms, conference rooms and break rooms, even with only one occupant.

(c) Smoking, vaping and other tobacco use is permitted outdoors except for the following conditions:

(1) Whenever a safety hazard exists;

(2) In any area where smoking, vaping and other tobacco use is specifically prohibited by federal, state, county or city ordinance;

(3) In any area posted "No Smoking".

(d) The city manager is responsible for ensuring city-wide implementation of this policy. Department heads and managers are responsible for uniform implementation of this policy in their respective work areas, facilities and buildings.

(e) Violation of this policy shall subject the employee to disciplinary action up to and including termination.

(f) Citizens, clients, contractors and visitors to city facilities are expected to comply with this policy. Violators will be requested to extinguish their smoking material or leave the building/facility area if they refuse to do so.

(Ord. No. 2001-08, § 1, 6-19-01; Ord. No. 2007-05, § 1, 3-20-07; Ord. No. 2017-07, § 1, 04-18-2017)

§ 2-230.02. Unemployment compensation.

(a) The city is registered with the State of Florida Bureau of Unemployment Compensation. Terminated employees who file a claim and are determined qualified under the Florida Unemployment Compensation Law may be eligible to receive unemployment compensation benefits. An explanation is available of employee's rights and responsibilities through HR. Employees who are terminated for violation of the city drug free workplace policy may not be entitled to unemployment compensation under Florida law.

(b) Any correspondence received by employees regarding unemployment compensation must be forwarded to the human resources department upon receipt.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-230.03. Workers' compensation.

(a) The city provides workers' compensation for all employees injured on the job and:

(1) Payment of workers' compensation to all employees who are disabled because of an injury arising out of and in the scope of performing their duties with the city will be governed by the Florida State Workers' Compensation Law.

(2) Full-time regular and probationary employees shall be paid one hundred (100) percent of his regular pay by the city for the first seven (7) calendar days of the period of disability. When the period of disability extends beyond seven (7) days and the employee is eligible for workers' compensation benefits, a change of status shall be initiated by the employee's department head documenting the date on which the employee began disability leave.

(3) The employee will continue to accrue sick leave, vacation, safety days and optional holidays during the entire period of disability. Time on occupational disability will continue to count toward retirement and longevity.

(4) Periods extending beyond seven (7) days and up to thirty (30) days shall be paid as follows: The insurance company shall pay sixty-six and two-thirds ($66\frac{2}{3}$) percent; the city shall pay thirty-three and one-third ($33\frac{1}{3}$) percent. The city's payment shall be issued as special pay to supplement workers' compensation benefits following an official statement from the insurance carrier as to benefits paid directly to the employee. The city's payment will be issued with the next normal run of payroll following receipt of the statement.

(5) Health insurance, credit union and other payroll deductions will be made from the thirty-three and one-third ($33\frac{1}{3}$) percent supplemental payment, and payroll taxes will be deducted.

(6) If the employee is out of work long enough to receive payment from workers' compensation for the first seven (7) days, that payment shall be returned to the city. This will prevent the employee from being paid twice for the same period of time. Payment to employees for the first seven (7) days of disability shall be delivered to the human resources department. Payment for these seven (7) days will not be charged against sick leave or vacation, nor will special pay to supplement workers' compensation benefits.

(7) After thirty (30) days of disability, the employee's case will be reviewed by the city manager to evaluate the continuation of the city's payment of the thirty-three and one-third ($33\frac{1}{3}$) percent supplement. This supplement may be continued with the city manager's approval for thirty (30) day periods and is subject to review by the city manager at the end of each thirty (30) day period until the employee returns to work or is qualified for disability retirement. If there is a conflict between the city manager's review and the recommendation of the treating physician, the city manager reserves the right to require additional medical evaluation by a city-designated physician. The supplemental payment will continue during said review. If the city manager decides to discontinue the city's payment of the thirty-three and one-third ($33\frac{1}{3}$) percent supplement after the initial thirty (30) days of disability, the employee may elect to receive a thirty-three and one-third ($33\frac{1}{3}$) percent supplemental payment and have it charged against vacation or sick leave.

(8) If the physician treating an employee on occupational disability determines that the employee is unable to perform full, normal duties but is qualified for "light duty" which does not hinder treatment or recuperation, the employee may be placed on "light duty" at the city's option. Work performed on "light duty" will be paid at the employee's normal hourly rate and payment for such work will be deducted from any supplemental pay which might have been granted to the employee.

(9) In the event an employee has neglected to advise the attending physicians of other injuries reported under workers' compensation, whether injuries were sustained while employed by the city or sustained prior to employment by the city or any pre-existing condition(s), shall be grounds for immediate termination. The city manager reserves the right to deny all or part of the benefits outlined above if the injury resulted from the willful negligence of the employee.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-230.04. Desk, lockers, others city property/equipment, personal property.

(a) Employees may request a locker if available.

(b) Employees must provide locks for lockers, but must provide the department head a duplicate key.

(c) All personal equipment, property and belongings brought onto city property or placed in city property as well as lockers, desks and file cabinets or any other city equipment used by the employee are subject to inspection by management at any time. This includes but is not limited to car trunks, and lunch bags for any reason.

(d) In the event the employee is unavailable or it is deemed necessary to access any item described in subsection (c) above without the employee's presence, the department head must request authority to access from the city manager. The city manager shall make the determination.

(e) The city is not responsible for the personal property of employees which is brought onto city property.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-230.05. Records and reports.

(a) The human resources department is responsible for establishing and maintaining comprehensive central personnel records of all city employees.

(1) A record of all leave earned by an employee will be maintained by HR.

(2) All adjustments to an employee's leave balances (sick leave donation, loss of safety day, correction of balance, etc.) will be forwarded to the finance department by the HR. No adjustments will be made to an employee's leave balances without the review and approval of the human resources director.

(3) The payroll administrator will forward a current listing of employee leave balances to the human resources director after the last payroll of the fiscal year.

(4) All personnel records of employees are maintained in the human resources department and are considered the official employee records. Duplicate files may be kept in the department at the option of the director.

(5) Employees should keep their personnel records current. This means immediately notifying the HR of any changes; such as, change of address (even if temporary), change of telephone number, change of beneficiary, number of dependents, divorce, marriage or any status change not previously reported, from that which was originally given at the time of employment. This is the responsibility of the employee and failure to comply may result in loss of employee benefits.

(6) The HR should be informed of any special training courses completed by an employee. Copies of diplomas or certificates shall be forwarded to the human resources department to become a permanent part of the employee's personnel file.

(b) Records retention and disposition. Consistent with applicable law, the HR shall determine the time limit that any personnel records shall be kept on file and the final disposition of such records.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-230.06. Employee training and development.

It is the responsibility of the city manager in conjunction with department directors and the human resources director, to foster and promote in-service training of employees. The purpose of this training is to improve the level of service rendered to the public, the quality of personnel, and to assist employees in preparing themselves for advancement in city service. Department directors in cooperation with the human resources director will establish standards for training programs, assure that training is carried out as approved, and prepare certificates or other forms of recognition to persons who satisfactorily complete approved courses and programs. The human resources director will provide assistance to department directors in developing and conducting training to meet specific needs of their departments and to assure that employee, supervisory and management training is available to all departments.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-230.07. Deductions.

Federal withholding, social security and pensions are deducted from paychecks in accordance with law and city ordinance. Voluntary deductions authorized by the city manager are made only upon written authorization of the employee and approval by HR and by the finance department.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-230.08. Cell phones.

When it is deemed that a city employee has a need for a cell phone to effectively perform his job requirements, the following policy shall apply:

(1) A requisition for the cell phone shall be submitted along with written authorization from the department head explaining the reason for the need for the employee to have a cell phone. Cell phone vendors must be approved in advance by the city manager, or his designee. The cell phone shall remain the property of the city and will remain so until it is declared surplus and disposed of in a manner acceptable to the city. All bills for the use of the cell phone shall be sent to the city. The employee shall reimburse the city for all personal calls transacted by the use of the cell phone. Reimbursement shall be by cash or by submittal of a check or money order made out to the city.

(2) If an employee is using his personal cell phone for city business calls, he shall be responsible for full payment of the bill and may submit requests for reimbursement for city business calls to the finance department using the proper form. Written authorization from the department head for reimbursement along with a copy of the bill highlighting such calls must be submitted. Reimbursement will be given in the employee's name only, not to the cell phone service provider. The rates established for the cell-phone service shall remain between the employee and the service provider. Most cell phone service providers offer governmental employee rates.

(3) Should a dispute arise involving any of the above procedures, the decision of the city manager shall be considered final and binding.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-230.09. Information systems policies.

(a) Computers, computer files, the e-mail system, and software furnished to employees are city property intended for business use. Employees should not use a password, access a file, or retrieve any stored communication without authorization. To ensure compliance with this policy, computer, Internet and e-mail usage may be monitored.

(b) The use of city-supplied computers or applications for personal use is discouraged. However, any personal use by the employee should be done with the understanding that the city takes no responsibility for licensing, nor assurances of data or information privacy. Modifications to hardware or city-supplied applications that prevent or alter the use of city information is strictly prohibited. Memory space for business information shall take precedence over any personal requirements.

(c) All employees are responsible for meeting the requirements of these policies. Employees who violate these policies are subject to disciplinary action as set forth in section 2-211. The (IS) information services division is responsible for establishing, and monitoring adherence to this policy.

(d) The city strives to maintain a workplace free of harassment and sensitivity to the diversity of its employees. Therefore, the city prohibits the use of computers and the e-mail system in ways that are disruptive, offensive to others, or harmful to morale.

(e) The Internet may be used for incidental personal use that does not violate these policies and does not hamper or conflict with the transaction of city business, on lunch hours or after hours. The city has the right to view and monitor all Internet usage on the city's system(s).

(f) The city Internet access may not be used for the following:

- (1) Commercial activities;
- (2) Religious causes;

(3) Solicitations of any kind;

(4) Political activity;

(5) Activities not directly related to the conduct of city business;

(6) To download files or software without first checking for viruses;

(7) Transmitting or accessing copyrighted information in a way that violates the copyright.

(g) The city purchases and licenses the use of various computer software for business purposes and does not own the copyright to this software or its related documentation. Unless authorized by the software developer, the city does not have the right to reproduce such software for use on more than one (1) computer.

(h) Employees may only use software on local area networks or on multiple machines according to the software license agreement. The city prohibits the illegal duplication of software and its related documentation.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-230.10. E-mail policy.

(a) As part of our effort to facilitate work, the city provides electronic mail services to employees. These systems are designed to facilitate your communication with employees and with the public when such communication is part of your job. All electronic communication systems and all communications and stored information transmitted, received or contained in the city's information systems are the property of the city.

(b) E-mail is for the use of employees in the performance of their jobs. However, it is recognized that occasional communications between employees at work via e-mail for personal reasons under circumstances that do not take away from or interfere with their duties or the duties of those employees with whom they communicate, is not prohibited except:

(1) No e-mail will contain any materials which is political, slanderous, controversial, critical of any person or entity, or which contains vulgar language, references to sexual matters or is otherwise inappropriate.

(2) E-mail for personal reasons should be used only when it is important that the employee communicate with another employee at work about a personal matter and another method of communication would take time away from the employee's work, e-mail is not to be used for "chit-chat," telling jokes and communicating personal information unless it is necessary.

(3) The city manager, or the city manager's designee, will determine when this section is being violated.

(c) Employees shall not use a code, access a file, or retrieve any stored information, other than those for which they are authorized, unless there has been prior clearance by the city manager, IS manager, or their designees.

(d) While electronic mail may require the use of a password for security, confidentiality cannot be guaranteed. Messages may be reviewed by someone other than the intended recipient. All passwords must be made known to the IS division.

(e) To ensure that the use of the city's information system and other electronic communications systems is consistent with the city's legitimate business interests and not a violation of this section, authorized representatives of the city will monitor the use of such equipment from time to time.

(f) Employees using this equipment for improper personal purposes do so at the risk of discipline in accordance with section 2-211.

(g) Employees should also be aware that electronic records (such as e-mail and computer stored documents) are public records and as such are subject to access by the general public as well as the press in the same manner as physical documents. Thus, any electronic communication concerning any official business may not be deleted or destroyed (i.e., erased from computer memory) until a hard copy is printed and retained with other public records.

(h) Employees shall not attempt to read, "hack" into other systems or other employee's logins, or "crack" passwords, or breach computer or network security measures, or monitor electronic messages of other employees or third parties except by explicit direction of city management.

(i) No electronic mail may be sent which attempts to hide the identity of the sender, or represents the sender as someone else.

(j) Electronic mail should not be used in a manner that is likely to cause network congestion or significantly hamper the ability of other employees to access and use the system.

(k) Remember, although you can delete e-mail, it does not go away and can always be retrieved, and may be reviewed at any time by the city to ensure compliance with this section and by the public upon a proper request under the Florida Public Records Law. UNDERSTAND ANYTHING YOU PUT IN A CITY COMPUTER MAY BE ON THE FRONT PAGE OF THE NEWSPAPER.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-230.11. Pagers.

(a) Employees assigned a pager shall be responsible to reimburse the city for pages in excess of the maximum allowed by the department.

(b) Alphanumeric pages are legally public record and will be monitored to ensure compliance with city policy.

(1) Alphanumeric pages will not contain language which is political, slanderous, controversial, critical of any person or entity, or which contains vulgar language, references to sexual matters or is otherwise inappropriate.

(2) Neither alphanumeric nor numeric pages should be used for personal reasons except when it is important that the employee communicate with another employee at work about a personal matter and another method of communication would take time away from the employee's work. Alphanumeric pages will not be used for "chit-chat," telling jokes and communicating personal information unless it is necessary.

(3) The city manager, or the city manager's designee, will determine when this section is being violated.

(Ord. No. 2001-08, § 1, 6-19-01)

§ 2-230.12. Social Media

Effective: Wednesday, April 03, 2019

(a) The City of Lake Wales permits departments to utilize social media sites and social networking sites (collectively “social media sites”) to further enhance communications with its residents and various stakeholders in support of the City’s goals and objectives. City departments have the ability to publish articles, facilitate discussions and communicate information through such media to conduct official City business. Social media sites facilitate further discussion of City government business, operations and services by providing members of the public the opportunity to participate in many ways using the Internet. This policy sets forth general guidelines that must be adhered to with respect to utilization of social media sites for official City purposes. Questions regarding this Policy should be directed to the Human Resources Director. These guidelines may be supplemented by more specific administrative procedures and rules as may be issued. Furthermore, this Policy may be amended from time to time, and is meant to be read in conjunction with all other applicable policies and procedures of the City of Lake Wales.

(Ord. No. 2019-06, § 1, 4-3-19, § 2-230.12. Take home vehicles transferred to § 2-230.16)

§ 2-230.13. Definitions

Effective: Wednesday, April 03, 2019

(a) Social media sites and social networking sites refer to websites that facilitate user participation, networking, and collaboration through the submission of user generated content. Social media in general includes tools such as: blogs, wikis, microblogging sites, such as Twitter; social networking sites, such as Facebook and LinkedIn; and video sharing sites, such as YouTube.

(b) A social media identity is a specific user identity or account that has been registered on a third party social media site.

(c) A moderator is an authorized City of Lake Wales employee, who reviews, authorizes and allows content submitted by the City officials, employees and public commentators to be posted to a City of Lake Wales social media site or sites.

(Ord. No. 2019-06, § 1, 4-3-19, § 2-230.13. Employee recognition program.* transferred to § 2-230.17)

§ 2-230.14. Policy

Effective: Wednesday, April 03, 2019

(a) All City social media sites shall be:

- 1) Approved by the City Manager or his designee: and
- 2) Published using social media platform and tools approved by the Information Technology Department (“IT”).

(b) The official posting for the City will be done by the Public Information Officer or their designee.

(c) Departments have the option of allowing employees to participate in existing social media sites as part of their job duties, or allowing employees to create social media sites as part of their job duties. Department Heads may allow or disallow employee participation in any social media activities in their departments.

(d) All City social media sites shall adhere to applicable state, federal and local laws, regulations and policies including the Public Records Law, Public Records retention schedules, Open Meeting Law, Copyright Law and other applicable City policies.

(e) Public Records Law and e-discovery laws and policies apply to social media content. Accordingly, such content must be able to be managed, stored and retrieved to comply with these laws. Furthermore, once such content is posted on a social media site, it should stay posted, unless it is removed for one of the reasons set forth below in paragraph (K) 1-12, or it is changed to fix spelling or grammar errors.

(f) All social media sites and entries shall clearly indicate that any content posted or submitted is subject to public disclosure.

(g) Each City social media site shall include an introductory statement which clearly specifies the purpose and scope of the social media/network site. Where possible, social media sites should link back to the official City of Lake Wales Internet site for forms, documents and other information.

(h) Each City social media site shall indicate to users that the site is subject to a third party's website Terms of Service. Furthermore, each City social media site shall indicate that: the social media site provider could collect personal information through user's use of the social media site; and that this personal information may be disseminated by the third party; and that such dissemination may not be governed or limited by any state, federal or local law or policy applicable to the City.

(I) All social media sites shall clearly indicate they are maintained by the City of Lake Wales and shall have the City contact information prominently displayed.

(j) The City reserves the right to restrict or remove any content that is deemed in violation of this policy or any applicable law.

(k) City social media content and comments containing any of the following forms of content shall not be allowed for posting:

- 1) Comments or content not typically related to the particular site or blog article being commented upon;
- 2) Profane, obscene, or vulgar language or content;
- 3) Comments or content that promotes, fosters or perpetuates discrimination on the basis of race, color, gender, gender identity, national origin, religion, ancestry, age, sexual orientation, disability, maternity leave, genetic information, or active military status;
- 4) Comments or content that is threatening or harassing;
- 5) Sexual comments, content, or links to sexual content;
- 6) Conduct or encouragement of illegal activity;
- 7) Information that may tend to compromise the safety or security of the public or public systems;
- 8) Content that violates a legal ownership interest of any other party;

9) Protected health information;

10) Personal information; or

11) Other information that is not public record or is otherwise privileged from public disclosure.

12) Sharing any content from an elected official's social media page(s).

(l) All City social media moderators shall be trained regarding the terms of this policy, including their responsibilities to review content submitted for posting to ensure compliance with the policy.

(m) Where appropriate, City IT security and/or computer use policies shall apply to all social media sites and articles.

(n) Employees representing the City via social media sites must conduct themselves at all times as a representative of the City and in accordance with all applicable rules, regulations, and policies (including personnel policies) of the City.

(o) No City or department social media site can endorse or otherwise cite (either with approval or disapproval) vendors, suppliers, clients, citizens, co-workers or other stakeholders.

(p) Employees found in violation of this policy may be subject to disciplinary action, up to and including termination of employment.

(Ord. No. 2019-06, § 1, 4-3-19)

§ 2-230.15. Guidelines for Use of Social Media Sites

Effective: Wednesday, April 03, 2019

(a) Electronic Communications and Computer Usage Policy. All employees are responsible for understanding and following the City's Electronic Communications and Computer Usage Policy, in addition to this Policy.

(b) First Amendment Protected Speech. Although the City can moderate the social media sites that accept comments from the public (such as blogs and wikis) to restrict speech that is obscene, threatening, discriminatory, harassing, or off topic, employees cannot use the moderation function to restrict speech with which the City merely disagrees (i.e. subject matter restrictions). Users have some First Amendment rights in posting content to public social media sites hosted by municipalities. Moderators must respect those rights by posting all comments other than those excluded for specific legitimate reasons, as referenced above.

(c) Copyright Law. Employees must abide by laws governing copyright and fair use of copyrighted material owned by others. Never reprint whole articles or publications without first receiving written permission from the publication owner. Never quote an excerpt of someone else's work without acknowledging the source, and, if possible, provide a link to the original.

(d) Conflict of Interest. Employees are prohibited from using social media to engage in any activity that constitutes a conflict of interest for the City or any of its employees.

(e) *Protect Confidential Information.* Never post legally protected personal information that you have obtained from the City (e.g., information that is not public record under the Public Records Law or whose dissemination is restricted under applicable Federal or State privacy laws or regulations). Ask permission to publish or report on conversations that occur within the City. Never post information about policies or plans that have not been finalized by the City, unless you have received explicit permission from your supervisor to post draft policies or plans on the department's social media sites for public comment.

(f) *Consider Your Content.* As informal as social media sites are meant to be, if they are on a government domain or a government identity, they are official government communications. Social media sites will be sought out by mainstream media – so a great deal of thought needs to go into how you will use the social media in a way that benefits both the City and the public. Employees should not comment about rumors, political disputes, or personnel issues, for example.

(g) *Handling Negative Comments.* Because the purpose of many social media sites, particularly department blogs and wikis, is to get feedback from the public, you should expect that some of the feedback you receive will be negative. Some effective ways to respond to negative comments include:

- 1) Providing accurate information in the spirit of being helpful;
- 2) Respectfully disagreeing; and
- 3) Acknowledging that it is possible to hold different points of view.

(h) *Respect Your Audience and Your Coworkers.* Do not use ethnic slurs, personal insults, obscenity, or engage in any conduct that would not be acceptable in your department's workplace. Do not be afraid to be yourself, but do so respectfully. This includes not only the obvious (no ethnic slurs, personal insults, obscenity, threats of violence, etc.) but also proper consideration of privacy and of topics that may be considered objectionable or inflammatory—such as party politics and religion. Do not use your department's social media presence to communicate among fellow City employees. Do not air your differences with your fellow City employees on your department's social media's sites.

(i) *Use the Social Media Site or Identity Only to Contribute to your Department's Mission.* When you contribute to your department's social media site or identity, provide worthwhile information and perspective that contribute to your department's mission of serving the public. What you publish will reflect on the City. Social media sites and identities should be used in a way that contributes to the City's mission by:

- 1) Helping you and your co-workers perform their jobs better;
- 2) Informing citizens about government services and how to access them;
- 3) Making the operations of your department transparent and accessible to the public;
- 4) Creating a forum for the receipt of candid comments from residents about how government can be improved; and
- 5) Encouraging civic engagement.

(j) *Mistakes.* The City policy is that once something is posted, it should stay posted. Only spelling errors or grammar fixes should be made without making the change evident to users. If you choose to modify an earlier post, make it clear that you have done so—do not remove or delete the incorrect content; provide the correct information and apologize for the error. Ways to accomplish this include:

- 1) Strike through the error and correct; or
- 2) Create a new post with the correct information, and link to it from the post you need to correct or clarify.

Either method is acceptable. In order for the social media identity or site to achieve transparency, the City cannot change content that has already been published without making the changes clearly evident to users.

(k) Media Inquiries. City or department social media identities or sites may lead to increased inquiries from the media. If you are contacted directly by a reporter, you should refer media questions to the Public Information Officer.

(l) Personal Comments. Make it clear when you are speaking for yourself as a resident or stakeholder, and not on behalf of the City of Lake Wales. If you publish content on any website of the City and it has something to do with the work you do or subjects associated with the City, use a disclaimer such as this: “The postings on this site are my own and don’t necessarily represent the City’s positions or opinions.”

(m) Employee Profile. If you identify yourself as a City employee ensure your profile and related content is consistent with how you wish to present yourself to colleagues, residents and other stakeholders.

(n) Defamation. Be aware that employees acting in their individual capacity (not on behalf of the City) are not immune from defamation claims. Under the law, defamation is established by showing that the defendant published a false, non-privileged statement about the plaintiff to a third party that either caused the plaintiff economic loss or was of the type that is actionable without proof of economic loss. Avoid statements that may be interpreted as defamatory.

(o) Records Retention. Social media sites will contain communications sent to or received by employees, and are therefore Public Records. Ensure that the City or department retains a copy of the social media content in accordance with Public Records Retention Schedules. Review the third party social media service provider’s terms of service for its record retention practices. Note that while third party social media providers will most likely save your content for some period of time, they generally will not save it indefinitely. To the extent their policies are inconsistent with Public Records Retention Schedules, the City or department should retain copies of social media posts such as by printing or otherwise storing periodic “snapshots” of the social media sites.

(p) Open Meeting Law. Be aware of the Open Meeting Law and possible violations for improper deliberations outside of a posted meeting. A series of individual postings on a social media site cumulatively may convey the position of a quorum of a governmental body regarding a subject within its jurisdiction, and may constitute improper deliberation among the members of a board or committee.

(Ord. No. 2019-06, § 1, 4-3-19)

§ 2-230.16. Take home vehicles

Effective: Wednesday, April 03, 2019

(a) Some city employees have city vehicles at their disposal so they may carry out their duties properly. Because city vehicles are distinctly marked, the way they are operated has a direct impact on the public image of the city. Employees operating city vehicles will adhere to the following rules:

- (1) Operator will possess a valid Florida driver's license.
- (2) All vehicular safety laws will be observed.

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- (3) Safety belts will be used at all times when the vehicle is in operation.
 - (4) In the event that a city vehicle is involved in an accident, the employee will notify the appropriate law enforcement agency and the employee's immediate supervisor.
 - (5) City vehicles will be used for official business only; they will not be used for pleasure or personal business under any circumstances.
 - (6) Any employee who abuses a city vehicle in any manner will be subject to disciplinary action including possible payment for the deductible portion of damages to the vehicle.
- (b) Overnight use of a city vehicle will require the written recommendation of the department head and the approval of the city manager before a vehicle is driven home. Such use will be authorized only under the following conditions:
- (1) The employee is a division or department head whose regular duties require frequent use of a vehicle overnight.
 - (2) The employee holds a position with duties and responsibilities involving emergency services or involving on-call or standby status.
- (c) In addition to the rules for operating a city vehicle, employees who are assigned overnight use of city vehicles will adhere to the following rules:
- (1) Off-street parking will be provided when the vehicle is parked at the employee's residence.
 - (2) Under no circumstances will the vehicle be used for transporting members of the employee's family or for anything pertaining to personal business or pleasure.
 - (3) The vehicle will be turned in to the employee's department when, for any reason, the employee is absent for more than two (2) days. In case of illness or inability to turn the vehicle in, the division or department head will be notified immediately.
 - (4) The employee will be responsible for having the vehicle maintained in clean condition.
- (d) Vehicle assignments may change from time to time, and each vehicle will be available for other purposes when not being used by the employee to whom it is normally assigned.
- (e) All vehicles which are not to be driven home by employees will remain parked overnight at the municipal center, water department, etc.
- (f) In accordance with the requirements of the Deficit Reduction Act of 1984, income related to use of city vehicles on an overnight basis will be reported for any employee so assigned with the exceptions noted below:
- (1) The vehicle is a clearly marked police vehicle.
 - (2) The vehicle is a qualified specialized utility repair truck. The term "qualified specialized utility repair truck" means a truck (not including a van or pickup truck) specifically designed and used to carry heavy tools, testing equipment or parts where:
 - (1) the shelves, racks, or other permanent interior construction which has been installed to carry and store such heavy items is such that it is unlikely that the truck will be used more than a very minimal amount for personal purposes; and,
 - (2) the employer requires the employee to drive the truck home in order to be able to respond in emergency situations for purposes of restoring or maintaining water or sewer utility purposes.
 - (3) Other exceptions as set forth in IRS rules/guideline.
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g) Income reported will be directly based on actual round trip mileage from workplace to home at the standard rate set by the Internal Revenue Service (IRS). All employees assigned a city vehicle for overnight use will certify mileage on Form No. 0202 and forward the form to the finance department. Form No. 0202 may be obtained from the human resources department.

(h) It is the department head's responsibility to notify the finance department when overnight city vehicle assignments are made or changed.

(Ord. No. 2001-08, § 1, 6-19-01, Ord. No. 2019-06, § 1, 4-3-19, Transferred from 2-230.12)

§ 2-230.17. Employee recognition program.*

Effective: Wednesday, April 03, 2019

(a) The purpose of the employee recognition program is to recognize and officially reward outstanding employee performance and contributions to the city. This recognition program is to allow directors and department heads to encourage and acknowledge excellence in city service. An award may be given to an individual or team in recognition of measurable accomplishments significant to the city's mission or goals. Examples of accomplishments that may be recognized include but are not limited to the following:

- (1) Suggestions that eliminate waste or result in verifiable cost savings.
- (2) Innovative solutions to a difficult or challenging task that merits recognition.
- (3) Team work and enthusiasm in accomplishing significant or unusually difficult assignments.
- (4) Consistently producing high quality work.
- (5) Suggestions or procedures for eliminating accidents that are adopted and implemented.
- (6) Suggestions or procedures to improve service or operations that are adopted and implemented.
- (7) One-time achievement of measurable significance.
- (8) Outstanding customer service.

a. Each director and department head is delegated the responsibility of recognizing employees in their respective department.

b. Awards and recognition will be provided in the form of a non-cash recognition and will be submitted on HR Form (008) for final approval by the city manager.

c. Examples of non-cash awards include, but are not limited to the following:

1. Certificates of recognition signed by the city manager.
2. Gift certificates to local restaurants.
3. T-shirts.
4. Mugs.
5. Movie tickets.
6. Plaques.

d. The human resources department will coordinate the employee recognition program to include preparation and/or purchase of awards.

(Ord. No. 2001-08, § 1, 6-19-01; Ord. No. 2019-06, § 1, 4-3-19, Transferred from 2-230.13)

§ 2-231. Employees in positions critical to security and public safety.

Any person who is or shall be employed or appointed to a position with the city designated as critical to security or public safety or having access to any city owned or operated facility designated as critical to security or public safety in accordance with division 4 of this article shall be subject to all requirements of said division 4.

(Ord. No. 2003-16, § 1, 6-3-03)

Division 2. Pay And Classification

§ 2-233. Establishment.

Effective: Wednesday, September 09, 2020

(a) There is hereby established a pay and classification plan for the compensation of employees of the city which consists of the following elements:

(1) Effective, October 1, 1994 a schedule of salary ranges providing for minimum and maximum salaries was adopted by the city commission.

(b) The pay plan, classification schedule and other provisions relative to compensation of employees contained in this division shall supersede all previously existing compensation policies except that no provisions contained in this division shall apply to positions which are subject to the provisions of a collective bargaining agreement.

(Ord. No. 94-18, § 1, 9-20-94; Ord. No. 20-17, § 1, 9-9-20)

§ 2-234. Revision.

Effective: Wednesday, September 09, 2020

The city manager shall make or cause to be made such comparative studies as he determines are necessary as factors affecting the level of salary ranges prior to the preparation of the annual budget.

(Ord. No. 94-18, § 1, 9-20-94; Ord. No. 20-17, § 1, 9-9-20)

§ 2-235. Hourly rates.

(a) The schedule of salary ranges established in this division represent the minimum and maximum annual salary to be paid an employee who works the standard forty (40) hour work week. Each salary is converted to an hourly rate based on a standard forty (40) hour work week for the purpose of computer record keeping and calculation of bi-weekly pay.

(b) Should the city manager determine that it is in the best interests of the city that an employee or group of employees work less than the standard forty (40) hour week, that employee or group of employees shall be paid at an hourly rate within the range established for a forty (40) hour week employee of the same class.

(Ord. No. 94-18, § 1, 9-20-94)

§ 2-236. Deviation from established salary ranges.

Upon adoption of this division and subsequent amendments thereto, the following provisions for deviation from the range of minimum and maximum salaries shall apply:

(1) The rate of pay for each employee shall be adjusted to meet the minimum for the salary range for the class to which his position is allocated.

(2) Any employee receiving a salary in excess of the maximum rate provided for the class to which his position is allocated shall be granted increases in the form of a lump sum payment rather than an adjustment to base pay until such time as the employee's salary is below the maximum for the salary range. This shall apply to cost of living increases, longevity pay, education incentive and merit increases. Lump sum payments shall be subject to deduction of applicable payroll taxes and retirement plan contributions.

(Ord. No. 94-18, § 1, 9-20-94)

§ 2-237. Adjustments within salary ranges.

(a) Salary ranges are intended to furnish administrative flexibility in recognizing individual differences between positions allocated to the same class, in providing employee incentives, in rewarding employees for exemplary performance, and in meeting emergency conditions requiring pay adjustments.

(b) Salary increases within appropriate ranges in recognition of an employee's performance may be considered at intervals of one (1) year and granted upon the written recommendation of the department head and the approval of the city manager provided sufficient funds exist within the department budget.

(c) Salary increases within appropriate ranges for unusual or exemplary performance may be granted without regard to limitations of time upon approval of the city manager provided sufficient funds exist within the department budget.

(d) Salary reductions may be directed by the city manager after evaluation of an employee's job performance. No salary reduction may be made below the entry level pay for an employee's classification. A memorandum stating the reason for the reduction shall be provided to the employee on or before the effective date of the reduction, and a copy of the memorandum shall be placed in the employee's personnel file. An employee who receives a salary reduction may request a re-evaluation six (6) months after the reduction. If the request does not result in restoration of the former salary, the request may be made again one (1) year after the salary reduction. The request shall be made to the city manager.

(Ord. No. 94-18, § 1, 9-20-94)

§ 2-238. Entry into a salary range.

(a) *New employee.* The minimum salary for a class shall be paid to any person upon his original appointment to a position except when, as determined by the city manager, there has been demonstrated inability to recruit at the minimum salary or the new employee possesses exceptional qualifications warranting employment at a higher rate in the salary range.

(b) *Promoted employee.* An employee promoted to a position within a class for which the minimum salary is less than five (5) percent than his present salary may be granted an increase of five (5) percent. A salary increase greater than five (5) percent may be granted when, as determined by the city manager, the promoted employee possesses exceptional qualifications warranting a higher rate in the salary range.

(c) *Part-time or temporary employee.* A part-time or temporary employee shall be paid at the minimum rate for the class of position for which he is employed; provided, however, that where, in the best interests of the city, it is necessary to temporarily employ extra laborers or craftsmen, the city manager may authorize that such employees be paid at the prevailing construction or craft rates.

(d) *Transfer or job reclassification.* When an employee is transferred to a position of a different classification and the transfer is not in the nature of a promotion, his pay rate shall be adjusted to the minimum rate established for that classification if it is higher than his present rate of pay. If an employee's position is reclassified to a higher salary range with no change in duties or responsibilities, his pay rate shall be adjusted to the minimum rate established for that salary range if it is higher than his present rate of pay. If an employee's position is reclassified to a higher salary range with an increase in duties and responsibilities, his rate shall be adjusted to the minimum for the new salary range or he shall receive a five (5) percent increase, whichever results in the higher rate of pay.

(Ord. No. 94-18, § 1, 9-20-94)

§ 2-239. Special situations.

(a) *End of probation.* When an employee completes his first six (6) months in a position and receives a satisfactory performance evaluation, he is eligible for a salary increase of up to five (5) percent at the discretion of the department head with the approval of the city manager.

(b) *Demotion.* If an employee is demoted to a lower job classification, whether at his own request or by action of the department head, he shall not be paid less than the minimum rate nor more than the maximum rate established for the salary range of the lower job classification.

(c) *Leave of absence.* When an employee returns to duty in the same position or salary range following a leave of absence, he shall receive the same pay rate as was received prior to taking leave. If the salary range for the job classification has been upgraded during the employee's absence or the position has been reclassified to a higher salary range, the returning employee's rate of pay will be adjusted accordingly. If the job qualifications of the employee have increased during the leave of absence, consideration will be given to reinstating the employee at a higher rate.

(d) *Temporary work in higher classification.* When an employee is required to work on a temporary basis in a position with a higher classification than that of his regular position, he will be paid the appropriate rate of the higher classification. The temporary pay rate will be calculated as follows:

Calculate percent increase from minimum of regular salary to minimum of temporary salary range. Multiply employee's normal hourly rate by percent increase to determine his temporary hourly rate which may not exceed the maximum for the temporary salary range.

A temporary assignment will receive the prior approval of the city manager and will not exceed thirty (30) days; where circumstances required, the city manager may extend the temporary assignment. At the conclusion of the temporary assignment, the employee's rate of pay will revert to the authorized rate established for his regular position. Filling in or doing the work of an employee in the same department who is on vacation or absent for short periods of time will not be considered as a temporary assignment to a higher classification. Serving as an "acting" supervisor or "acting" department head in the absence of the supervisor or department head will not be considered as a temporary assignment to a higher classification.

(Ord. No. 94-18, § 1, 9-20-94)

§ 2-240. Longevity pay.

(a) Employees within five (5) years or more continuous service with the city who began employment on or before September 30, 1994 shall be awarded longevity pay as follows:

(1) After five (5) consecutive years of service, the employee shall receive an additional two (2) percent added to his annual salary.

(2) After ten (10) consecutive years of service, the employee shall receive an additional five (5) percent added to his annual salary.

(3) After fifteen (15) consecutive years of service, the employee shall receive and additional six and one-half (6½) percent added to his annual salary.

(4) After twenty (20) consecutive years of service, the employee shall receive an additional eight (8) percent added to his annual salary.

(b) Employees hired on or after October 1, 1994 shall not be eligible for longevity pay.

(Ord. No. 94-18, § 1, 9-20-94)

§ 2-241. Education incentive.

(a) An employee who has completed his six-month probationary period will receive a five (5) percent increase in pay upon the completion of an Associates Degree, Bachelors Degree or a Masters Degree provided that the degree is job-related.

(b) Where the state requires certification for an employee to perform the duties and responsibilities of his position, a five (5) percent increase in rate of pay will be given upon the award of certification.

(c) Where certification is not required by the state, an increase in pay of up to five (5) percent will be given upon the award of certification providing the following conditions are met:

(1) A written recommendation is made by the department head and approved by the city manager.

(2) Certification is governed by examination through a responsible affiliation, association, state agency or federal agency.

(3) Certification is related to the primary function of the employee's job description.

(d) A five (5) percent increase will be given upon the award of a "C," "B," or "A" certificate for the operation of the water or wastewater plant.

(Ord. No. 94-18, § 1, 9-20-94; Ord. No. 2007-08, § 1, 4-4-07)

§ 2-242. Implementation of pay increases.

(a) All pay increases shall be made effective on the first day of a pay period to eliminate calculation of wages on multiple hourly rates within a single pay period; provided, however, that cost-of-living increases approved by the city commission shall be made effective October 1. Increases due to longevity pay shall be made effective on the first day of the pay period following the employee's anniversary date.

(b) Any pay increase involving retroactive calculation will require a memorandum from the department head and approval by the city manager to document the reason for delay of the pay increase.

(Ord. No. 94-18, § 1, 9-20-94)

§ 2-243. Pay advances.

Pay advances will not be authorized.

(Ord. No. 94-18, § 1, 9-20-94)

§ 2-244. Overtime.

Effective: Tuesday, May 17, 2016

(a) As a general rule, the requirement of frequent overtime services in a department shall be considered evidence of under-staffing or improper organization and shall be subject to review by the city manager; however, employees shall work overtime when requested unless excused by their supervisor.

(b) Records of all overtime work shall be kept by the department head, and overtime compensation will not be paid unless overtime work has been documented by the employee and verified by the supervisor.

(c) Employees in non-exempt classifications required to work in excess of forty (40) hours in a designated work week shall be paid overtime or granted compensatory time off. Monetary payment or compensatory time off for overtime shall be calculated at the rate of one and one-half (1½) times the regular rate for all hours worked in excess of forty (40) hours in any designated work week.

(d) For purposes of computing overtime, "time worked" shall mean those hours during which the employee is engaged in performing the duties of his job. With the exceptions stated in this paragraph, overtime pay will only be paid when an employee has actually worked more than forty (40) hours per week. Overtime shall not be computed on sick leave, jury duty/witness duty, funeral leave, or comp time. However, vacation days, holidays, safety days, and optional holiday shall be counted as days worked when calculating overtime.

(e) Non-exempt employees who, for their own convenience, arrive early at their work area or leave late will not perform work during these periods. Work during such periods is likely to extend the employee's work week beyond forty (40) hours and will require the prior authorization of the department head.

(f) At the request of the employee and at the discretion of the department head, non-exempt employees may be granted compensatory time off (comp time) in lieu of monetary wage. Comp time will accrue at the premium rate of time and one-half (1½) for each hour of overtime worked.

(1) An employee who has accumulated comp time may request time off. Such requests will be granted within a reasonable amount of time so long as time off does not unduly disrupt the department's operations. Compensatory time off will require the prior approval of the department head.

(2) No employee will be permitted to accrue more than eighty (80) hours of comp time. If the employee has accrued the maximum comp time, all subsequent overtime worked will be paid as monetary wage.

(3) Upon termination, comp time remaining on the books will be paid at the employee's current rate or his average rate over the last three (3) years, whichever is higher.

(4) An employee may request monetary payment of all or a portion of accrued comp time at his current hourly rate. Such request shall be made by memorandum to the city manager and shall receive the approval of the city manager prior to payment. A copy of the memorandum will be placed in the employee's personnel file.

(5) Any non-exempt employee that is, or has been, promoted or reclassified to an exempt position shall have any accrued comp time liability immediately paid to the employee in a single cash disbursement, at his or her final rate of pay prior to promotion from the non-exempt position.

(g) Overtime resulting from training required by the city shall qualify for overtime compensation. Training required for state-mandated certification shall not qualify. Overtime compensation will not be paid when training is voluntary. Travel time to and from work or place of training will not be considered as time worked and will not be included in calculating overtime.

(h) An employee who works in two (2) or more different classifications during a single pay period and performs two (2) or more different types of work for which different straight-time rates have been established, shall receive overtime pay calculated on the weighted average of such rates.

(i) Part-time employees shall earn time and one-half (1½) after working forty (40) hours in a week. All hours worked in excess of a normal schedule up to forty (40) hours will be paid at the employee's straight hourly rate. At the discretion of the department head, the part-time employee may accrue comp time for hours worked in excess of his normal schedule, however comp time shall be earned at the rate of one (1) hour off for each hour worked until forty (40) hours have been worked. After working forty (40) hours in one (1) week, the part-time employee will earn overtime pay or accrue comp time at the rate of time and one-half (1½) for each hour worked.

(j) Employees in exempt classifications are salaried employees and are expected to work as long as necessary to fulfill their job responsibilities. If, however circumstances arise which require considerable extra work time, compensatory time off may be granted at the discretion of the department head; however, such compensatory time shall not accrue as for nonexempt employees and shall not be paid as a monetary wage.

(k) Whenever by declaration of the Mayor immediate action is necessary to preserve the public peace, property, health, or safety within the City or to provide for continued operation of city government and exempt employees are directed by the City Manager to undertake immediate emergency response measures, such exempt employees shall be paid overtime wages at a rate of pay commensurate with overtime pay calculated for non-exempt employees during the period of the emergency. If the following conditions are met, then exempt personnel will be eligible for overtime compensation.

(1) The Mayor of the City of Lake Wales has signed a declaration declaring that a State of Emergency exists in the City.

(2) The City has activated its Emergency Operations Center and the City Manager has implemented the City's Emergency Management Plan.

(Ord. No. 94-18, § 1, 9-20-94; Ord. No. 2005-04, § 1, 2-15-05; Ord. No. 2012-21, § 1, 11-6-12; Ord. No. 2016-06, § 1, 5-17-16)

§ 2-245. Premium pay.

(a) *Holiday premium.* If an employee is required to work on a designated holiday, the employee shall be paid holiday premium pay for up to eight (8) hours worked at time and one-half (1½) in addition to holiday pay. Comp time may be substituted for holiday premium pay at the rate of time and one-half (1½). If an employee is absent on both the day before and day after a holiday, he shall be ineligible for holiday premium pay or comp time.

(b) *Pager premium.* Employees assigned to pager duty will receive one (1) hour pay at time and one-half (1½) for each twenty-four (24) hour period if that period of pager duty is on a week day. Employees assigned to pager duty will receive one and one-half (½) hour of pay at time and one-half (1½) for each twenty-four (24) hour period if that period of pager duty is on a weekend or holiday.

(c) *Call-out premium.* Employees not on pager duty will receive a minimum of two (2) hours overtime pay when called out or called back to work after regular working hours. Supervisors will ensure that employees are called out on an emergency basis only and that no more employees are called out than are needed to resolve the emergency.

(Ord. No. 94-18, § 1, 9-20-94)

Division 3. Commissioner Compensation

§ 2-261. Established.

Effective: Tuesday, August 16, 2022

Effective January 4, 2023, the annual fiscal salary of commission members shall be Eight Thousand Seven Hundred Twenty – Three and Twenty Seven Cents (\$8,723.27) for a commissioner who shall serve for a full twelve-month period during the fiscal year. Any commission member(s) who shall serve for less than a twelve-month period during a fiscal year shall be entitled to a pro-rated portion of the annual commission member salary amount. Commission compensation shall be adjusted annually at the same rate by which compensation for general employees is adjusted on an across-the-board basis. Commission compensation shall be paid on the same payroll cycle as general employees.

Effective April 7, 2015, to compensate for the mayor's additional duties and responsibilities, the mayor's annual salary shall be fifty percent greater than the salary of the commissioners.

(Ord. No. 95-07, § 1, 2-21-95; Ord. No. 99-10, § 1, 9-21-99; Ord. No. 2014-03, § 1, 3-18-14; Ord. No. 2014-14, § 1, 10-07-14; Ord. No. 2020-14, § 1, 10-06-20; Ord. No. 2022-39, § 1, 8-16-22)

§ 2-262. Insurance.

Each commission member shall, at his or her option, be entitled to participate in the city's group health and dental insurance plans. The premium for such insurance shall be paid by the city for any commission member who elects to participate in the plan(s); such premium shall be paid on the same basis as approved by the city commission for city employees.

(Ord. No. 95-07, § 2, 2-21-95)

§ 2-263. Effective date.

This division shall take effect on October 1, 2000 with the commencement of the terms of commission members elected on September 5, 2000.

(Ord. No. 95-07, § 3, 2-21-95; Ord. No. 99-10, § 1, 9-21-99)

Division 4. Security And Public Safety

§ 2-271. Employment screening for positions critical to security and public safety.

(a) Any person who is or shall be employed or appointed to a position with the city designated as critical to security or public safety or having access to any city owned or operated facility designated as critical to security or public safety shall be fingerprinted and screened in accordance with the provisions of this division and applicable provisions of F.S. ch. 435.

(b) At the sole and absolute discretion of the city, any current city employee or appointee, under this section, may be placed on probationary status with the city pending a determination that such person meets the qualification requirements consistent with this division and applicable provisions of F.S. ch. 435.

(Ord. No. 2003-16, § 1, 6-3-03)

§ 2-272. Non-employee access to city owned or operated facilities critical to security or public safety.

Any person acting as a private contractor or employee of a private contractor, vendor, repair person, or delivery person, whether performing work on behalf of the city or not, who requires access to any city owned or operated facility that is designated as critical to security or public safety must submit a completed fingerprint card together with an employer issued photographic identification card or valid state issued drivers license to the city manager or his designee for a criminal background check and screening, in accordance with the provisions of this division and applicable provisions of F.S. ch. 435, to be qualified for access to a designated facility.

(Ord. No. 2003-16, § 1, 6-3-03)

§ 2-273. Fingerprint processing and screening.

(a) Any city employee or appointee holding a position designated as critical to security or public safety shall be required, as a condition of continued employment, to submit a completed fingerprint card to the city manager or his designee within five (5) business days of being requested.

(b) Any prospective employee applying for a position designated as critical to security or public safety shall be required, as a condition precedent to employment, to submit a completed fingerprint card to the city manager or his designee for a criminal history record check.

(c) A non-employee as provided under section 231.02 above shall submit a completed fingerprint card to the city manager or his designee in advance of any request to access a designated facility under this division in order to be screened and qualified to access such facility. A non-employee shall provide the city manager or his designee with all information necessary to screen and qualify such person not later than one (1) business day in advance of such person's required access to any designated facility under this division.

(d) Obtaining a fingerprint card or a request to be fingerprinted shall be directed to and accomplished by any local law enforcement agency. The City of Lake Wales Police Chief shall establish reasonable times and procedures during normal business hours, Monday through Friday, to allow the police department to conduct fingerprinting consistent with the purposes of this division.

(e) Upon receipt of a completed fingerprint card, the city manager or his designee shall forward the completed fingerprint card to the Florida Department of Law Enforcement for a state criminal history record check and the Federal Bureau of Investigation for a national criminal history record check.

(f) Any information concerning the qualifications and screening of a person shall be provided to the city manager or his designee.

(Ord. No. 2003-16, § 1, 6-3-03)

§ 2-274. Consideration of criminal history record information; confidentiality.

(a) Any information obtained from the criminal history record background checks conducted pursuant to the [this] division may be used, including any criteria set forth under F.S. ch. 435, by the city to determine an applicant's eligibility for employment or appointment and to determine an employee's eligibility for continued employment in positions deemed critical to security or public safety. Any information concerning a private contractor or any employee thereof, a vendor, repair person or delivery person shall be considered in determining whether to allow access to any city owned or operated facility designated under this division.

(b) No criminal history record information obtained under this division may be used for any purpose other than determining whether any person qualifies for employment, appointment or continued employment in positions deemed critical for public safety and security or otherwise determine a person's qualifications to access any designated facilities set forth in this division.

(c) Unless otherwise permitted by law, the authority to determine whether or not a person is qualified to be employed or appointed by the city, or to be allowed access to any designated facilities under this division, shall be exclusively vested in the city.

(Ord. No. 2003-16, § 1, 6-3-03)

§ 2-275. Designation of facilities and positions critical to security and public safety.

(a) Any position of city employment or appointment or city owned or operated facility may only be deemed critical to public safety or security as provided in this section.

(b) The city commission hereby finds that the following city owned and operated public facilities are critical to security or public safety:

(1) Potable water facilities.

(2) Facilities at which hazardous chemicals, pesticides, or fertilizers are stored.

(c) The city commission hereby finds that the following positions of city employment or appointment are critical to security or public safety:

(1) All positions which permit the employee or appointee to have access to the city's potable water wells, storage areas, and treatment facilities.

(2) City manager.

(3) Public works director.

(4) Police chief.

(5) Fire chief.

(d) The city commission by ordinance may designate other city owned or operated facilities and city positions of employment or appointment as critical to security or public safety.

(Ord. No. 2003-16, § 1, 6-3-03)

§ 2-276. Emergency conditions.

The city manager or his designee may temporarily waive the requirements of this division to allow a person to access a facility designated as critical to security or public safety on an emergency basis, if such delay in screening and qualification would result in foreseeable injury or damage to city property, personnel or the health, wealth or safety of the citizens of. However, nothing contained herein shall waive the requirement to obtain a completed fingerprint card consistent with this division.

(Ord. No. 2003-16, § 1, 6-3-03)

§ 2-277. Supplemental regulations.

(a) This division is not intended to preempt or prevent any other background screening, including, but not limited to, criminal history background checks, that the city may lawfully undertake.

(b) Nothing contained in this article shall prevent the city from exercising its police powers to limit or otherwise restrict a person's access to any city owned or operated facility.

(Ord. No. 2003-16, § 1, 6-3-03)

§ 2-278. Enforcement and penalties.

(a) Any person subject to section 2-273 of this division who fails to fully comply with the provisions of the division may be subject to discipline and/or termination in accordance with the Personnel Administration Policies.

(b) It shall be unlawful for any person subject to section 2-273 to access or enter upon a designated city owned or operated facility without first being qualified as provided in this division or having otherwise been disqualified and denied access by the city manager or his designee, to access or enter upon such designated facility in violation of the division. Any person convicted of violating this subsection shall be punished to the full extent of the law.

(Ord. No. 2003-16, § 1, 6-3-03)

Division 5. City Attorney Participation In Group Health And Dental Plans

§ 2-300. Insurance.

(a) The city attorney shall, at the option of said attorney, be entitled to participate in the city's group health and dental plans.

(b) Should the city attorney elect to participate in such plans, the premium for such insurance shall be calculated on the same basis as approved by the city commission for city employees.

(c) Should the city attorney elect to participate in such plans, the premium for such insurance shall be paid by the city attorney and the applicable premium shall be deducted from the retainer paid to the city attorney on a monthly basis.

(Ord. No. 2004-26, § 1, 9-7-04)

Article IV. Procurement Of Property And Services

Division 1. General Matters

§ 2-400. Legislative intent.

(a) The city commission recognizes that fair and open competition is a basic tenet of public procurement; that such competition reduces the appearance and opportunity for favoritism and inspires public confidence that contracts are awarded equitably and economically; and that documentation and monitoring of the procurement process are important means of curbing any improprieties and establishing public confidence in the process by which property and services are procured.

(b) The city commission recognizes it is essential to the effective and ethical procurement of property and services that there be a system of uniform procedures to be utilized by a city agency or agencies in procuring property and services; that detailed documentation of procurement decisions be maintained; and that adherence by the city and the contractor to specific ethical considerations be required.

(c) The city commission recognizes it is essential that city procurement procedures comply with state statutes where required; and that city procurement procedures be consistent with the intent of state statutes where strict compliance is not required.

(Ord. No. 95-01, § 1, 2-21-95; Ord. No. 2011-32, § 1, 12-20-11; Ord. No. 2013-17, § 1, 11-5-13)

§ 2-401. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section:

Agency. Any of the various departments, divisions, boards, or commissions of the city when procuring commodities or services on behalf of the city and in payment of which public funds will be obligated or expended. The term "agency" does not extend to a nongovernmental developer that contributes public facilities to a political subdivision.

Agency official. Any elected or appointed officeholder, employee, consultant or any other person receiving compensation from the city.

Commodity. Any of the various supplies, materials, goods, merchandise, equipment, and other tangible personal property purchased, leased, or otherwise contracted for by city agencies. The term "commodity" includes computer hardware and software; the term also includes interest on deferred-payment commodity contracts entered into for the purchase of other commodities. While not a commodity, the procedures for the purchase of insurance shall be the same as those set forth herein for the purchase of commodities.

Competitive sealed bids or competitive sealed proposals. The receipt of two (2) or more sealed bids or proposals submitted by responsive and qualified bidders or offerors.

Contractor. A person who contracts to sell commodities or contractual services to an agency.

Contractual service. The rendering by a contractor of its time and effort rather than the furnishing of specific commodities. The term "contractual service" does not include contracts for professional services entered into pursuant to division 3 of this article and rules adopted thereunder.

Convicted vendor list. The list maintained by the state department of management services indicating the names and addresses of persons who have been disqualified from the public contracting and purchasing process as a result of a finding of guilt or a conviction of a public entity crime.

Exceptional purchase. Any purchase of commodities or contractual services excepted by law or by rule from the requirements for competitive solicitation or acquisition, including, but not limited to, purchases from a single source, purchases due to emergency circumstances and purchases upon receipt of less than two (2) responsive bids or proposals.

Extension. An increase in the time allowed for the contract period due to circumstances which, without fault of either party, make performance impracticable or impossible or which prevent a new contract from being executed.

F.S. A reference to Florida Statutes.

Informal bidding. Verbal or nonsealed, written price quotations obtained in relation to the procurement of commodities or services.

Informal competitive selection. A process used under exceptional circumstances when the scope or specificity of a project in combination with conditions in the construction market make it difficult or impossible to obtain a fair and reasonable price for a construction project through the competitive sealed bidding process. As part of this process, contractors will be individually invited to examine the project site with city staff, provide input and options for accomplishing the project goals in the most cost-effective manner through value- engineering, choice of materials, etc., and submit informal proposals with price quotes for the work to be done.

Invitation to bid. A written solicitation for competitive sealed bids with the title, date and hour of the public bid opening designated and specifically defining the commodity, group of commodities or services for which bids are sought. It includes instructions prescribing all conditions for bidding and shall be distributed to all prospective bidders simultaneously. The "invitation to bid" is used when the agency is capable of specifically defining the scope of work for which a contractual service is required or when the agency is capable of establishing precise specifications defining the actual commodity or group of commodities required.

Local vendor. Any person who, or place of business which, provides or proposes to provide a commodity or contractual service when such person or business has a principal place of business located within the city or a principal place of business located outside the city limits and having a Lake Wales mailing address provided such mailing address is not a post office box. The utilization of a post office box for mail delivery shall not disqualify a local vendor, so long as the vendor can demonstrate that the physical address of the vendor's principal place of business is located at a Lake Wales mailing address if the vendor allowed mail delivery at its physical address.

Minority business enterprise. Any independently owned and operated business concern that employs five (5) or fewer permanent full-time employees and that has a net worth of not more than one million dollars (\$1,000,000.00) which is organized to engage in commercial transactions, which is domiciled in Florida, and which is at least fifty-one (51) percent owned by minority persons and whose management and daily operations are controlled by such persons. A minority business enterprise may primarily involve the practice of a profession.

Person. Any natural person or any entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an entity.

Public entity. The State of Florida, any of its departments or agencies, or any political subdivision.

Public entity crime. A violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or with the United States, including, but not limited to, any bid or contract for goods and services, any lease for real property, or any contract for the construction or repair of a public building or public work, involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.

Qualified bidder, responsible bidder, qualified offeror or responsible offeror. An individual or business enterprise having the capability in all respects to perform fully the contract requirements and having the integrity and reliability which will assure good faith performance.

Renewal. Contracting with the same contractor for an additional contract period after the initial contract period, only if pursuant to contract terms specifically providing for such renewal.

Request for proposals. A written solicitation for competitive sealed proposals with the title, date and hour of the public opening designated, The request for proposals is used when the agency is incapable of specifically defining the scope of work for which the commodity, group of commodities or contractual service is required and when the agency is requesting that a qualified offeror propose a commodity, group of commodities or contractual service to meet the specifications of the solicitation document. A "request for proposals" includes, but is not limited to, general information, applicable laws and rules, functional or general specifications, statement of work, proposal instructions and the relative importance of price and any other evaluation criteria.

Responsive bid or responsive proposal. A bid or proposal submitted by a responsive and qualified bidder or offeror which conforms in all material respects to the invitation to bid or request for proposals.

Responsive bidder or responsive offeror. A party submitting a bid or proposal which conforms in all material respects to the invitation to bid or request for proposals.

Term contract. An indefinite quantity contract wherein a party agrees to furnish commodities or contractual services during a prescribed period of time, the expiration of which concludes the contract.

(Ord. No. 95-01, § 1, 2-21-95; Ord. No. 2000-16, § 1, 9-19-00; Ord. No. 2009-27, § 1, 11-3-09; Ord. No. 2011-32, § 1, 12-20-11; Ord. No. 2013-17, § 1, 11-5-13)

§ 2-402. Purchasing categories and threshold amounts.

(a) The city hereby adopts the purchasing categories established by F.S. § 287.017, which as of October 1, 2013 are:

Category One: Twenty thousand dollars (\$20,000.00).

Category Two: Thirty-five thousand dollars (\$35,000.00).

Category Three: Sixty-five thousand dollars (\$65,000.00).

Category Four: One hundred ninety-five thousand dollars (\$195,000.00).

Category Five: Three hundred twenty-five thousand dollars (\$325,000.00).

(b) Any future revisions to F.S. § 287.017 shall apply to the city's purchasing categories and/or threshold amounts.

(Ord. No. 95-01, § 1, 2-21-95; Ord. No. 2000-16, § 1, 9-19-00; Ord. No. 2011-32, § 1, 12-20-11; Ord. No. 2013-17, § 1, 11-5-13)

§ 2-403. Procurement under the provisions of the state, U.S. General Services Administration (GSA) and competitively bid cooperative purchasing contracts.

Effective: Tuesday, March 17, 2020

(a) Pursuant to F.S. ch. 287, the state division of purchasing of the department of management services plans and coordinates purchases in volume and negotiates and executes purchasing agreements and contracts for commodities and contractual services under which municipalities may make purchases.

(b) The U.S. General Services Administration plans and coordinates purchases in volume, and, negotiates and executes purchasing agreements and contracts for commodities and contractual services under which municipalities may make purchases.

(c) Cooperative purchasing programs plan and coordinate purchasing in volume, negotiate and enter into competitively bid purchasing agreements and contracts for commodities and contractual services under which municipalities may make purchases.

(d) Purchases by city agencies under the provisions of the state, GSA or competitively bid cooperative purchasing contracts are exempt from the competitive sealed bid requirements otherwise applying to purchases.

(Ord. No. 95-01, § 1, 2-21-95; Ord. No. 2011-32, § 1, 12-20-11; Ord. No. 2013-17, § 1, 11-5-13, Ord. No. 2020-05, § 1, 3-17-20)

§ 2-404. Procurement under contracts bid by other agencies.

Effective: Tuesday, March 17, 2020

(a) In order to procure commodities and contractual services at the most economically advantageous cost to the public, it is sometimes desirable to "piggy back" or consolidate the purchasing power of the city with that of other agencies.

(b) Purchases by city agencies under contracts competitively bid by any county, municipality, school board, school district or other agency or entity constituted for governmental purposes are exempt from the competitive sealed bid requirements otherwise applying to purchases. Documentation of such competitive bidding by other agencies or entities shall be included in the official records of the city.

(Ord. No. 95-01, § 1, 2-21-95; Ord. No. 2011-32, § 1, 12-20-11; Ord. No. 2013-17, § 1, 11-5-13; Ord. No. 2020-05, § 1, 3-17-20)

§ 2-405. Acquisition of tangible personal property.

Whenever acquiring tangible personal property of a nonconsumable nature, the city may pay the purchase price in full or may exchange city-owned property with the seller as a trade-in and apply the exchange allowance to the cost of the new property acquired.

(Ord. No. 95-01, § 1, 2-21-95; Ord. No. 2011-32, § 1, 12-20-11; Ord. No. 2013-17, § 1, 11-5-13)

§ 2-406. Contract document.

(a) No agreement or contract shall be executed which binds the city for the purchase of services or commodities for a period in excess of one (1) fiscal year, unless the following statement is included in the contract: "The performance of the City of Lake Wales and its obligation to pay under this contract is contingent upon annual appropriation by the city commission of Lake Wales."

(b) In accordance with the requirements of F.S. § 287.058, every procurement of services in excess of the threshold amount for Category Two (thirty-five thousand dollars (\$35,000.00)) shall be evidenced by a written agreement embodying all provisions and conditions of the procurement of such services, which provisions and conditions shall, where applicable, include, but shall not be limited to:

(1) A provision that bills for fees or other compensation for services or expenses be submitted in detail sufficient for a proper preaudit and postaudit thereof.

(2) A provision that bills for any travel expenses be submitted in accordance with F.S. § 112.061, and that reimbursements for said expenses not exceed the limits specified in F.S. § 112.061.

(3) A provision allowing unilateral cancellation by the agency for refusal by the contractor to allow public access to all documents, papers, letters or other materials subject to the provisions of F.S. ch. 119, and made or received by the contractor in conjunction with contract.

(4) A provision dividing the contract into units of deliverables, which shall include, but not be limited to, reports, findings and drafts that must be received and accepted in writing by the contract manager prior to payment.

(5) A provision specifying the criteria and the final date by which such criteria must be met for completion of the contract.

(6) If the contract is subject to renewal, a provision specifying that the contract may be renewed on a yearly basis for a period of up to two (2) years after the initial contract or for a period no longer than the term of the original contract, whichever is longer, specifying the terms under which the cost may change as determined in the invitation to bid or request for proposals, and specifying that renewals shall be contingent upon satisfactory performance evaluations by the city and subject to the availability of funds.

(c) The written agreement shall be signed by the city manager and the contractor prior to the rendering of any service the value of which is in excess of the threshold amount for Category Two (thirty-five thousand dollars (\$35,000.00)) except in the case of a valid emergency as certified by the city manager.

(d) Every procurement of services which does not exceed the threshold amount for Category Two (thirty-five thousand dollars (\$35,000.00)) shall be evidenced by documentation in accordance with the requirements of section 2-417(c).

(Ord. No. 95-01, § 1, 2-21-95; Ord. No. 2000-16, § 1, 9-19-00; Ord. No. 2011-32, § 1, 12-20-11; Ord. No. 2013-17, § 1, 11-5-13)

§ 2-407. Public entity crime.

(a) As used in this section, "affiliate" means:

(1) A predecessor or successor of a person convicted of a public entity crime; or

(2) An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime including, but not limited to, those officers, directors, executives, partners, shareholders, employees, members and agents who are active in the management of an affiliate.

(b) In accordance with F.S. § 287.133, the city shall not accept any bid from, award any contract to, or transact any business in excess of the threshold amount for Category Two (thirty-five thousand dollars (\$35,000.00)) with any person or affiliate on the convicted vendor list for a period of thirty-six (36) months from the date that person or affiliate was placed on the convicted vendor list unless that person or affiliate has been removed from the list pursuant to F.S. § 287.133(3)(f).

(c) Prior to entering into a contract with the city for the provision of goods or services, the lease of real property, or the construction or repair of a public building or public work in excess of the threshold amount for Category Two (thirty-five thousand dollars (\$35,000.00)), a person shall file a sworn statement with the city disclosing whether or not the person or an affiliate of that person has been convicted of a public entity crime. Such statement shall be filed for the calendar year and shall be filed on a form provided by the city.

(d) Agencies shall confirm that a person or affiliate is not on the convicted vendor's list prior to the award of any contract or transaction of any business in excess of the threshold amount for Category Two (thirty-five thousand dollars (\$35,000.00)). The convicted vendor list is published quarterly in the Florida Administrative Weekly by the state department of management services.

(Ord. No. 95-01, § 1, 2-21-95; Ord. No. 2000-16, § 1, 9-19-00; Ord. No. 2011-32, § 1, 12-20-11; Ord. No. 2013-17, § 1, 11-5-13)

§§ 2-408--2-415. Reserved.

EDITOR'S NOTE

Ord. No. 2013-17, § 1, adopted Nov. 5, 2013, amended the Code by repealing former § 2-408 which pertained to piggybacking and derived from the Amendment of April 28, 2009.

Division 2. Procurement Of Commodities Or Contractual Services

EDITOR'S NOTE

Ord. No. 2013-17, § 1, adopted Nov. 5, 2013, amended the Code by repealing former § 2-408 which pertained to piggybacking and derived from the Amendment of April 28, 2009.

§ 2-416. Applicability.

All commodities and contractual services as defined in section 2-401 shall be procured in accordance with the provisions of this division.

(Ord. No. 95-01, § 1, 2-21-95; Ord. No. 2011-32, § 1, 12-20-11; Ord. No. 2013-17, § 1, 11-5-13)

§ 2-417. Commodities or contractual services not exceeding the threshold amount for Category Two (thirty five thousand dollars (\$35,000.00)).

Effective: Tuesday, March 17, 2020

(a) *Informal bidding.* Informal competitive bidding will be required for the purchase of commodities and contractual services when the cost exceeds one thousand dollars (\$1,000.00). A minimum of three (3) bids will be required as follows:

(1) Verbal bids may be accepted for commodities or services which do not exceed two thousand five hundred dollars (\$2,500.00).

(2) Written bids will be required for purchases in excess of two thousand five hundred dollars (\$2,500.00).

(b) *Award of bid.* Awards shall be made to the qualified bidder with the lowest responsive bid. Preference shall be given to a local vendor when the bid is not more than five (5) percent higher than the low bid.

(c) *Documentation.* All purchases will be documented and authorized on standard forms or vouchers provided by the finance department. The issuance of a purchase order will be required prior to the purchase of commodities when cost exceeds one thousand dollars (\$1,000.00).

(d) *Authorization.* Authorization for a purchase will be obtained prior to making the purchase as follows:

(1) Department heads or their designees may authorize purchases which do not exceed one thousand dollars (\$1,000.00).

(2) The city manager or their designee must authorize all purchases which exceed one thousand dollars (\$1,000.00) before the purchase is made.

(3) The city commission must authorize all purchases which exceed the threshold amount in Category One (twenty thousand dollars (\$20,000.00)) and all purchases made from unbudgeted fund balances.

(e) *Procurement card purchases.* The city shall only be financially responsible for procurement card transactions for which the city commission has approved the procurement card vendor to provide such services for the city.

(1) The city manager and/or finance director shall be the authorized agent(s) for obtaining procurement cards from a city commission approved procurement card contract vendor.

(2) All procurement card purchases must follow the rules and procedures defined in the city commission approved purchasing card policy manual.

(3) The city may use procurement cards for the purchase of commodities or contractual services under the following conditions:

a. When the cost of commodities or contractual services does not exceed one thousand dollars (\$1,000.00).

b. When the cost of travel expenses does not exceed one thousand five hundred dollars (\$1,500.00).

c. When the cost of commodities or contractual service exceeds one thousand dollars (\$1,000.00) or when the cost of travel expenses exceed one thousand five hundred dollars (\$1,500.00), with prior written authorization of the city manager.

(f) *Exceptional purchases.* When the purchase price of commodities or contractual services does not exceed the threshold amount for Category Two (thirty five thousand dollars (\$35,000.00)), purchases may be excepted from the requirement of informal competitive bidding if the following conditions exist:

(1) *Emergency conditions.* Purchases may be excepted from informal competitive bidding if the city manager determines that an immediate danger to the public health, safety or welfare or other substantial loss to the public requires emergency action.

a. Emergency procurement shall be made with such competition as is practicable under the circumstances.

b. A statement explaining the need for emergency procurement shall be furnished to the finance director with the voucher authorizing payment.

(2) *Single source.* Commodities or contractual services available only from a single source may be excepted from the bid requirements if it is determined that such commodities and services are available only from a single source and such determination is documented in writing.

a. No sole source purchase shall be made without the prior authorization of the city manager.

b. A copy of the written determination of single source availability shall be furnished to the finance director with the voucher authorizing payment.

(3) *Consolidated purchasing.* In accordance with section 2-403 or section 2-404, procurement of commodities and contractual services may be excepted from the informal competitive bid requirements of this section if the city is "piggy-backing" or consolidating its procurement with that of another agency or entity constituted for governmental purposes; provided that the commodities or contractual services to be procured have been subjected to competitive bidding by said other agency or entity and documentation of such competitive bidding is included in the official records of the city.

(g) *Encumbrance.* No purchase shall be made until sufficient funds are encumbered by the finance department. The finance department shall not process an encumbrance when the remaining balance of budgeted funds in the applicable expenditure account is insufficient to make the purchase.

(h) *Administrative procedures.* All agencies making purchases will comply with administrative procedures developed by the finance department.

(i) *Review of contract.* Each contract for contractual services costing more than the threshold amount for Category One (twenty thousand dollars (\$20,000.00)), shall be executed in a form of agreement provided by the city or shall receive legal review and approval as to form before the contract is executed. No contract shall be approved which does not include the minimum provisions required by section 2-406

(j) *Record retention.* The original executed contract shall be forwarded to the city clerk for addition to the official records of the city and retention in accordance with the requirements of section 2-481

(Ord. No. 95-01, § 1, 2-21-95; Ord. No. 2000-16, § 1, 9-19-00; Ord. No. 2009-27, § 1, 11-3-09; Ord. No. 2011-32, § 1, 12-20-11; Ord. No. 2013-17, § 1, 11-5-13; Ord. No. 2020-05, § 1, 3-17-20)

§ 2-418. Commodities or contractual services in excess of the threshold amount for Category Two (thirty-five thousand dollars (\$35,000.00)).

(a) *Competitive sealed bidding.* Unless otherwise authorized by this article, all contracts for purchasing commodities or contractual services when the cost exceeds the threshold amount for Category Two (thirty-five thousand dollars (\$35,000.00)) shall be awarded by competitive sealed bidding.

(1) An invitation to bid shall be issued which shall include:

- a. A detailed description of the commodities or contractual services required.
- b. The date, time and place for submittal of bids.
- c. All contractual terms and conditions applicable to the procurement of commodities or contractual services.
- d. The criteria to be used in determining acceptability of the bid which shall include, but need not be limited to, price.

(2) The invitation to bid shall be advertised by the publication of a notice in the legal section of a newspaper of general circulation in the county at least once, or by posting three (3) notices in three (3) conspicuous places in the city, one (1) of which shall be the public notices board in city hall. A minimum of fifteen (15) days shall elapse between the date of publication or posting of such notice and the date of receiving bids. In addition, an invitation to bid may be mailed to any known prospective bidders.

(3) If the renewal of the contract is contemplated, it shall be so stated in the invitation to bid, and the bid shall include the price for each year for which the contract may be renewed. Evaluation of bids shall include consideration of the total cost for each year as quoted by the bidder.

(4) No criteria may be used in determining acceptability of the bid that were not set forth in the invitation to bid.

(5) All bid proposals, disclosures, bonds and affidavits shall be submitted on forms provided by the city.

(6) The contract shall be awarded with reasonable promptness by written notice to the qualified and responsive bidder who submits the lowest responsive bid after the city manager obtains the formal approval of the city commission for the bid award. This bid must be determined in writing to meet the requirements and criteria set forth in the invitation to bid. Preference shall be given to a local vendor when the bid is not more than five (5) percent higher than the low bid.

(b) *Competitive sealed proposals.* When the city manager determines that the use of competitive sealed bidding is not practicable, commodities or contractual services shall be procured by competitive sealed proposals.

(1) A request for proposals shall be issued which shall include:

- a. A detailed description of the commodities or contractual services required.
- b. The date, time and place for submittal of proposals.

c. All contractual terms and conditions applicable to the procurement of commodities or contractual services.

d. The criteria to be used in determining acceptability of the proposal which shall include, but need not be limited to, price.

(2) The request for proposals shall be advertised by the publication of a notice in the legal section of a newspaper of general circulation in the county at least once. A minimum of fifteen (15) days shall elapse between the date of publication of such notice and the date of receiving bids. In addition, a request for proposals may be mailed to any known prospective offerors.

(3) If the renewal of the contract is contemplated, it shall be so stated in the request for proposals, and the proposal shall include the price for each year for which the contract may be renewed. Evaluation of proposals shall include consideration of the total cost for each year as quoted by the offeror.

(4) To ensure full understanding of and responsiveness to the solicitation requirements, discussions may be conducted with qualified offerors. The offerors shall be accorded fair and equal treatment prior to the submittal date specified in the request for proposals.

(5) All bid proposals, disclosures, bonds and affidavits shall be submitted on forms provided by the city.

(6) The contract shall be awarded, after obtaining approval of the city commission, to the qualified and responsive offeror whose proposal is determined in writing to be the most advantageous to the city, taking into consideration the price and the other criteria set forth in the request for proposals. The contract file shall contain the basis on which the award is made.

(c) *Exceptional purchases.* When the purchase price of commodities or contractual services exceeds the threshold amount for Category Two (thirty-five thousand dollars (\$35,000.00)), purchases may be excepted from the requirement of competitive sealed bids or competitive sealed proposals if the following conditions exist:

(1) *Emergency conditions.* Purchases may be excepted from competition if the city manager determines that an immediate danger to the public health, safety or welfare or other substantial loss to the public requires emergency action.

a. Emergency procurement shall be made with such competition as is practicable under the circumstances.

b. The city manager shall furnish copies to the city commission of a written statement certifying the emergency and any other documents relating to the emergency action.

c. A copy of the statement shall be furnished to the finance director with the voucher authorizing payment.

d. The city shall comply with requirements of section 2-456 when procurement pertains to construction of municipal public works.

(2) *Single source.* Commodities or contractual services available only from a single source may be excepted from the bid requirements if it is determined that such commodities and services are available only from a single source and such determination is documented in writing.

a. The city manager shall furnish copies to the city commission of the written determination of single source availability.

- b. No purchase shall be made without the prior authorization of the city commission.
- c. A copy of the written determination shall be furnished to the finance director with the voucher authorizing payment.
- d. The city shall comply with requirements of section 2-456 when procurement pertains to construction of municipal public works.

(3) *Consolidated purchasing.* In accordance with section 2-403 or section 2-404, procurement of commodities and contractual services may be excepted from the competitive sealed bid requirements of this section if the city is "piggy-backing" or consolidating its procurement with that of another agency or entity constituted for governmental purposes; provided that the commodities or contractual services to be procured have been subjected to competitive sealed bidding by said other agency or entity and documentation of such competitive sealed bidding is included in the official records of the city. The city shall comply with requirements of section 2-456 of this chapter when procurement pertains to construction of municipal public works.

(4) *Direct purchases.* Florida Statute provides that, when feasible, governmental entities may structure contracts to avoid sales tax on public works project materials by purchasing those materials directly from the supplier rather than having the contractor make those purchases. In accordance with the rules of the department of revenue, a direct purchase program is the only way to avoid the sales tax on materials incorporated into a public project. To conform to F.S. § 212.08(6), the city will comply with all basic requirements to qualify for the direct purchase exemption:

- a. The city must issue its own purchase order directly to the supplier;
- b. The city must provide the supplier with a copy of the government's exemption certificate;
- c. Payment must be made by the city directly to the supplier;
- d. The city must take title directly from the supplier upon delivery rather than from the contractor after the job is completed; and
- e. The city rather than the contractor must bear the risk of loss of the materials, which is generally established through the contract provisions concerning casualty insurance.

(5) *Informal competitive selection.* Where the scope of a project is small in size, specialized in nature, or possesses such other characteristics that, in combination with existing conditions in the construction market, make it difficult or impossible to obtain responsive bids and a fair and reasonable price through the formal competitive sealed bidding process, procurement through informal competitive selection may be authorized by the city manager.

- a. Procurement shall be made with such competition as is practicable after due public notice in accordance with section 2-418(a)(2) and after receipt of written quotes.
- b. The city manager shall furnish copies to the city commission of a written statement certifying the need for informal competitive selection.
- c. No purchase shall be made without the prior authorization of the city commission.
- d. The city shall comply with requirements of section 2-456 of this chapter when procurement pertains to construction of municipal public works.
- e. A copy of the statement shall be furnished to the finance director with the voucher authorizing payment.

(6) *Competitive sealed bid requirements exempted by F.S. ch. 247.* The following contractual services are not subject to the competitive sealed bid requirements of this section:

- a. Artistic services.
- b. Auditing services.
- c. Legal services, including attorney, paralegal, expert witness, appraisal or mediator services.
- d. Health services involving examination, diagnosis, treatment, prevention, medical consultation, or administration.
- e. Training and education services provided to injured employees pursuant to workers' compensation laws.
- f. Services provided by governmental agencies.
- g. Other contractual services exempted from competitive sealed bid requirements by F.S. ch. 247.

(7) *Specialized or standardized equipment.* Where specialized or standardized equipment is determined by the city manager to be in the best interest of the public, procurement shall be exempt from the requirements of competitive sealed bidding, provided that such procurement of specialized or standardized equipment shall be made with such competition as is practicable under the circumstances. Documents certifying the need for specialization or standardization shall be furnished to the city commission and shall be furnished to the finance director with the voucher authorizing payment.

(8) *Surplus property.* Purchase of surplus property shall be exempt from the requirements of competitive sealed bidding. The city manager may provide written authorization to any officer, employee or agency to enter a bid or bids, or make any payment required in connection with such bidding, in the city's behalf for any surplus property offered for lease, sale or other disposal by any governmental agency or private entity if the purchase of such surplus property is deemed by the city manager to be in the best interest of the public.

(9) *Noncompetitive bid or proposal.* If fewer than three (3) responsive bids or proposals for commodity or contractual services purchases are received, the city manager may negotiate or authorize the negotiation of the best terms and conditions.

(d) *Procurement without competition.* In any procurement that is accomplished without competition, the individuals taking part in the development or selection of criteria for evaluation, the evaluation process, and the award process shall attest in writing that they are independent of, and have no conflict of interest in, the entities evaluated and selected.

(e) *Compliance with competitive sealed bidding requirements.* An agency shall not divide the procurement of commodities or contractual services in order to avoid the requirements of subsections (a) or (b).

(f) *Extension of contracts.* Extension of a contract for contractual services shall be in writing for a period not to exceed six (6) months and shall be subject to the same terms and conditions set forth in the initial contract. There shall be only one (1) extension of a contract unless the failure to meet the criteria set forth in the contract for the completion of the contract is due to events beyond the control of the contractor.

(g) *Renewal of contracts.* Except for those contracts initially procured pursuant to subsection (c), contracts for commodities or contractual services may be renewed on a yearly basis for no more than two (2) years or for a period no longer than the term of the original contract, whichever period is longer. Renewal of a contract shall be in writing and shall be subject to the same terms and conditions set forth in the original contract. The cost of any contemplated renewals shall be included in the invitation to bid or request for proposals. Renewals shall be contingent upon satisfactory performance evaluation by the agency.

(h) *Selection committee.* For requests for proposals, the city manager will appoint a selection committee of three (3) employees who have experience and knowledge in the program areas and service requirements for which contractual services are required to aid in the selection of contractors for contracts of more than the threshold amount provided for Category Four (one hundred ninety-five thousand dollars (\$195,000.00)).

(i) *Preference to minority business enterprise.* Whenever two (2) or more bids which are equal with respect to price, quality and service are received for the procurement of commodities or contractual services, a bid received from a business which certifies that it is a minority business enterprise shall be given preference in the award process.

(j) *Preference to businesses with drug-free workplace programs.* Whenever two (2) or more bids which are equal with respect to price, quality and service are received for the procurement of commodities or contractual services, a bid received from a business which certifies that it has implemented a drug-free workplace program shall be given preference in the award process. In order to have a drug-free workplace program, a business shall:

- (1) Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.

- (2) Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.

- (3) Give each employee engaged in providing commodities or contractual services that are under bid a copy of the statement specified in paragraph (1).

- (4) In the statement specified in paragraph (1), notify employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of F.S. ch. 893, or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.

- (5) Impose a sanction on, or require the satisfactory participation in a drug assistance or rehabilitation program if such is available in the employee's community by any employee who is so convicted.

- (6) Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

(k) *Review of contract.* Each contract for services procured under this section shall be executed in a form of agreement provided by the city or shall receive legal review and approval as to form before the contract is executed. No contract shall be approved which does not include the minimum provisions required by section 2-406

(1) *Contract manager.* For each contractual services contract, an employee shall be designated to function as contract manager who shall be responsible for enforcing performance of the contract terms and conditions and serve as a liaison with the contractor. It will be the responsibility of this employee to maintain a contract file and to ensure that contractual services have been rendered in accordance with the contract terms prior to processing any invoice for payment.

(m) *Record retention.* For procurement of commodities and contractual services in excess of the threshold amount for Category Two (thirty-five thousand dollars (\$35,000.00)), the following shall be forwarded to the city clerk for addition to the official records of the city and retention in accordance with the requirements of section 2-481

- (1) One (1) copy of the invitation to bid or request for proposals;
- (2) One (1) copy of all competitive sealed bid or competitive sealed proposal tabulations;
- (3) A copy of the city commission minutes documenting the bid award;
- (4) The original executed contract.

(n) *Validity of existing contracts.* Nothing in this section shall affect the validity or effect of any contract in existence prior to the adoption of this article.

(o) *Bid protest.*

- (1) Any actual or prospective bidder, offerer, or contractor who wishes to challenge a solicitation or an award of contract may make a protest to the city manager.
- (2) Protests must be in writing and received by the purchasing department and the city manager's office no later than seventy-two (72) hours of the electronic posting of award or intended award. The written protest shall identify the protester and the solicitation involved; include a plain, clear statement of the grounds on which the protest is based; and refer to the statutes, laws, ordinances, or other legal authorities which the protester deems himself entitled by application of such authorities to such grounds.
- (3) The city manager will review the matter and shall render a written settlement decision within twenty-one (21) days of the written protest. At the city manager's discretion a hearing over the subject matter might be held.
- (4) In no case will the protesting bidder or offerer be entitled to any costs incurred with the solicitation, including bid preparation costs and attorney's fees.
- (5) In the event of a timely protest under this section, the city manager shall not proceed further with the award of the contract until he issues a written settlement decision.

(Ord. No. 95-01, § 1, 2-21-95; Ord. No. 2000-16, § 1, 9-19-00; Ord. No. 2009-27, § 1, 11-3-09; Ord. No. 2011-32, § 1, 12-20-11; Ord. No. 2013-17, § 1, 11-5-13)

Division 3. Procurement Of Professional Services

§ 2-423. Applicability.

Effective: Tuesday, March 17, 2020

In accordance with the requirements of the "Consultants' Competitive Negotiation Act," F.S. § 287.055, all procurement of professional services as defined in section 2-424, will comply with the provisions of this division when professional services are required for a project and the basic construction cost is estimated to exceed the threshold amount provided in F.S. § 287.055 (3)(a)1. or for a planning or study activity and the fee for professional services is estimated to exceed the threshold amount provided in F.S. § 287.055 (3)(a)1., except in cases of valid public emergencies so certified by the city manager.

(Ord. No. 95-01, § 1, 2-21-95; Ord. No. 2000-16, § 1, 9-19-00; Ord. No. 2011-32, § 1, 12-20-11; Ord. No. 2013-17, § 1, 11-5-13; Ord. No. 2020-05, § 2, 3-17-20)

§ 2-424. Definitions.

Effective: Tuesday, March 17, 2020

The following words, terms and phrases, when used in this division, shall have the meaning ascribed to them in this section:

Compensation. The total amount paid for professional services.

Continuing contract. A contract for professional services entered into in accordance with all the provisions of this division between the city and a firm whereby the firm provides professional services to the city for projects in which construction costs do not exceed the amount provided in F.S. § 287.055 (2)(g) for study activity when the fee for such service does not exceed the amount provided in F.S. § 287.055 (2)(g) or for work of a specified nature as outlined in the contract required by the city, with no time limitation except that the contract shall provide a termination clause.

Firm. Any individual, firm, partnership, corporation, association, or other legal entity permitted by law to practice architecture, engineering, or land surveying in the state.

Professional services. Those services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered land surveying, as defined by the laws of the state or those performed by any architect, professional engineer, landscape architect, or registered land surveyor in connection with his professional employment or practice.

Project. That fixed capital outlay study or planning activity described in the public notice pursuant to section 2-425. A project may include a grouping of minor construction, rehabilitation or renovation activities or a grouping of substantially similar construction, rehabilitation or renovation activities.

(Ord. No. 95-01, § 1, 2-21-95; Ord. No. 2009-12, § 1, 5-5-09; Ord. No. 2011-32, § 1, 12-20-11; Ord. No. 2013-17, § 1, 11-5-13; Ord. No. 2020-05, § 2, 3-17-20)

§ 2-425. Public announcement and qualification procedures.

(a) Each agency shall publicly announce, in a uniform and consistent manner, a request for qualifications on each occasion when professional services are required in accordance with section 2-426

(b) A request for qualifications shall be issued which shall include:

- (1) A detailed description of the services required.
 - (2) The date time and place for submittal of qualifications.
 - (3) All contractual terms and conditions applicable to the procurement of professional services.
 - (4) The criteria to be used in determining acceptability of the qualifications.
- (c) The request for qualifications shall be advertised by the publication of a notice in the legal section of a newspaper of general circulation in the county at least once. A minimum of fifteen (15) days shall elapse between the date of publication of such notice and the date of receiving qualifications. In addition, a request for qualifications may be mailed to any firms which are known to be qualified to perform the services required.
- (d) Each agency shall encourage firms engaged in the lawful practice of their professions that desire to provide professional services to the agency to annually submit statements of qualifications and performance data.
- (e) Any firm or individual desiring to provide professional services to the agency must be certified by the agency as qualified pursuant to law. The agency shall make a finding that the firm or individual to be employed is fully qualified to render the required service. Among the factors to be considered in making this finding are the capabilities, adequacy of personnel, past record, experience, whether the firm is a certified minority business enterprise, and other such factors as may be determined by the agency to be applicable to its particular requirements.
- (f) If two (2) equal responses to a request for qualifications are received and one response is from a certified minority business enterprise, the agency shall enter into a contract with the certified minority business enterprise.
- (g) The public shall not be excluded from the proceedings under this section.
- (Ord. No. 95-01, § 1, 2-21-95; Ord. No. 2011-32, § 1, 12-20-11; Ord. No. 2013-17, § 1, 11-5-13)

§ 2-426. Competitive selection.

For each proposed project exceeding the threshold amounts stipulated in section 2-423, the following requirements shall apply provided that nothing herein shall be construed to prohibit a continuing contract between a firm and the city:

- (1) The agency shall evaluate current statements of qualifications and performance data on file with the agency, together with those that may be submitted by other firms regarding the proposed project, and shall conduct discussions with, and may require public presentations by, no fewer than three (3) firms, regarding their qualifications, approach to the project, and ability to furnish the required services.

(2) The agency shall select in order of preference no fewer than three (3) firms deemed to be the most highly qualified to perform the required services. In determining whether a firm is qualified, the agency shall consider such factors as the ability of professional personnel; status as a certified minority business enterprise; past performance; willingness to meet time and budget requirements; location; recent, current and projected workload; and the volume of work previously awarded to each firm by the agency, with the object of effecting an equitable distribution of contracts among qualified firms, provided such distribution does not violate the principle of selection of the most highly qualified firms.

(3) The agency may request, accept and consider proposals for the compensation to be paid under the contract only during competitive negotiations under section 2-427

(Ord. No. 95-01, § 1, 2-21-95; Ord. No. 2011-32, § 1, 12-20-11; Ord. No. 2013-17, § 1, 11-5-13)

§ 2-427. Competitive negotiation.

(a) The city manager or his designee shall negotiate a contract with the most qualified firm for professional services at compensation which the city manager determines is fair, competitive and reasonable.

(1) To assist the city manager in making such determination, the agency shall conduct a detailed analysis of the cost of professional services required in addition to considering their scope and complexity.

(2) For any lump-sum or cost-plus-fixed-fee professional services contract over the threshold amount for Category Four (one hundred ninety-five thousand dollars (\$195,000.00)), the agency shall require the firm receiving the award to execute a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation are accurate, complete and current at the time of contracting. Any contract under which such certificate is required shall contain a provision that the original contract price and any additions thereto shall be adjusted to exclude any significant sums by which the agency determines the contract price was increased due to inaccurate, incomplete or noncurrent wage rates and other factual unit costs. All such contract adjustments shall be made within one (1) year following the end of the contract.

(b) If the city manager or his designee is unable to negotiate a satisfactory contract with the firm considered to be the most qualified at a price the city manager determines to be fair, competitive, and reasonable, negotiations with that firm shall be formally terminated. The city manager or his designee shall then undertake negotiations with the second most qualified firm; failing accord with the second most qualified firm, negotiations with that firm shall be formally terminated. The city manager or his designee shall then undertake negotiations with the third most qualified firm.

(c) If the city manager or his designee is unable to negotiate a satisfactory contract with any of the selected firms, the agency shall select additional firms in the order of their competence and qualification, and the city manager or his designee shall continue negotiations in accordance with this section until an agreement is reached.

(d) All negotiations shall be formally documented in writing. A copy of said written documentation shall be forwarded to the city clerk for addition to the official records of the city and retention in accordance with the requirements of section 2-481

(Ord. No. 95-01, § 1, 2-21-95; Ord. No. 2000-16, § 1, 9-19-00; Ord. No. 2011-32, § 1, 12-20-11; Ord. No. 2013-17, § 1, 11-5-13)

§ 2-428. Prohibition against contingent fees.

(a) Each contract entered into by the city for professional services shall contain a prohibition against contingent fees as follows: "The architect (or registered land surveyor or professional engineer, as applicable) warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for the architect (or registered land surveyor or professional engineer, as applicable) to solicit or secure this agreement and that he has not paid or agreed to pay any person, company, corporation, firm or individual, other than a bona fide employee working solely for the architect (or registered land surveyor or professional engineer, as applicable) any fee, commission, percentage, gift or other consideration contingent upon or resulting from the award or making of this agreement." For the breach or violation of this provision, the city shall have the right to terminate the agreement without liability and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration.

(b) Any person, company, corporation, firm or individual, other than a bona fide employee working solely for an architect, registered land surveyor or professional engineer, who offers, agrees or contracts to solicit or secure city contracts for professional services for any other person, company, corporation, firm or individual and is paid, or is to be paid, any fee, commission, percentage, gift or other consideration contingent upon or resulting from the award or making of a contract with the city for professional services shall, upon conviction in a competent court of this state, be found guilty of a first degree misdemeanor, punishable as provided in F.S. § 775.082 or § 775.083.

(c) Any architect, registered land surveyor or professional engineer, or any group, association, company, corporation, firm or partnership thereof, who offers to pay, or pays, any fee, commission, percentage, gift or other consideration contingent upon or resulting from the award or making of a contract with the city for professional services shall, upon conviction in a competent court of this state, be found guilty of a first degree misdemeanor, punishable as provided in F.S. § 775.082 or § 775.083.

(d) Any elected or appointed officeholder, employee, consultant or any other person receiving compensation from the city who offers, agrees or contracts to solicit or secure city contracts for professional services for any other person, company, corporation, firm or individual and is paid, or is to be paid, any fee, commission, percentage, gift or other consideration contingent upon or resulting from the award or making of a contract with the city for professional services shall, upon conviction in a competent court of this state, be found guilty of a first degree misdemeanor, punishable as provided in F.S. § 775.082 or § 775.083.

(Ord. No. 95-01, § 1, 2-21-95; Ord. No. 2011-32, § 1, 12-20-11; Ord. No. 2013-17, § 1, 11-5-13)

§ 2-429. State assistance.

In accordance with F.S. ch. 287, the city manager may, on any professional service contract for which the fee is over thirty-five thousand dollars (\$35,000.00), request from the department of transportation or the department of management services assistance in selecting consultants and in negotiating consultant contracts. The city shall reimburse said departments for any costs involved in providing such assistance.

(Ord. No. 95-01, § 1, 2-21-95; Ord. No. 2011-32, § 1, 12-20-11; Ord. No. 2013-17, § 1, 11-5-13)

§ 2-430. Reuse of existing plans.

Notwithstanding any other provision of this division, there shall be no public notice requirement or utilization of the selection process as provided in this division for projects in which the city is able to reuse existing plans from prior projects. However, public notice for any plans which are intended to be reused at some future time shall contain a statement which provides that the plans are subject to reuse in accordance with the provisions of this division.

(Ord. No. 95-01, § 1, 2-21-95; Ord. No. 2011-32, § 1, 12-20-11; Ord. No. 2013-17, § 1, 11-5-13)

§ 2-431. Review of contract.

Each contract for professional services procured under this division shall be executed in a form of agreement provided by the city or shall receive legal review and approval as to form before the contract is executed. No contract shall be approved which does not include the minimum provisions required by section 2-406 and the prohibition against contingent fees as required by section 2-428.

(Ord. No. 95-01, § 1, 2-21-95; Ord. No. 2011-32, § 1, 12-20-11; Ord. No. 2013-17, § 1, 11-5-13)

§ 2-432. Contract manager.

For each professional services contract, an employee shall be designated to function as contract manager who shall be responsible for enforcing performance of the contract terms and conditions and serve as a liaison with the contractor. It will be the responsibility of this employee to maintain a contract file and to ensure that contractual services have been rendered in accordance with the contract terms prior to processing any invoice for payment.

(Ord. No. 95-01, § 1, 2-21-95; Ord. No. 2011-32, § 1, 12-20-11; Ord. No. 2013-17, § 1, 11-5-13)

§ 2-433. Record retention.

For procurement of professional services under this section, the following shall be forwarded to the city clerk for addition to the official records of the city and retention in accordance with the requirements of section 2-481:

- (a) One (1) copy of the request for qualifications and one (1) copy of all responses.
- (b) Written documentation of the detailed cost analysis.

(c) Written documentation of the competitive negotiations.

(d) A copy of the city commission minutes documenting the contract award.

(e) The original executed contract.

(Ord. No. 95-01, § 1, 2-21-95; Ord. No. 2011-32, § 1, 12-20-11; Ord. No. 2013-17, § 1, 11-5-13)

§ 2-434. Validity of existing contracts.

Nothing in this section shall affect the validity or effect of any contract in existence prior to the adoption of this article.

(Ord. No. 95-01, § 1, 2-21-95; Ord. No. 2011-32, § 1, 12-20-11; Ord. No. 2013-17, § 1, 11-5-13)

Division 4. Procurement Of Design-Build Services

§ 2-441. Applicability.

In accordance with F.S. § 287.055, all design-build contracts in excess of the threshold amount for Category Four (one hundred ninety-five thousand dollars (\$195,000.00)) will be procured as provided in this division.

(Ord. No. 95-01, § 1, 2-21-95; Ord. No. 2000-16, § 1, 9-19-00; Ord. No. 2011-32, § 1, 12-20-11; Ord. No. 2013-17, § 1, 11-5-13)

§ 2-442. Definitions.

The following terms, when used in this division, shall have the meaning ascribed to them in this section:

Design-build contract. A single contract with a design-build firm for the design and construction of a public construction project.

Design-build firm. A partnership, corporation, or other legal entity which:

(1) Is certified under F.S. § 489.119, to engage in contracting through a certified or registered general contractor or a certified or registered building contractor as the qualifying agent; or

(2) Is certified under F.S. § 471.023, to practice or to offer to practice engineering; certified under F.S. § 481.219, to practice or to offer to practice architecture; or certified under F.S. § 481.319, to practice or offer to practice landscape architecture.

Design criteria package. Concise, performance-oriented drawings or specifications of the public construction project. The purpose of the design criteria package is to furnish sufficient information to permit design-build firms to prepare a bid or response to the city's request for proposal, or to permit the city to enter into a negotiated design-build contract.

Design criteria professional. A firm holding a current certificate of registration under F.S. ch. 481, to practice architecture or landscape architecture or a firm holding a current certificate as a registered engineer under F.S. ch. 471, to practice engineering and which is employed by or under contract to the city for the providing of professional architect services, landscape architect services, or engineering services in connection with the preparation of the design criteria package.

(Ord. No. 95-01, § 1, 2-21-95; Ord. No. 2011-32, § 1, 12-20-11; Ord. No. 2013-17, § 1, 11-5-13)

§ 2-443. Preparation of the design criteria package.

(a) The design criteria package shall be prepared and sealed by a design criteria professional employed by or retained by the city.

(b) The design criteria package shall specify such performance-based criteria for the public construction project, including, but not limited to, the legal description of the site, survey information concerning the site, interior space requirements, material quality standards, schematic layouts and conceptual design criteria of the project, cost or budget estimates, design and construction schedules, site development requirements, provision for utilities, stormwater retention and disposal, and parking requirements, as may be applicable to the project.

(c) The design criteria package shall specify the criteria, procedures and standards for the evaluation of design-build contract proposals or bids.

(d) If the city manager elects to enter into a professional services contract for the preparation of the design criteria package, then the design criteria professional shall be selected and contracted with in accordance with the requirements of division 3 of this article.

(e) A design criteria professional who has been selected to prepare the design criteria package shall not be eligible to render services under a design-build contract pursuant to the design criteria package.

(Ord. No. 95-01, § 1, 2-21-95; Ord. No. 2011-32, § 1, 12-20-11; Ord. No. 2013-17, § 1, 11-5-13)

§ 2-444. Selection of design-build firms.

The agency shall qualify and select no fewer than three (3) design-build firms deemed to be the most qualified based on the qualifications, availability and past work of the firms, including the partners or members thereof.

(Ord. No. 95-01, § 1, 2-21-95; Ord. No. 2011-32, § 1, 12-20-11; Ord. No. 2013-17, § 1, 11-5-13)

§ 2-445. Solicitation of competitive proposals.

The agency shall solicit competitive proposals, pursuant to the design criteria package, from those qualified design-build firms and shall evaluate, with the assistance of the employed or retained design criteria professional, the responses or bids submitted by those firms based on the evaluation criteria and procedures established prior to the solicitation of competitive proposals and specified in the design criteria package.

(Ord. No. 95-01, § 1, 2-21-95; Ord. No. 2011-32, § 1, 12-20-11; Ord. No. 2013-17, § 1, 11-5-13)

§ 2-446. Award of the design-build contract.

The contract shall be awarded, after obtaining approval of the city commission, to the qualified design-build firm whose proposal is determined in writing to be the most advantageous to the city, taking into consideration the price and other criteria set forth in the design criteria package. The contract file shall contain the basis on which the award is made.

(Ord. No. 95-01, § 1, 2-21-95; Ord. No. 2011-32, § 1, 12-20-11; Ord. No. 2013-17, § 1, 11-5-13)

§ 2-447. Emergency conditions.

If the city manager determines that an immediate danger to the public health, safety or welfare or other substantial loss to the public requires emergency action, he may authorize negotiations with the best qualified design-build firm available at the time without the solicitation of competitive proposals. The city manager shall furnish copies to the city commission of a written statement certifying the emergency and any other documents relating to the emergency action.

(Ord. No. 95-01, § 1, 2-21-95; Ord. No. 2011-32, § 1, 12-20-11; Ord. No. 2013-17, § 1, 11-5-13)

§ 2-448. Review of contract.

Each design-build contract procured under this division shall be executed in a form of agreement provided by the city or shall receive legal review and approval as to form before the contract is executed. No contract shall be approved which does not include the minimum provisions required by section 2-406 and the prohibition against contingent fees required by section 2-428.

(Ord. No. 95-01, § 1, 2-21-95; Ord. No. 2011-32, § 1, 12-20-11; Ord. No. 2013-17, § 1, 11-5-13)

§ 2-449. Contract supervision and management.

(a) For each design-build contract, the design criteria professional employed or retained by the city shall supervise and approve the detailed working drawings of the project, and evaluate compliance of the project construction with the design criteria package.

(b) For each design-build contract, an employee shall be designated to function as contract manager who shall be responsible for enforcing performance of the contract terms and conditions and serve as a liaison between the design-build firm and the design criteria professional. It will be the responsibility of this employee to maintain a contract file and to ensure that contractual services have been rendered in accordance with the contract terms prior to processing any invoice for payment.

(Ord. No. 95-01, § 1, 2-21-95; Ord. No. 2011-32, § 1, 12-20-11; Ord. No. 2013-17, § 1, 11-5-13)

§ 2-450. Record retention.

For each design-build contract procured under this division, the following shall be forwarded to the city clerk for addition to the official records of the city and retention in accordance with the requirements of section 2-481:

- (1) One (1) copy of the design criteria package.
- (2) One (1) copy of the solicitation for proposals and one (1) copy of all responses.
- (3) Written documentation of the selection process.
- (4) A copy of the city commission minutes documenting the contract award.
- (5) The original executed contract.

(Ord. No. 95-01, § 1, 2-21-95; Ord. No. 2011-32, § 1, 12-20-11; Ord. No. 2013-17, § 1, 11-5-13)

Division 5. Procurement Of Construction Services

§ 2-455. Definitions.

The following words, terms and phrases, when used in this division, shall have the meaning ascribed to them in this section:

Construction services. The furnishing of labor or materials for the construction, renovation, repair, modification or demolition of any public property, publicly owned building or municipal public works.

Municipal public works. The following activities which are authorized and defined as municipal public works by F.S. ch. 180:

- (1) Cleaning and improving street channels or other bodies of water for sanitary purposes;
- (2) Providing means for the regulation of the flow of streams for sanitary purposes;
- (3) Providing a water supply for domestic, municipal or industrial uses;
- (4) Providing for the collection and disposal of sewage, including wastewater reuse, and other liquid wastes;
- (5) Providing for the collection and disposal of garbage;
- (6) And incidental to such purposes and to enable the accomplishment of the same, constructing reservoirs, sewage systems, trunk sewers, intercepting sewers, pumping stations, wells, siphons, intakes, pipelines, distribution systems, purification works, collection systems, treatment and disposal works;
- (7) Constructing airports, hospitals, jails and golf courses; maintaining, operating and repairing the same; and constructing and operating in addition thereto all machinery and equipment;
- (8) Constructing, operating and maintaining gas plants and distribution systems for domestic, municipal and industrial uses; and
- (9) Constructing such other buildings and facilities as may be required to properly and economically operate and maintain said municipal public works.

Public property and publicly owned buildings. Any facility, building, portion of a building, park, parking lot, structure or other improvement to real property owned by the city. For the purposes of this article, public property shall include city-owned and maintained streets, alleys, sidewalks and rights-of-way.

(Ord. No. 95-01, § 1, 2-21-95; Ord. No. 2011-32, § 1, 12-20-11; Ord. No. 2013-17, § 1, 11-5-13)

§ 2-456. Payment and performance bond; bid bond.

(a) Any person, company or corporation entering into a contract with the city for construction services related to municipal public works, public property or publicly owned buildings as defined in section 2-455 shall be required, before commencing the work, to execute, deliver to the city, and record in the public records of the county, a payment and performance bond with a surety insurer authorized to do business in this state as surety; said bond shall comply with the requirements of F.S. § 255.05, and shall be on a standard form provided by the city. At the discretion of the city, any person entering into such a contract which is for two hundred thousand dollars (\$200,000.00) or less may be exempted from executing the payment and performance bond.

(b) In lieu of the bond required by this section, a contractor may file with the city an alternative form of security in the form of cash, a money order, a certified check, a cashier's check, or an irrevocable letter of credit.

(c) In lieu of a bid bond required by the competitive sealed bidding process, a contractor may file with the city an alternative form of security in the form of cash, a money order, a certified check, a cashier's check, or an irrevocable letter of credit.

(Ord. No. 95-01, § 1, 2-21-95; Ord. No. 2000-16, § 1, 9-19-00; Ord. No. 2011-32, § 1, 12-20-11; Ord. No. 2013-17, § 1, 11-5-13)

§ 2-457. Additional requirements for procurement of services for municipal public works projects.

In addition to all other requirements of this article pertaining to procurement of commodities and services and in accordance with F.S. § 180.24, the following requirements shall apply to the procurement of commodities and services for public works projects as defined in section 2-455:

(1) All contracts for the construction, extension or expansion of public works shall be in writing and the contractor shall be required to provide a bond executed by a surety company authorized to do business in the state; provided, however, that contracts in excess of Category Two (thirty-five thousand dollars (\$35,000.00)) shall be advertised by the publication of a notice in the legal section of a newspaper of general circulation in the county at least once each week for two (2) consecutive weeks, or by posting three (3) notices in three (3) conspicuous places in the city, one (1) of which shall be the public notices board in city hall; and that a minimum of ten (10) days shall elapse between the date of the first publication or posting of such notice and the date of receiving bids and the execution of contract documents.

(2) All contracts for the purchase, lease or renting of materials or equipment to be used in the accomplishment of any public works project shall be in writing; provided, however, that where said contract for the purchase, lease or renting of materials or equipment is in excess of ten thousand dollars (\$10,000.00), notice or advertisement for bids on the same shall be published in accordance with the provisions of subsection (1) herein.

(3) The solicitation of competitive bids or proposals for any construction project that is projected to cost more than two hundred thousand dollars (\$200,000.00) shall be publicly advertised at least once in a newspaper of general circulation in the county at least twenty-one (21) days prior to the established bid opening and at least five (5) days prior to any scheduled prebid conference. The solicitation of competitive bids or proposals for any construction project that is projected to cost more than five hundred thousand dollars (\$500,000.00) shall be publicly advertised at least once in a newspaper of general circulation in the county at least thirty (30) days prior to the established bid opening and at least five (5) days prior to any scheduled prebid conference. Bids or proposals shall be received and opened at the location, date, and time established in the bid or proposal advertisement. In cases of emergency, the procedures required in this section may be altered by the city commission in any manner that is reasonable under the emergency circumstances.

(4) If the location, date, or time of the bid opening changes, written notice of the change must be given, as soon as practicable after the change is made, to all persons who are registered to receive any addenda to the plans and specifications.

(5) A construction project may not be divided into more than one (1) project for the purpose of evading the requirements in this section.

(6) As used in this section, the term "emergency" means an unexpected turn of events that causes:

- a. An immediate danger to the public health or safety;
- b. An immediate danger of loss of public or private property; or
- c. An interruption in the delivery of an essential governmental service.

(Ord. No. 95-01, § 1, 2-21-95; Ord. No. 2000-16, § 1, 9-19-00; Ord. No. 2009-12, § 1, 5-5-09; Ord. No. 2011-32, § 1, 12-20-11; Ord. No. 2013-17, § 1, 11-5-13)

§ 2-458. Additional requirements for procurement of construction services for public property and publicly owned buildings.

In addition to all other requirements of this article pertaining to procurement of commodities and services and in accordance with F.S. ch. 255, the following requirements shall apply to procurement of construction services for public property and publicly owned buildings as defined in section 2-455:

(1) *Preference to home industries.* In accordance with F.S. § 255.041, the city shall give preference in the purchase of material and in letting contracts for the construction of public buildings to materialmen, contractors, builders, architects, and laborers who reside within the state, whenever such material can be purchased or the services of such materialmen, contractors, builders, architects, and laborers can be employed at no greater expense than that which would exist if such purchase was made from, or contract let or employment given to, a person residing beyond the limits of the state. However, this section in no way prohibits the right of the city to compare the quality of materials proposed for purchase and to compare the qualifications, character, responsibility, and fitness of materialmen, contractors, builders, architects, and laborers proposed for employment in its consideration of the purchase of materials or employment of persons.

(2) *Sole source.* Notwithstanding the foregoing preference to home industries, when letting of contracts or purchasing materials for the construction, modification, alteration or repair of any publicly owned facility, the city may not specify the use of materials or systems by a sole source unless:

- a. The city commission, after consideration of all available alternative materials and systems, determines that the specification of a sole material or system is justifiable based upon its cost or interchangeability;
- b. The sole source specification has been recommended by the architect or engineer of record; and
- c. The consideration by, and the justifications of, the city commission are documented, in writing, in the project file.

(3) *Separate specifications for building contracts.*

a. When preparing specifications, awarding or entering into contract for the erection, construction, or altering of publicly owned buildings where the entire cost of such work shall exceed ten thousand dollars (\$10,000.00), separate specifications may be prepared for each of the following classes of work to be performed:

1. Heating and ventilating and accessories.
2. Plumbing and gas fitting and accessories.
3. Electrical installations.
4. Air conditioning and accessories.

b. All such specifications may be drawn so as to permit separate and independent bidding upon each of the classes of work enumerated above. All contracts for the erection, construction or alteration of buildings, or any part thereof, may be awarded separately to responsible and reliable persons, firms or corporations regularly engaged in their respective line of work; provided, however, that all or any part of the work specified in the above classes may be awarded to the same contractor.

(4) *Shelter in public buildings.* F.S. § 255.042, requires that consideration be given to providing floor area capable of sheltering one hundred (100) or more persons from radiation hazards in the event of nuclear attack when preparing plans and specifications for new public buildings or substantial renovations to existing buildings. Accordingly, the architect, architect-engineer firm or other person or persons involved in the design of such buildings or substantial renovations shall refer to F.S. § 255.042, for guidance in preparing plans and specifications. It shall be the responsibility of the city commission to determine whether cost, or other related factors, precludes or makes impracticable the incorporation of fallout shelter in public buildings.

(5) *Specification of Florida produced lumber.* In accordance with F.S. § 255.20, contracts for public works and contracts for the construction of public bridges, buildings and other structures shall always specify lumber, timber and other forest products produced and manufactured in Florida whenever such products are available—price, fitness and quality being equal. This requirement shall not apply when plywood is specified for monolithic concrete forms, when the structural or service requirements for timber in a particular job cannot be supplied by native species, or when construction is financed in whole or in part from federal funds with the requirements that there be no restrictions as to species or place of manufacture.

(6) *Special facilities for physically disabled.* In accordance with F.S. § 255.21, any building or facility intended for use by the general public which, in whole or in part, is constructed or altered by the city shall, with respect to the altered or newly constructed portion of such building or facility comply with standards and specifications established by F.S. § 553.48.

(7) *Construction management services.* The city may enter into a contract with the state division of building construction, to provide project management, administration services, or assistance for the construction, renovation, repair, modification, or demolition of city buildings, utilities, parks, parking lots, or other facilities or improvements. The contract shall provide for payment of fees to the division.

(Ord. No. 95-01, § 1, 2-21-95; Ord. No. 2011-32, § 1, 12-20-11; Ord. No. 2013-17, § 1, 11-5-13)

Division 6. Procurement Of Real Property

§ 2-465. Applicability.

In accordance with the requirements of F.S. § 166.045, all real property will be purchased as provided in this division.

(Ord. No. 95-01, § 1, 2-21-95; Ord. No. 2011-32, § 1, 12-20-11; Ord. No. 2013-17, § 1, 11-5-13)

§ 2-466. Definitions.

The following terms, when used in this division, shall have the meaning ascribed to them in this section:

Extraordinary vote. A vote of the city commission with at least four (4) votes cast in the affirmative.

Option contract. A proposed agreement by the city to purchase real property, subject to the approval of the city commission at a public meeting.

Ordinary vote. A vote of the city commission with at least three (3) votes cast in the affirmative.

Real property. Buildings and land.

(Ord. No. 95-01, § 1, 2-21-95; Ord. No. 2011-32, § 1, 12-20-11; Ord. No. 2013-17, § 1, 11-5-13)

§ 2-467. Purchase of real property.

(a) When the city seeks to acquire by purchase any buildings or land for a municipal purpose, every appraisal, offer or counteroffer must be in writing.

(1) Such appraisals, offers and counteroffers are not available for public disclosure or inspection and are exempt from the provisions of F.S. § 119.07(1), until an option contract is executed or, if no option contract is executed, until thirty (30) days before a contract or agreement for purchase is considered for approval by the city commission.

(2) If a contract or agreement for purchase is not submitted to the city commission for approval, the exemption from F.S. § 119.07(1) will expire thirty (30) days after termination of negotiations.

(3) The city shall maintain complete and accurate records of every such appraisal, offer and counteroffer.

(b) The city will not be under any obligation to exercise an option to purchase any buildings or land unless the option contract is approved by the city commission at a public meeting held thirty (30) days after public notice of said meeting.

(c) For each purchase of real property in an amount of not more than five hundred thousand dollars (\$500,000.00), the city commission shall require at least one (1) appraisal by a state-certified appraiser.

(d) For each purchase of real property in an amount in excess of five hundred thousand dollars (\$500,000.00), the city commission shall require at least two (2) appraisals by state-certified appraisers. If the agreed purchase price exceeds the average appraised price of the two (2) appraisals, the city commission may, by extraordinary vote, approve the purchase.

(e) For each purchase of real property in an amount of one hundred thousand dollars (\$100,000.00) or less, the city commission may, by ordinary vote, exempt the purchase from the requirement for an appraisal. Such vote to exempt the purchase from appraisal requirements shall be recorded in the official minutes of the city commission.

(Ord. No. 95-01, § 1, 2-21-95; Ord. No. 2011-32, § 1, 12-20-11; Ord. No. 2013-17, § 1, 11-5-13)

Division 7. Record Of Acquisition, Inventory And Disposal Of Property

§ 2-471. Applicability.

In accordance with the requirements of F.S. ch. 274, record, inventory and disposal of property purchased by the city shall occur as provided in this division.

(Ord. No. 95-01, § 1, 2-21-95; Ord. No. 2001-04, § 1, 4-17-01; Ord. No. 2011-32, § 1, 12-20-11; Ord. No. 2013-17, § 1, 11-5-13)

§ 2-472. Definitions.

The following terms, when used in this division, shall have the meaning ascribed to them in this section:

Assets custodian. The head of the department to which the responsibility for maintaining the city's schedule of fixed assets and for implementing the provisions of this division has been delegated.

City attorney. The person serving as the city's agent for the purpose of recording and filing all legal documents and official notifications pursuant to the conveyance of real property to the city.

City clerk. The person to whom responsibility for maintaining the city's official records has been delegated.

Fixed asset. Any equipment, fixture or other tangible personal property of a non-consumable nature owned by the city the value of which equals or exceeds the value provided in F.S. § 274.02, and the normal expected life of which is one (1) year or more. A schedule of fixed assets will be compiled and maintained by the city in a form consistent with the requirements and recommendations of the auditor general.

Personal property. All equipment, fixtures and other tangible personal property of a non-consumable nature owned by the city.

Property record. A standard form developed by the assets custodian to record the pertinent information about an item to be added to the schedule of fixed assets. Such record shall include, but not be limited to, the name of the department purchasing the item, a detailed physical description of the item, purchase price, date purchased, location of item, model number, serial number, normal expected life, and dates inventoried.

Real property. All buildings and land owned by the city.

(Ord. No. 95-01, § 1, 2-21-95; Ord. No. 2000-16, § 1, 9-19-00; Ord. No. 2001-04, § 1, 4-17-01; Ord. No. 2011-32, § 1, 12-20-11; Ord. No. 2013-17, § 1, 11-5-13)

§ 2-473. Acquisition of tangible personal property.

Whenever acquiring tangible personal property of a nonconsumable nature, the city may pay the purchase price in full, exchange city-owned property with the seller as a trade-in and apply the exchange allowance to the cost of the new property acquired, or exchange city-owned property for property with value equal to or greater than the acquisition cost or value of the city-owned property. Authority to exchange tangible personal property in accordance with this section is granted to the city manager by this article.

(Ord. No. 95-01, § 1, 2-21-95; Ord. No. 2001-04, § 1, 4-17-01; Ord. No. 2011-32, § 1, 12-20-11; Ord. No. 2013-17, § 1, 11-5-13)

§ 2-474. Record of acquisition and inventory of personal property.

(a) For each acquisition of personal property by purchase, donation, grant, forfeiture, exchange or other means when said property has a value at the time of acquisition equal to or exceeding the value stipulated in F.S. § 274.02, and a normal expected life of one (1) year or more, the department head or his designee shall, provide to the assets custodian a completed property record within five (5) business days after acquisition of the property. If the property is acquired by purchase, a copy of the invoice shall be forwarded to the assets custodian at the same time the invoice is forwarded to the finance department for payment. If the property is acquired by some means other than by purchase, documentation of value in a form acceptable to the finance director shall be forwarded to the assets custodian with the property record.

(b) Upon receipt of the property record from the department, the assets custodian shall add the property to the schedule of fixed assets.

(c) Each item of property which it is possible to identify by marking shall be marked in the manner required by the auditor general.

(d) A complete physical inventory of all personal property shall be taken annually under the supervision of the assets custodian, and the date inventoried shall be entered on the property record. The inventory shall be compared with the property record and the schedule of fixed assets, and all discrepancies shall be traced and reconciled.

(e) At the close of each fiscal year, a complete schedule of fixed assets shall be filed by the assets custodian with the city clerk for permanent retention in the official records of the city.

(f) The record-keeping requirements of this section shall apply to all personal property acquired after October 1, 2000. A complete property record in the form required by this section shall be created for property acquired prior to October 1, 2000, and remaining in the city's inventory of personal property on that date.

(Ord. No. 95-01, § 1, 2-21-95; Ord. No. 2000-16, § 1, 9-19-00; Ord. No. 2001-04, § 1, 4-17-01; Ord. No. 2011-32, § 1, 12-20-11; Ord. No. 2013-17, § 1, 11-5-13)

§ 2-475. Record of acquisition and inventory of real property.

(a) For each purchase of real property, the original contract for purchase indicating the price paid for the property shall be forwarded to the city clerk for retention in the official records of the city.

(b) For each acquisition of real property through purchase, donation, foreclosure, tax sale or other means, the city attorney shall forward to the city clerk the recorded original deed or other document conveying ownership to the city. The city attorney shall, at the time of such conveyance, prepare and forward any notifications to the county tax collector, property appraiser, or other officials as may be required to establish date of acquisition, tax-exempt status, and other legal matters relevant to ownership of real property by a municipality.

(c) Upon receipt of the recorded deed or other document conveying ownership of real property to the city, the city clerk shall provide to the assets custodian a completed property record showing the acquisition cost of the property or the value of the property, if donated, and a copy of the deed or conveying document for addition of the property to the schedule of fixed assets. Acquisition cost shall include all legal fees, recording fees, payment of back taxes, and any other costs incurred to effect the conveyance of the property to the city. The city clerk shall file the original recorded deed or conveying document with the official records of the city. The original contract for purchase, where applicable, shall be attached to the recorded deed or conveying document. If all acquisition costs are not known when the property record is initially forwarded to the assets custodian, the city clerk shall notify the assets custodian of such additional costs when they become known, and the assets custodian shall amend the acquisition cost of the property on the schedule of fixed assets.

(d) The record-keeping requirements of this section shall apply to all real property acquired after October 1, 2000. A complete property record in the form required by this section shall be created for real property acquired prior to October 1, 2000, and remaining in the city's inventory of real property on that date.

(Ord. No. 95-01, § 1, 2-21-95; Ord. No. 2001-04, § 1, 4-17-01; Ord. No. 2011-32, § 1, 12-20-11; Ord. No. 2013-17, § 1, 11-5-13)

§ 2-476. Disposal of surplus property.

(a) *Classification as surplus property.* The city may classify as surplus any of its real or personal property which is obsolete or the continued use of which is uneconomical or inefficient, or which serves no useful function or purpose.

(b) *Authority for disposal.* Authority for the disposal of surplus property for which the cost or value at the time of acquisition or construction equals or exceeds the value currently stipulated in F.S. § 274.02, shall be recorded in the official minutes of the city commission. Such authority shall include approval of the method of disposal and estimated current value of the property. Authority for the disposal of surplus property for which the initial cost or value does not equal or exceed the value currently stipulated in F.S. § 274.02, shall be granted to the city manager by this subsection.

(c) *Method of disposal.* Within the reasonable exercise of its discretion and taking into consideration the value and condition of such surplus property and the desirability of the property to a prospective bidder, the city shall determine which method of disposal should be utilized:

(1) The city may dispose of surplus property by offering the property for bid to other governmental units as follows:

a. The city shall first offer the surplus property to other governmental units in the county; such offer shall disclose the value and condition of the property, and the city shall sell the property to the governmental unit submitting the highest bid.

b. If no acceptable bid is received from governmental units in the county within a reasonable time, the city shall then offer the surplus property to governmental units outside the county; such offer shall disclose the value and condition of the property, and the city shall sell the property to the governmental unit submitting the highest bid.

c. The cost of transferring the property shall be paid by the governmental unit submitting the highest bid.

(2) As an alternative to the procedure specified in paragraph (1), the city may dispose of surplus property as follows:

- a. Property, the value of which the city estimates to be under five thousand dollars (\$5,000.00), may be disposed of in the most efficient and cost-effective means as determined by the city.
- b. Property, the value of which the city estimates to be more than five thousand dollars (\$5,000.00) shall be sold to the highest responsive bidder or by public auction, after publication of notice not less than one (1) week nor more than two (2) weeks prior to the sale in a newspaper having a general circulation in the county.
- c. Property may be disposed of for value without bids to any governmental unit in the state.
- d. Property which is without commercial value may be donated, destroyed or abandoned.

(d) *Recordkeeping—Surplus equipment.* For each disposal of surplus equipment equal to or exceeding the value stipulated in F.S. § 274.02, or recorded on the schedule of fixed assets, the department head or his designee shall, on a form provided for the purpose, notify the assets custodian to adjust the property record to indicate the date and method of disposal, and the assets custodian shall also indicate such disposal on the schedule of fixed assets.

(e) *Recordkeeping—Surplus land.* For each disposal of surplus land, the city clerk shall, on a form provided for the purpose, notify the assets custodian to adjust the property record to indicate the date and method of disposal, and the assets custodian shall also indicate such disposal on the schedule of fixed assets. The city clerk shall indicate the date and method of disposal on the original deed and transfer the deed to a file containing deeds documenting other such disposals of surplus land for permanent retention in the official records of the city.

(f) *Recordkeeping—Surplus or obsolete buildings, facilities or other improvements.* For each disposal of a surplus or obsolete improvement whether by sale, donation, or demolition, the department head shall, on a form provided for the purpose, notify the assets custodian to adjust the property record to indicate the date and method of disposal, and the assets custodian shall also indicate such disposal on the schedule of fixed assets. Where the improvement is to be demolished with or without replacement, authority for disposal may be requested with approval to award a bid or expend funds for demolition of the improvement or construction of the replacement.

(Ord. No. 95-01, § 1, 2-21-95; Ord. No. 2000-16, § 1, 9-19-00; Ord. No. 2001-04, § 1, 4-17-01; Ord. No. 2001-14, § 1, 11-6-01; Ord. No. 2008-32, § 1, 9-16-08; Ord. No. 2011-31, § 1, 11-15-11; Ord. No. 2011-32, § 1, 12-20-11; Ord. No. 2013-17, § 1, 11-5-13)

§§ 2-477--2-479. Reserved.

EDITOR'S NOTE

Ord. No. 2001-04, § 1, adopted April 17, 2001, repealed § 2-477 in its entirety. Formerly, said section pertained to authorizing and recording the disposal of property. See the Code Comparative Table.

Division 8. General Administrative Provisions

EDITOR'S NOTE

Ord. No. 2001-04, § 1, adopted April 17, 2001, repealed § 2-477 in its entirety. Formerly, said section pertained to authorizing and recording the disposal of property. See the Code Comparative Table.

§ 2-480. Standard implementing documents.

(a) All forms required for implementation of the provisions of this article will be standard forms approved by the city manager or his designee and on file in the city clerk's office. No form will be used in connection with this article which has not received the approval of the city manager or his designee.

(b) All invitations to bid, requests for proposals and requests for qualifications will be prepared using standard documents on file in the city clerk's office. Where bid documents or project manuals are prepared by consulting engineers, copies of standard city forms will be provided to said engineers for inclusion in the bid documents or project manuals.

(c) All invitations to bid on projects which are funded, in whole or in part, by federal grants will include forms and other documents required by the federal government and on file in the city clerk's office.

(d) All public notices required under this article will follow a standard format on file in the city clerk's office.

(e) A manual of standard administrative procedures and forms for the implementation of this article will be compiled by the city manager or his designee and utilized by all departments, divisions, boards or commissions when procuring any property or services on behalf of the city. A copy of such manual will be on file in the city clerk's office.

(Ord. No. 95-01, § 1, 2-21-95; Ord. No. 2011-32, § 1, 12-20-11; Ord. No. 2013-17, § 1, 11-5-13)

§ 2-481. Compliance with records laws.

(a) All documents created subsequent to this article will be complete, will be dated, and will bear the proper authorizing signatures. It shall be the responsibility of the department, division, board or commission creating the document to ensure compliance with this requirement.

(b) All documents created or received subsequent to this article will be maintained in accordance with the provisions of F.S. ch. 119, Public Records.

(c) All documents created or received subsequent to this article will be retained in accordance with General Records Schedule for Local Government Agencies, BC-1 revised, promulgated by the division of library and information services of the department of state, as that schedule currently exists or as it may be revised in the future.

(Ord. No. 95-01, § 1, 2-21-95; Ord. No. 2011-32, § 1, 12-20-11; Ord. No. 2013-17, § 1, 11-5-13)

Division 9. Cdbg Procurement And Acquisition Procedures

§ 2-486. Procurement procedures for community development block grant and all other federally funded programs.

Effective: Tuesday, November 05, 2019

(a) *CDBG and all other federal funds procurement policy.* It is the policy of the City to obtain commodities and services efficiently and effectively in free and open competition for the community development block grant (CDBG) program and all other federally funded programs through the use of sound procurement practices. All City staff and other persons with designated responsibility for the administration of CDBG and all other federal award contracts are responsible for ensuring compliance with all applicable federal and state laws and regulations. These include but are not limited to: 2 CFR 200.317 – 200.326, inclusive, 24 CFR 85.36, OMB Circular A-102, Attachment 0, Chapter 98-43 Florida Administrative Code and F.S. Chapters 287, 255.0525, Rule 73c- 23 Florida Administrative Code, as applicable.

(b) *City procurement policy.* The City's policy for procurement of commodities and services shall govern the procurement of commodities and services for CDBG and all other federally funded program activities, except as provided herein.

The City's Purchasing Specialist or his or her designee shall serve as the central purchasing officer (the "Purchasing Officer") of the City of Lake Wales for all contracts or agreements described herein. The following cost categories for CDBG and other federally funded purchases shall be used to determine applicable purchasing and contract award procedures:

(c) *Small purchases.*

(1) All procurement of commodities or services in excess of five hundred dollars (\$500.00) shall require a written agreement embodying all provisions and conditions thereof.

(2) All CDBG and federal funding related procurement of commodities or services less than five hundred dollars (\$500.00) may be approved by the City Manager or his/her authorized representative without a competitive bid process.

(3) All procurement of commodities or services in excess of five hundred dollars (\$500.00) and less than five thousand dollars (\$5,000.00) may be entered only after informal competition based on offers or quotes from not less than three (3) vendors.

(4) Procurement shall be made by one (1) of the following methods, as described below:

- a. Small purchase procedures.
- b. Competitive sealed bids (formal advertising).
- c. Competitive negotiation.
- d. Noncompetitive negotiation.

(d) *Competitive sealed bids.*

(1) Purchases greater than five thousand dollars (\$5,000.00), including purchases up to \$100,000 and greater, shall be by competitive sealed bids, unless the City Manager or his/her authorized representative certifies in writing that sealed bidding is not practicable or advantageous, in which case the procurement shall be competitive negotiation in conformance with F.S. § 287.057(3) and 24 CFR 85.36(d)(3)(i). The competitive sealed bid procedure described herein shall also be consistent with 2CFR 200.320 (b).

(2) In the competitive sealed bid method of procurement (formal advertising), sealed bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest reasonable price.

(3) In order for a sealed bid procedure to be feasible, certain conditions must be present, including, at a minimum, the following:

- a. A complete, adequate and realistic specification or purchase description; and
- b. Two (2) or more responsible suppliers or contractors are willing and able to compete effectively for the business.

(4) The inability or failure to obtain more than one (1) bid shall not prohibit the local government from approving the bid, if it is demonstrated that other prospective vendors or contractors have been given adequate notice of the procurement and an opportunity to participate and have declined to submit bids. Also, as part of the City's evaluation as to whether to award a sole bid, the City shall conduct a cost analysis of the bid to determine if the cost is reasonable. The cost analysis shall include a review of profit. In addition, the City shall request permission from the grant agency prior to awarding a sole bid.

(5) The following procedure will be followed under the sealed bid procedure:

- a. At least twelve (12) days prior to the date set for opening of bids, the invitation to bid shall be publicly noticed in a newspaper of general circulation in the City as defined in F.S. § 50.011, and at least one (1) newspaper of regional circulation. Special note: the state program rule allows two (2) advertisement procedures for procurements which require public notice. Accordingly, the City has the option of advertising for bids in a nearby OMB designated Metropolitan Statistical Area (Winter Haven). This advertising procedure allows award of a contract if only one (1) firm submits a bid or proposal. The second procedure allows advertisement in a local newspaper and/or mailed solicitations, but requires at least three (3) responsive and responsible bids or proposals received. In the case of housing programs the City may place a public notice for a request for qualified contractors to participate in a bid list. Such public notice requests shall be published every six (6) months during the bid and construction phase of a housing grant. Notification of invitations to bid each project will be sent to firms on the approved bid list. Qualified firms may apply to be placed on the bid list at any time.

Under Section 255.0525(2), F.S. and Rule 73-23.00521(2)(a), F.A.C., an invitation to bid for construction projects that are projected to cost more than \$200,000.00 shall be published in at least one newspaper of general circulation in Polk County as well as a nearby federal Office of Management and Budget (OMB) designated metropolitan statistical area (MSA) at least 21 days prior to the established bid opening and at least 5 days prior to any scheduled prebid conference. An invitation to bid for construction projects that are projected to cost more than \$500,000.00 shall be publicly advertised at least once in a newspaper of general circulation in Polk County at least 30 days prior to the established bid opening and at least 5 days prior to any scheduled prebid conference. Additionally, Notice shall be sent to those vendors and contractors on the City's MBE/WBE solicitation list. Alternatively, the City may substitute the above notice with any solicitation procedure which generates at least three responsible and responsive bids or proposals which can be considered. However, if three responsible and responsive bids or proposals are not received, the procurement will be invalid.

An Invitation to Bid shall be issued and shall include specifications, all contractual terms and conditions, and the place, date, and time for opening or submittal. No later than five working days prior to the date for receipts of bids, a vendor shall make a written request to the City for interpretations or corrections of any ambiguity, inconsistency, or error which the vendor may discover. All interpretations or corrections will be issued as addenda. The City will not be responsible for oral clarifications. No negotiations, decisions, or actions shall be initiated or executed by the proposer as a result of any discussions with any City employee prior to the opening of proposals. Only those communications which are in writing from the City may be considered as a duly authorized expression on the behalf of the Commission . Also, only communications from firms or individuals which are in writing and signed will be recognized by the City as duly authorized expressions on behalf of proposers.

1. Alternate(s). Alternate bids will not be considered unless authorized by and defined in the Special Conditions of the bid specifications.
2. Approved Equivalents. The City reserves the right to determine acceptance of item(s) as an approved equivalent. Bids which do not comply with the stated requirements for equivalents in the bid conditions are subject to rejection. The procedure for acceptance of equivalents shall be included in the general conditions of the bid.
 - b. The invitation for bids, including specifications and pertinent attachments, shall clearly define the items or services needed in order for the bidders to properly respond to the invitation, state the deadline for submission of sealed bids, state the time and place when and where the sealed bids will be publicly opened and read aloud, and state bid bond requirements, if any.
 - c. All bids shall be opened publicly at the time and place stated in the invitation for bids.
 - d. The criteria for selection of the vendor or contractor and awarding a firm-fixed-price or firm-fixed-unit-price contract shall be the responsible bidder whose bid, conforming to the invitation for bids, is the lowest reasonable price. Where specified in the bid documents, factors such as discounts, transportation costs and life cycle costs shall be considered in determining which bid is lowest. The award notice shall be made in writing to the selected bidder.

e. The City reserves the right to waive any minor irregularity or technicality or to reject any and all bids.

(e) *Competitive negotiation.*

(1) Professional services are often procured by competitive negotiation. In competitive negotiation, proposals are requested from a number of sources and a request for statements of qualifications and/or proposals is publicized. Qualifications and/or proposals are ranked and negotiations are conducted with one (1) or more of the sources submitting offers, and either a fixed-fee or cost reimbursable type contract is awarded, as appropriate. Competitive negotiation may be used if conditions are not appropriate for the use of competitive sealed bids. Special note: CDBG rules and the rules for other federal procurement do not allow cost reimbursement contracts to be paid for with CDBG or other federal funds, though fixed fee is allowable.

(2) The following procedure will be followed under the competitive negotiation procedure:

a. Proposals shall be solicited from an adequate number of qualified sources to permit reasonable competition consistent with the nature and requirements of the procurement. The request for statements of qualifications and/or proposals shall be publicly noticed at least twelve (12) days prior to the date set for receipt of statements of qualifications and/or proposals in a newspaper of general circulation in the City as defined in F.S. § 50.011 and at least one (1) newspaper of regional circulation. Special note: the state program rule allows two (2) advertisement procedures for procurements which require public notice. Accordingly, the City has the option of advertising for bids in a nearby OMB designated Metropolitan Statistical Area (Winter Haven). This advertising procedure allows award of a contract if only one (1) firm submits a bid or proposal. The second procedure allows advertisement in a local newspaper and/or mailed solicitations, but requires at least three (3) responsive and responsible bids or proposals received.

b. The request for statements of qualifications and/or proposals shall identify the deadline for submission of statements of qualifications and/or proposals, minimum qualifications. All evaluation factors, including price or cost where required and their relative importance, and state that the City will conduct a cost or price analysis for the proposed price, including evaluation of profit.

c. The procedure for review of statements of qualifications and/or proposals shall be as follows:

1. Each member of a selection committee receives and reviews all proposals. The selection committee is composed of no fewer than four (4) and no more than six (6) members appointed by the City Manager.

2. Each reviewer is provided a ranking sheet and scores each proposal in accordance with the published evaluation criteria.

3. Completed ranking sheets are submitted to a designated member of the selection committee to tally prior to the City Commission meeting at which the results of the committee's review are to be announced. Proposals are ranked by score and the ranking is read at the City Commission meeting.

4. The City Commission authorizes the City Manager to enter negotiations with the highest ranked proposer, specifying any conditions to be met, and authorizes the City Manager to prepare an agreement for the services if the negotiation is mutually acceptable.

5. If a mutually acceptable agreement cannot be reached the City Manager is to enter negotiations with the next highest ranked proposer until a mutually acceptable agreement is reached.

6. An award of a fixed fee or cost reimbursable contract shall be made to the responsible offerer in writing whose proposal will be most advantageous to the City, price, and other factors considered. Unsuccessful offerers shall be notified in writing.

7. The City will abide by the Consultants Competitive Negotiation Act, F. S. § 287.055, as amended, when procuring the services of architects or engineers. The provisions of these procurement procedures shall not be construed to conflict or supersede the requirements of F.S. § 287.055, as amended, or any other applicable state or federal law. Procurement consistent with F. S. § 287.055, shall include the following procedures:

Public Announcement. It is the policy of the City to publicly announce all requirements for professional architectural, engineering, landscape architectural, and land surveying services and to negotiate such contracts on the basis of demonstrated competence and qualifications at fair and reasonable prices. In the procurement of such services, the City may require firms to submit a statement of qualifications, performance data, and other related information for the performance of professional services. The City shall procure professional architectural, engineering, landscape architectural, and land surveying services consistent with the provisions of Chapter 287.017, §287.055 (the Consultants Competitive Negotiation Act, which is also referred to as CCNA), and [2CFR 200.320(d) (5)].

Scope of Project Requirements. Prior to submission of the request for proposals for professional services as an agenda item for approval by the Commission, the Purchasing Officer shall consult with the City Manager to review the written project requirements, which shall include at least the following information:

- (a) the general purpose of the services or study;
- (b) the objectives of the study or services;
- (c) estimated period of time needed for the services or the study;
- (d) the estimated cost of the service or study;
- (e) whether the proposed study or service would or would not duplicate any prior or existing study or services;
- (f) list of current contracts or prior services or studies which are related to the proposed study or service;
- (g) the described qualifications, listed in order of importance, of the person or firm applicable to the scope and nature of the services requested.

8. Distribution of Project Requirements. The Purchasing Officer shall distribute the written project requirements as approved by the City Commission to all persons on the mailing list who have indicated an interest in being considered for the performance of such professional services and to any additional persons as the Purchasing Officer or using agency deems desirable. The written project requirements shall be consistent with Chapter 287.017, § 287.055 (the Consultants Competitive Negotiation Act, which is also referred to as CCNA), and [2CFR 200.320(d) (5)]. Consistent with the CCNA, price information shall not be requested prior to negotiation with the firm or individual that is selected to provide the requested service. The written project requirements shall include a statement of the relative importance of each of the requirements. The project requirements shall be accompanied by an Invitation to such persons to submit an indication of interest in performing the required services, and by notification of the date and time when such indications of interest are due. This date shall not be less than fourteen calendar days from the date of public notice when the Purchasing Officer shall published in at least one newspaper of general circulation in the County where the project is located and in a nearby federal Office of Management and Budget (OMB) designated metropolitan statistical area (MSA). Alternatively, the City may substitute the above notice with any solicitation procedure which generates at least three responsible and responsive bids or proposals which can be considered. However, if three responsible and responsive bids or proposals are not received, the procurement will be invalid.

9. Modification Prohibition. After the publicized submission time and date, indications of interest shall not be modified or allowed to be modified in any manner except for correction of clerical errors or other similar minor irregularities as may be allowed by the Selection Committee (defined in Section 4.051B) prior to making its selection of those best qualified to be formally interviewed.

10. Reuse of Existing Plans. There shall be no public notice requirements or utilization of the selection process as provided in this section for projects in which the City is able to reuse existing plans from a prior project. However, public notice of any plans which are intended to be reused at some future time shall contain a statement which provides that the plans are subject to reuse.

11. Selection Committee Membership and Evaluation. Depending on the expected complexity and expense of the professional services to be contracted, the City may determine whether a three member or five member selection committee will best serve the needs of the City Commission.

12. Three Member Committee Composition. Membership of a three-member selection committee shall be appointed by the City Commission.

13. Five Member Committee Composition. Membership of a five-member selection committee shall be appointed by the City Commission.

14. Selection Committee Evaluation. Only written responses of statements of qualifications, performance data, and other data received in the purchasing office by the publicized submission time and date shall be evaluated. Only those respondents who are determined to be best qualified based upon the evaluation of written responses and selected for Formal interview may submit additional data. From among those persons evidencing, by timely submission of written responses, an interest in performing the services the Selection Committee shall:

(a) prepare an alphabetical list of those persons determined by the Selection Committee to be qualified, interested and available; and

(b) designate no less than three persons on the alphabetical list considered by the Selection Committee to be best qualified to perform the work required.

(c) Shortlisting. The best qualified respondents shall be based upon the Selection Committee's ability to differentiate qualifications applicable to the scope and nature of the services to be performed. The Selection Committee shall determine qualifications, interest, and availability by reviewing the written responses that express an interest in performing the services. The committee may also conduct formal interviews if desired. The determination of the best qualified respondent may be based upon, but not limited to, the following considerations:

(1) competence, including technical educational and training, experience in the kind of project to be undertaken, availability of adequate personnel, equipment and facilities, the extent of repeat business of the persons, and where applicable, the relationship of construction costs estimates by the person to actual cost on previous projects;

(2) current work load;

(3) financial responsibilities;

(4) ability to observe and advise whether plans and specifications are being complied with, where applicable;

(5) record of professional accomplishments;

(6) proximity to the project involved, if applicable;

(7) record of performance; and

(8) ability to design an approach and work plan to meet the project requirements, where applicable

(d) Interview and Commission Approval. If formal interviews are conducted, the Selection Committee shall list those respondents interviewed in order of preference based upon the considerations listed in subsection (4) above. The respondents so listed shall be considered to be the most qualified and shall be listed in order of preference starting at the top of the list. The list of best qualified persons shall be forwarded to the Commission for approval prior to beginning contract negotiations. Negotiation sequence shall be based on the order of preference.

(1) Negotiation Staff. Contract negotiations shall be conducted by the Purchasing Officer unless the City Commission directs that negotiations be conducted by a Negotiation Committee.

(2) Negotiation. The Purchasing Officer or the Negotiation Committee shall negotiate a contract with the firm considered to be the most qualified to provide the services at compensation and upon terms which the Purchasing Officer or the Negotiation Committee determines to be fair and reasonable to the City. In making this decision, the Purchasing Officer or the Negotiation Committee shall take into account the estimated value, the scope, the complexity, and the professional nature of the services to be rendered. As a part of the negotiation, the Purchasing Officer or the Negotiation Committee shall conduct a cost analysis, including evaluation of profit, based on a cost breakout by the firm of its proposed price. Should the Purchasing Officer or the Negotiations Committee be unable to negotiate a satisfactory contract with the firm considered to be the most qualified, negotiations with that firm will be formally terminated. The Purchasing Officer or the Negotiation Committee shall then undertake negotiations with the second most qualified firm. Failing accord with the second most qualified firm, the Purchasing Officer or the Negotiation Committee shall formally terminate negotiations, and then shall undertake negotiations with the third most qualified firm. Should the Purchasing Officer or the Negotiation Committee be unable to negotiate a satisfactory contract with any of the selected firms, the Selection Committee shall select additional firms in order of their competence and qualifications, and the Purchasing Officer or Negotiation Committee shall continue negotiations in accordance with this section until an agreement is reached or until a determination has been made not to contract for services.

(f) *Noncompetitive negotiations.*

(1) Nothing herein shall limit the City to except from the requirement of competition commodities and services available only from a single source or procurement from another unit of government.

(2) Noncompetitive negotiation may be used when the award of a contract is not feasible under small purchase, competitive sealed bid, or competitive negotiation procedures.

(3) Circumstances under which a contract may be awarded by noncompetitive negotiation are limited to the following:

- a. The item is available only from a single source.
- b. Public exigency or emergency when the urgency for the requirement will not permit a delay incident to competitive solicitation. Special note: Consistent with 2CFR 200.320(f), this type of procedure requires prior approval from the state agency that administers the CDBG grant if the cost will be twenty five thousand dollars (\$25,000) or greater. Approval is very rarely given.
- c. After solicitation of a number of sources, competition is determined inadequate.
- d. The contract item is available under a State of Florida negotiated blanket contract.
- e. The goods and/or services are procured from another unit of government.

(4) For procurements exceeding twenty-five thousand dollars (\$25,000.00) the City shall obtain written permission from the state department of economic opportunity prior to entering into any contract procured as a result of inadequate competition, a sole source or a non-competitive procurement negotiation based upon whether the criteria in 24 CFR 85.36(d)(4) have been satisfied. For contracts below twenty -five thousand dollars (\$25,000.00) the City shall document the justification for procurement with inadequate competition from a sole source or based on noncompetitive negotiation pursuant to 24 CFR 85.36.

(5) The procurement for all professional services and any contract resulting from a non-competitive procurement process must meet the requirements of 2 CFR 200.317-.326 and Section 287.055 of the Florida Statutes. The City's Purchasing Officer must conduct a cost or price analysis of all proposed prices on sole source purchases, analysis shall include a review of profit as a separate element. Sole source purchases must be approved by DEO in writing

(g) *Bid protest.*

(1) Any actual or prospective bidder, offerer, or contractor who is aggrieved in connection with the solicitation or award of contract may protest to the City Commission. Protestors shall seek resolution of their complaints initially with the City Manager prior to protesting to the City Commission.

(2) Protests must be in writing and received within ten (10) days of the bid opening by the City Manager. The written protest shall identify the protestant and the solicitation involved; include a plain, clear statement of the grounds on which the protest is based; and refer to the statutes, laws, ordinances, or other legal authorities which the protestant deems himself entitled by application of such authorities to such grounds.

(3) The City Manager will meet with the protestant to review the matter and shall render a written settlement decision within twenty-one (21) days of the written protest. If the settlement decision is unacceptable to the protestant, the protestant may then make the protest directly to the City Commission.

(4) In no case will the protesting bidder or offerer be entitled to any costs incurred with the solicitation, including bid preparation costs and attorney's fees.

(5) In the event of a timely protest under this section, the City Manager shall not proceed further with the solicitation or award of the contract until all administrative remedies have been exhausted or until the City Manager makes a written determination that the award of a contract without delay is necessary to protect the substantial interest of the City.

(6) Awards in Violation of Law

a. Prior to Bid Opening or Closing Date for Receipt of Proposals. If prior to the bid opening or the closing date for receipt of proposals, the Purchasing Officer after consultation with the City Attorney, determines that a solicitation is in violation of federal, state, or local law or ordinance, then the solicitation shall be canceled or revised to comply with applicable law.

b. Prior to Award. If after bid opening or the closing date for receipt of proposals, but prior to the award contract, the Purchasing Officer after consultation with the City Attorney, determines that a solicitation or a proposed award of a contract is in violation of federal, state, or municipal law or ordinance, then the solicitation or proposed award shall be canceled.

c. After Award. If, after award, the Purchasing Officer after consultation with the City Attorney, determine that a solicitation or award of a contract was in violation of applicable law or ordinance, then;

(1) If the person awarded the contract has not acted fraudulently or in bad faith:

(a) the contract may be terminated and the person awarded the contract shall be compensated for actual costs reasonably incurred under the contract plus a reasonable profit, but excluding attorney's fees, prior to termination; or

(b) If the person awarded the contract has acted fraudulently or in bad faith the contract may be declared null and void or voidable, if such action is in the best interest of the City.

(h) *Documentation.*

(1) The City will retain records to demonstrate the rationale for choosing the method of procurement, contractor qualifications, contract specifications, or scope of work, the basis for selection or rejection of the contractor and the basis for the contract price.

(2) Purchases other than small purchases must be approved by the governing body and such authorization must be reflected in the minutes.

(i) *Affirmative action.* The City is committed to elimination of discrimination based on race, color, religion, sex, national origin, age, or physical handicap.

(j) *Travel expenses.* All travel payments shall conform to the allowances provided in F.S. Chapter 112.061, as amended from time to time. Reimbursement for travel expenses will be paid to an employee only after the submission of an itemized statement of expenses.

(k) *Code of ethics.*

(1) No employee, officer, or agent of the local government shall participate in selection, or in the awards or administration of a contract supported by public funds if a conflict of interest, real or apparent, would be created. Such a conflict would arise when:

a. An employee, officer, or agent of the local government;

b. Any member of his or her immediate family;

c. His or her partner; or

d. An organization which employs, or is about to employ, any of the above has a financial or other interest in the firm selected for the award.

(2) Local government officers, employees, or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to sub-agreements. However, as permitted by 24 CFR 85.36(3)(i), this section will not be held to apply if the gift is an unsolicited item of nominal intrinsic value (less than twenty-five dollars (\$25.00)).

(3) All public employees, officers, or agents of the local government are further bound by more stringent standards of ethical conduct than those set forth in the provisions of F.S. §§ 112.311—112.326, the statutory code of ethics covering all public employees, including elected officials.

(4) Violations of this code of ethics may result in civil penalties of up to ten thousand dollars (\$10,000.00) pursuant to F.S. Chapter 112.

(l) *Other provisions.*

(1) All contracts shall conform to 24 CFR 85.36(i) and F.S. § 287.055 and contain clauses which address:

- a. Termination for cause;
- b. Termination for convenience;
- c. Access to project records by the grantee, sub-grantee, state and/or federal officials or their representatives;
- d. Retention of project records for at least three (3) years after project closeout;
- e. Suspension of work;
- f. Administrative, contractual or legal remedies for violation or breach of contract and provide for such sanctions and penalties as may be appropriate;
- g. Public entities crimes statement;
- h. Compliance with Executive Order 11246 of September 24, 1965 entitled "Equal Employment Opportunity", as amended by Executive Order 11375 of October 13, 1967 and as supplemented in Department of Labor regulations (41 CFR part 60). (All construction contracts in excess of ten thousand dollars (\$10,000.00))
- i. Compliance with the Copeland "Anti-Kickback" Act (18USC874) as supplemented in Department of Labor regulations (29 CFR part 3);
- j. Compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 USC 327-330) as supplemented in Department of Labor regulations (29 CFR part 5);
- k. All contracts covered by Section 3 regulations shall contain the language required in 24 CFR 135.38;
- l. Engineering contracts shall also contain a prohibition on contingent fees, truth-in-negotiation certification and, for contracts over sixty thousand dollars (\$60,000.00), a price adjustment clause.

(2) All contracts for professional services shall conform to the following:

- a. Any request for proposals which includes more than one (1) service shall provide that:
 - 1. Proposals may be submitted for one (1) or more of the services;
 - 2. Proposals will be considered on an equal competitive basis;
 - 3. Qualifications and proposals should be separately stated for each service;
 - 4. The evaluation of the proposals should be separate for each service.
- b. A separate professional services contract shall be procured and executed between the City and the consultant for each particular community development block grant or federally funded project. Each advertisement for procurement of community development block grant or federally funded professional services, except for grant application preparation, must specify the scope of work, program category and community development block or federally funded grant cycle by federal fiscal year or state department of community affairs award number.

c. Those types of services having a relatively undefined scope, such as program management or administration, and those services of a more defined scope, such as engineering or architectural design, must be separated from each other into individual contracts.

d. Each services contract must identify by award agreement number and individual project the grant to which it is applicable.

e. 24 CFR 85 establishes that a general conflict may exist where a local government awards a multi-service contract to a firm to administer its community development block grant or federally funded program, while at the same time the same firm is to provide a service, such as engineering, where the administrator must oversee and approve its own work. In such cases where the administrator oversees its own engineering services, the services of an independent third party shall be obtained to provide the necessary oversight and approvals.

f. If a community development block grant and other sources of funding are being jointly used to fund activities under a single contract (excluding housing construction or housing rehabilitation contracts), the activities to be paid for with community development block grant funds must be shown as a separate line item or alternative (deducted or added) in the procurement documents.

(m) *Authority.* Where there is a conflict between the various statutes, regulations or codes, statutes shall govern over regulations, regulations over codes, and federal laws over state laws.

(n) *Applicability.* The policies and procedures contained in this section shall be applicable to all procurement of commodities and services involving CDBG and all other federal funds.

(o) *Process for seeking out bids or proposals for minority business enterprises or women-owned business enterprises.* The City shall encourage the utilization of minority business enterprises or women-owned business enterprises in a manner that is consistent with 2CFR 200.321 and by complying with the provisions of its affirmative action policy adopted by Resolution 2002-18 on November 5, 2002, as amended, which is incorporated herein by reference.

(m) *Use of Brand Name or Equivalent Specifications.*

(1) Brand name or equivalent specifications may be used when the City determines that: a. no other design, performance, or qualified product list is available; b. time does not permit the preparation of another form of purchase description, not including a brand name specification; c. the nature of the product or the nature of the City requirements makes use of a brand name equivalent specifications suitable for the procurement; or d. use of brand name or equivalent specification is in the City's best interest.

(2) Designation of Several Brand Names. Brand names or equivalent specifications shall seek to designate three, or as many different brands as are practicable, as "or equivalent" references and shall further state the substantially equivalent products to those designated may be considered for award.

(3) Required Characteristics. The brand name or equivalent specifications shall include a description of the particular design, functional, or performance characteristics required.

(4) Nonrestrictive Use of Brand Name or Equivalent Specifications. Where a brand name or equivalent specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition.

(5) Determination of Equivalents. Any prospective bidder may apply, in writing, for a pre-bid determination of equivalence by the Purchasing Officer. If sufficient information is provided by the prospective bidder, the Purchasing Officer may determine, in writing and prior to the bid opening time, that the proposed product would be equivalent to the brand name used in the solicitation.

(6) Specifications of Equivalents Required for Bid Submittal. Vendors proposing equivalent products must include in their bid submittal the manufacturer's specifications for those products. Brand names and model numbers are used for identification and reference purposes only.

(7) Use of Brand Name Specifications. Since the use of a brand name specification is restrictive of product competition, it may be used only when the Purchasing Officer makes a determination that only the identified brand name item will satisfy the City needs.

(n) *City Procurement Records.* All determinations and other written records pertaining to the solicitation, award, or performance of a contract shall be maintained for the City in a contract file. All procurement records shall be retained and disposed of by the City in accordance with records retention guidelines and schedules established by the State of Florida and Federal Guidelines. For CDBG related activities that retention period is six years.

(o) *Federal Policy Notice:*

(1) Patents

If a contract involving research and development, experimental, or demonstration work is being funded in whole or in part by assistance from a federal agency, then the contract shall include the following provisions:

a. Notice to Contractor. The contract shall give notice to the contractor of the applicable grantor agency requirements and regulations concerning reporting of, and rights to, any discovery or inventions arising out of the contract.

b. Notice by Contractor. The contract shall require the contractor to include a similar provision in all subcontracts involving research and development, experimental, or demonstration work.

(2) Notice of Federal Public Policy Requirements

a. Applicability. If the contract is being funded in whole or in part by assistance from any federal agency, the contract is subject to one or more federal public policy requirements such as:

- (1) equal employment opportunity;
- (2) Copeland "anti-kickback" Act;
- (3) Davis Bacon Act;
- (4) Contract Work Hours and Safety Act;

(5) Americans with Disabilities Act; and

(6) Other requirements set forth in any contract.

b. Notice. The Purchasing Officer shall include in the contract all appropriate provisions giving the contractor notice of these requirements. Where applicable, the Purchasing Officer shall include in the contract provisions the requirement that the contractor give similar notice to all of its subcontractors.

c. Consistent with the Contract Provisions of 2CFR 200.326 and Appendix II of Part 200, federally funded contracts initiated by the City shall address the following:

(1) Contracts in excess of \$150,000 must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(2) Contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

(3) Equal Employment Opportunity (all federally assisted construction contracts).

(4) Davis-Bacon Act (for prime construction contracts in excess of \$2,000).

(5) Contract Work Hours and Safety Standards Act for construction contracts in excess of \$100,000.

(6) Rights to Inventions Made Under a Contract or Agreement.

(7) Clean Air Act and Federal Water Pollution Control Act (for contracts in excess of \$150,000).

(8) Byrd Anti-Lobbying Amendment (for contracts in excess of \$100,000).

(9) Debarment and Suspension.

(Ord. No. 2002-30, § 1, 11-19-02; Ord. No. 2003-16, § 1, 6-3-03; Ord. No. 2011-32, § 1, 12-20-11; Ord. No. 2013-17, § 1, 11-5-13; Ord. No. 2017-18, § 1, 10-17-17; Ord. No. 2019-07, § 1, 11-05-2019)

§ 2-487. Acquisition procedures for community development block grant program.

(a) *Voluntary acquisition.*

(1) A voluntary acquisition occurs when real property is acquired from an owner who has submitted a proposal to the recipient for purchase of their property in response to a public invitation or solicitation of offers. The local governing body is committed to this mode of acquisition to the maximum practicable extent.

(2) Voluntary acquisition shall be permitted only if the property being acquired is not site specific and at least two (2) properties in the community meet the criteria established by the local government for usage, location and/or interest to be acquired. All voluntary acquisitions must be approved in principle by the elected governing body prior to publication of a public notice or attendance of any local government representative at a property auction.

(3) A public notice must be published inviting offers from property owners. This notice must:

- a. Accurately describe the type, size and approximate location of the property it wishes to acquire;
- b. Describe the purpose of the purchase;
- c. Specify all terms and conditions of sale, including maximum price;
- d. Indicate whether or not an owner-occupant must waive relocation benefits as a condition of sale;
- e. Announce a time and place for offers to be accepted; and
- f. Announce that local powers of condemnation shall not be invoked to acquire any property offered for which a mutually agreed to sale price cannot be reached.

(4) Property may also be acquired at auction. The Uniform Relocation Act does not apply to voluntary acquisitions.

(5) In each voluntary acquisition, a public solicitation shall occur. Offers shall be sealed and opened at the same time, in the same place, by a responsible official. Records of offers shall be kept. Appraisals are not required for purchases less than two thousand five hundred dollars (\$2,500.00) if a mutually agreed to sales price can be reached. Clear title must be present in every transaction. The local governing body must decide at the time of approving the acquisition whether or not appraisals and review appraisals will be necessary and what the maximum permissible sales price will be. The decision to acquire will rest with the governing body which can reject or accept any and all offers. Written records shall be maintained documenting decisions and rationale for selected course of action.

(b) Non-voluntary acquisition.

(1) Acquisition of property (including easements and right-of-way) using federal funds shall occur in accordance with the Uniform Relocation Act of 1970 (as amended) and with any state and federal regulations which may apply.

(2) Fundamental steps which will occur in each purchase may vary case by case. However, in general terms, the following should take place: (1) source of funds and authority to acquire confirmed; (2) property/site identified and suitable; (3) legal description/survey/preliminary title search performed (services procured as necessary); (4) notice of intent to acquire sent owner; (5) appraisal and review appraisal services solicited and appraiser retained; (6) appraisal received and sent for review; (7) title companies solicited and retained after review received (title insurance amount and necessity determined in advance); (8) offer to purchase and notice of just compensation sent owner; (9) owner contacted by attorney or other representative and contract formalized; (10) settlement costs calculated and closing date set; (11) closing conducted with funds changing hands; and (12) records of proceedings retained.

(3) The Uniform Relocation Act requires certain specific procedures such as some letters sent being sent certified. The CDBG Implementation Manual provides a checklist which may be utilized in following each transaction to successful conclusion.

(c) Timing and planning.

(1) Properties necessary for easements or acquisition shall be identified as early in the planning stage as is practicable. Every attempt shall be made to effect a design which is not wholly site dependent, that is, where two (2) or more sites are suitable for the project. It is recognized this may not always be possible, however, a policy of minimizing single site alternatives is emphasized.

(2) The voluntary acquisition process shall be utilized to identify possible sites early in the project. Sites shall be evaluated for suitability prior to the final design phase to the maximum practicable extent. As soon as alternative sites are identified and evaluated, applicable acquisition procedures should commence.

(3) Projects shall not normally be sent out for bids unless properties to be acquired or utilized for easements have been formally acquired or a commitment exists which is sufficiently firm and binding to be considered safe for the project to proceed with startup. The elected body shall make the determination as to whether or not bidding, award and start up may proceed prior to closing on the property.

(4) In those cases where need for easements and/or acquisition is not identified until after the project is underway, procedures shall be expedited to the maximum practicable extent and utilization of funds, the value of which would be unrecoverable if the transaction did not occur, minimized.

(d) *Applicability.* The policies and procedures contained in this section shall be applicable to all acquisitions of property involving CDBG funds.

(Ord. No. 2002-30, § 1, 11-19-02; Ord. No. 2003-16, § 1, 6-3-03; Ord. No. 2011-32, § 1, 12-20-11; Ord. No. 2013-17, § 1, 11-5-13)

Article V. Financial Administration

Division 1. Investment Of Public Funds

§ 2-500. Definitions.

When used in this division, the following words, terms or phrases shall have the meanings ascribed to them in this section unless the context clearly indicates otherwise:

Agencies. Federal agency securities.

Bankers' acceptance. A draft or bill of exchange accepted by a bank or trust company. The accepting institution guarantees payment of the bill, as well as the issuer.

Certificate of deposit (CD). A time deposit with a specific maturity evidenced by a certificate. Large-denomination CD's are typically negotiable.

Collateral. Securities, evidence of deposit or other property which a borrower pledges to secure repayment of a loan.

Counterparty. A party, other than the city, to a hedge agreement.

Diversification. Dividing investment funds among a variety of securities offering independent returns.

Hedge agreement. An interest rate exchange agreement, an interest rate agreement, forward purchase contract, put option contract, call option contract or other financial product, any of which is used by the city as a hedging device, entered into between the city and a counterparty; provided that such counterparty shall be an entity whose long-term debt obligations, or whose payment obligations under the hedge agreement are guaranteed by an entity whose senior long-term debt obligations, in either case are rated (on the date the hedge agreement is entered into) by at least two (2) nationally recognized rating agencies in a rating category not less than double-A category without regard to gradations.

Interest rate agreement. An agreement between the city and a counterparty under which the city is obligated to make periodic payments on a "notional amount" to the counterparty and the counterparty is obligated to make periodic payments to the city on such "notional amount" on a different basis or formula, and under which the amounts so payable by the city and such counterparty on any date are netted against each other with the party owing the larger amount making a net payment to the other party.

Liquidity. A liquid asset is one that can be converted easily and rapidly into cash without a substantial loss of value.

Market value. The price at which a security is trading and could presumably be purchased or sold.

Master repurchase agreement. A written contract covering all future transactions between the parties to repurchase agreements that establishes each party's rights in the transactions. A master repurchase agreement will often specify, among other things, the right of the buyer-lender to liquidate the underlying securities in the event of default by the seller-borrower.

Maturity. The date upon which the principal or stated value of an investment becomes due and payable.

Portfolio. Collection of securities held by an investor.

Repurchase agreement (REPO). Securities sold to an investor by the holder with an agreement to repurchase them at a fixed price on a fixed date. The security "buyer," in effect, lends the "seller" money for the period of the agreement, and the terms of the agreement are structured to compensate the "buyer" for this.

Safekeeping. A service to customers rendered by banks for a fee whereby securities are held in the bank's vaults for protection.

SBA. The Florida Local Government Surplus Funds Trust Fund; the aggregate of all funds from political subdivisions that are placed in the custody of the state treasurer for investment and reinvestment.

(Ord. No. 95-44, § 1, 12-19-95; Ord. No. 2003-35, § 1, 12-2-03)

§ 2-501. Scope.

(a) There is hereby established an investment policy for the investment of surplus public funds of the City of Lake Wales in accordance with F.S. § 218.415, which applies to all investments of the city's pooled cash and includes cash and investment balances of the following funds:

(1) General fund.

(2) Special revenue funds.

Airport fund

AWARE fund

CRA fund

Library fund

Transportation fund

(3) Enterprise funds.

Cemetery fund

Sewer fund

Waste disposal fund

Water fund

(4) Debt service fund.

(5) Capital projects fund.

(6) Any new fund created by the city, unless specifically exempted by the city commission.

(b) The policies set forth in this division do not apply to the three (3) employee pension funds of city, depositories for deceased debt, or assets under bond trust indenture agreements, when held by third party custodians and/or money managers.

(c) All financial assets held or controlled by the city, not otherwise classified as restricted assets requiring separate investing, shall be identified as "general operating funds" of the city for the purpose of this policy, and shall be invested under the guidelines as herein set forth.

(Ord. No. 95-44, § 1, 12-19-95)

§ 2-502. Delegation of authority; establishment of investment committee. [Repealed]

Effective: Tuesday, February 07, 2017

(a) Responsibility for the administration of the investment program is hereby delegated to the city manager. The finance director will be responsible for developing and executing internal controls and monitoring the activities of subordinate staff necessary to implement the city's investment policy.

(b) An investment committee will be appointed in accordance with City of Lake Wales Code section 2-26 for the purpose of formulating alternative investment strategies and short-range directions and for monitoring the performance and structure of the portfolio within established policies. The committee will formulate and recommend change, if necessary, to the investment policies. Members of the committee shall include the city manager, a city commissioner, the finance director, and two (2) members of the public who are eligible for board appointment in accordance with Code section 2-26 and who are qualified to perform the duties assigned to the committee. Public members shall be appointed by the city commission to serve four (4) year terms. The investment committee shall meet on a quarterly basis or as needed.

(Ord. No. 95-44, § 1, 12-19-95; Ord. No. 2017-02, § 9, 02-07-2017)

§ 2-503. Investment objectives.

The following investment objectives will be applied in the management of the city's funds.

(a) *Safety of capital.* Safety of principal is the primary objective of the City of Lake Wales. Each investment shall be executed to ensure that capital (principal) losses are avoided, whether from market value fluctuations or credit erosion.

(b) *Liquidity.* The investment strategy must provide sufficient liquidity to meet the city's operating, payroll and capital requirements. The city's portfolio must always encompass the ability for quick conversion to cash without loss of principal to meet cash flow requirements.

(c) *Return on investments.* In investing public funds, the city will strive to maximize the return on the portfolio and to preserve the purchasing power but will avoid assuming unreasonable investment risk.

(Ord. No. 95-44, § 1, 12-19-95)

§ 2-504. Performance measurement.

The city seeks to optimize return on investments within the constraints of safety and liquidity. The investment portfolio shall be designed with the annual objective of equaling or exceeding the average annual return earned on investments held by the Florida Local Government Surplus Funds Trust Fund (SBA).

(Ord. No. 95-44, § 1, 12-19-95)

§ 2-505. Prudence and ethical standards.

(a) The "prudent person" standard shall be used in the management of the overall investment portfolio. The city manager, acting as a "prudent person" in accordance with these written policies and procedures, and exercising due diligence, shall not be responsible for an individual security's credit risk or market price changes provided that appropriate monitoring efforts are performed.

(b) The "prudent person standard" is herewith understood to mean the following: "Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived."

(Ord. No. 95-44, § 1, 12-19-95)

§ 2-506. Authorized instruments of investment.

The city shall purchase or sell investment securities at prevailing market rates. Authorized instruments are as follows:

(1) The Florida Local Government Surplus Funds Trust Fund (SBA).

(2) Negotiable direct obligations, or obligations the principal and interest of which are unconditionally guaranteed by the United States government. Such securities will include, but not be limited to, the following:

a. Cash management bills.

b. Treasury securities—State and local government series (SLGS).

c. Treasury bills.

- d. Treasury notes.
- e. Treasury bonds.
- f. Treasury strips.

(3) Bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by United States agencies, provided such obligations are backed by the full faith and credit of the United States Government. Such securities will include, but not be limited to, the following:

- a. United States Export-Import Bank Direct obligations or fully guaranteed certificates of beneficial ownership.
- b. Farmers Home Administration Certificates of beneficial ownership.
- c. Federal Financing Bank Discount notes, notes and bonds.
- d. Federal Housing Administration Debentures.
- e. General Service Administration Participation Certificates.
- f. Government National Mortgage Association (GNMA).
 - Guaranteed mortgage-backed bonds.
 - Guaranteed pass-through obligations.
- g. United States Maritime Administration Guaranteed Title XI.
- h. New Communities Debentures United States Government guaranteed debentures.
- i. United States Government Guaranteed Public Housing Notes and Bonds.
- j. United States Department of Housing and Urban Development Project notes and local authority bonds.

(4) Bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by United States government agencies (federal instrumentalities) which are nonfull faith and credit agencies limited to the following:

- a. Federal Farm Credit Bank (FFCB).
- b. Federal Home Loan Bank or its district banks (FHLB).
- c. Federal National Mortgage Association (FNMA).
- d. Federal Home Loan Mortgage Corporation (Freddie-Macs) including Federal Home Loan Mortgage Corporation participation certificates.
- e. Student Loan Marketing Association (Sallie-Mae).

(5) Nonnegotiable interest bearing time certificates of deposit or savings accounts in banks organized under the laws of this state and/or in national banks organized under the laws of the United States and doing business in this state, provided that any such deposits are secured by the Florida Security for Public Deposits Act, F.S. ch. 280, and provided that the bank is not listed with any recognized credit watch information service.

(6) Repurchase agreements comprised of only those investments as authorized in paragraphs (b) and (d) above.

(7) Bankers' Acceptances which are inventory-based and issued by a domestic bank which has an unsecured, uninsured and unguaranteed obligation rating of at least "Prime-1" and "A" by Moody's Investors Service and "A-1" and "A" by Standard & Poor's Corporation and ranked in the top fifty (50) United States banks in terms of total assets by the American Banker's yearly report.

(8) Commercial Paper of any United States company which are rated, at the time of purchase, "Prime-1" by Moody's and "A-1" by Standard & Poor's (prime commercial paper); if backed by a letter of credit (LOC), the long-term debt of the LOC provider must be rated at least "A" by at least two (2) nationally recognized rating agencies, and the LOC provider must be ranked in the top fifty (50) United States banks in terms of total assets by the American Banker's yearly report.

(9) State and/or local government taxable and tax-exempt debt, general obligation and/or revenue bonds rated at least "Aa" by Moody's and "AA" by Standard & Poor's for long-term debt, or rated at least MIG-1 by Moody's and SP-2 by Standard & Poor's for short-term debt.

(10) Fixed income mutual funds comprised of only those investment instruments as authorized in paragraphs (2), (3), (4), and (9) above.

(Ord. No. 95-44, § 1, 12-19-95)

§ 2-507. Maturity and liquidity requirements.

To meet the day-to-day operating needs of the city and to provide the ready cash to meet unforeseen temporary cash requirements, the general operating pool shall maintain a minimum of five hundred thousand dollars (\$500,000.00) in liquid investments defined as repurchase agreements purchased under the terms of the city's depository contract, open repurchase agreements, negotiable certificates of deposit, banker's acceptances, commercial paper, U.S. Treasury direct and agency obligations all having a maturity of sixty (60) days or less, and the SBA Local Government Pool, all as purchased under the dictates of this policy.

(Ord. No. 95-44, § 1, 12-19-95)

§ 2-508. Portfolio composition.

Guidelines for investments and limits on security issues, issuers, and maturities established by this investment policy are incorporated into this division as Exhibit A. The city manager shall have the option to further restrict or increase investment percentages from time to time based on market conditions. Any changes to the established portfolio composition must be documented in writing, reviewed by the investment committee and approved by resolution of the city commission. Purchase of investments based on bond covenant requirements are excluded from the portfolio's composition calculations.

(Ord. No. 95-44, § 1, 12-19-95)

§ 2-509. Risk and diversification.

Assets held shall be diversified to control the risk of loss resulting from over concentration of assets in a specific maturity, issuer, instrument, dealer, or bank through which these instruments are bought and sold. Diversification strategies within the established guidelines shall be reviewed and revised periodically as necessary by the investment committee.

(Ord. No. 95-44, § 1, 12-19-95)

§ 2-510. Investment institutions and dealers.

(a) The city shall only purchase securities from financial institutions which are qualified as public depositories by the Treasurer of the State of Florida or from primary securities dealers as designated by the Federal Reserve Bank of New York.

(b) Repurchase agreements shall only be entered into with primary security dealers and financial institutions which are state-qualified public depositories. The city manager will require a master repurchase agreement to be executed prior to any repurchase transactions.

(Ord. No. 95-44, § 1, 12-19-95)

§ 2-511. Third-party custodial agreements.

(a) All securities purchased by the city under this investment policy shall be properly designated as an asset of the city and held in safekeeping by a third party custodial bank or other third party custodial institution, chartered by the United States government or the State of Florida and no withdrawal of such securities, in whole or in part, shall be made from safekeeping except by the city manager or his designee.

(b) The strongest assurance and control that the securities have been properly segregated on behalf of the city is provided by an independent third-party custodian. In addition, it may be appropriate to accept confirmation from the trust company affiliated with the other party of the transaction. Assurances shall be obtained that the structure of this affiliation is such that the two (2) entities are fully independent of each other, that controls are adequate and that the city's security interest in the assets is not lost.

(c) The city will execute third-party custodial agreements with its bank(s) and depository institution(s). Such agreements shall include letters of authority from the city that details the responsibilities of each party, notification of security purchases, sales, delivery, repurchase agreements, wire transfers, safekeeping and transactions costs, procedures in case of wire failure or other unforeseen mishaps including liability of each party.

(d) An exception to this method of control will be the safekeeping of nonnegotiable bank certificates of deposit which would require physical delivery without systematic handling found commonly with book entry securities.

(Ord. No. 95-44, § 1, 12-19-95)

§ 2-512. Master repurchase agreements.

The city manager will require all approved institutions and dealers transacting repurchase agreements to execute and perform as stated in the master repurchase agreement. All repurchase agreement transactions will adhere to requirements of the master repurchase agreement.

(Ord. No. 95-44, § 1, 12-19-95)

§ 2-513. Bid requirements.

(a) When purchasing or selling securities, the city shall select the security which provides the highest rate of return within the parameters of this policy and which meets the current objectives and needs of the city's portfolio. Selections shall be made utilizing one (1) of the following methods:

(1) Competitive bids, wherein the city solicits proposals from a minimum of three (3) firms.

(2) Comparison to the current market price as indicated by one (1) of the market pricing resources available to the city. These resources include, but are not limited to:

a. Bloomberg Information Delivery System.

b. Wall Street Journal, or a comparable nationally recognized financial publication providing daily market pricing.

c. Daily market pricing provided by the city's custody agent or their correspondent institution.

(b) In most situations, the city shall utilize the competitive bid process to select the securities to be purchased or sold. Selection by comparison to a current market price, as indicated in paragraph (a)(2), shall be utilized when in the judgment of the city manager, competitive bidding would inhibit the selection process. Examples of when this might occur are:

(1) When a dealer brings to the city an unsolicited swap or proposal.

(2) When no active market exists for the issue being traded due to the age or depth of the issue.

(3) When time constraints due to unusual circumstances preclude use of the bidding process.

(4) When a security is unique to a single dealer.

(5) When the transaction involves new issues or issues in the "when issued" market.

(c) When using the competitive bid process, all bids shall become part of the record of the specific security involved. When selection is made based on comparison to current market price, the following information shall become part of the record of the security involved:

(1) Reason for use of this method.

(2) Source of the current market value used.

(3) Price and/or interest rate quoted by said source.

(Ord. No. 95-44, § 1, 12-19-95)

§ 2-514. Internal controls.

The finance director will establish a system of internal controls which will be documented in writing. The internal controls will be reviewed and approved by the investment committee. The controls will be designed to prevent losses of public funds arising from fraud, employee error, misrepresentation by third parties, unanticipated changes in financial markets, or imprudent action by employees and officers of the city.

(Ord. No. 95-44, § 1, 12-19-95)

§ 2-515. Reporting.

A portfolio report will be provided to the city commission on a quarterly basis. The report shall include a breakdown of the portfolio as well as its overall performance during that period. A recapitulation report will be provided to the city commission on an annual basis.

(Ord. No. 95-44, § 1, 12-19-95)

§ 2-516. Resolution of conflicts.

In any instance where the permitted investments authorized in this policy are in conflict with permitted investments specified in any resolution or agreement approved by the city commission related to short-term or long-term debt issuances of the City of Lake Wales, then the provision of the debt-related resolution or agreement will prevail.

(Ord. No. 95-44, § 1, 12-19-95)

Division 2. Agreements

§ 2-517. Hedge agreements.

With the approval of the city commission, the city may enter into one (1) or more hedge agreements, including interest rate agreements; provided, however, the finance director, or any other official responsible for making and managing such hedge agreement(s), shall have developed sufficient understanding of the hedge agreement(s) and have the expertise to manage the hedge agreement(s).

(Ord. No. 2003-35, § 1, 12-2-03)

Division 3. Establishing Rules For Administration And Use Of Funds In Emergency Sinking Accounts

§ 2-550. Definitions.

For the purpose of this division the following words, terms or phrases shall have the meaning ascribed to them in this section unless the context clearly indicates otherwise:

Emergency sinking account. Checking, saving and/or investments accounts.

Non-discretionary spending. Spending that is required by a contract or other commitment.

Operating expenditures. Appropriated financial resources necessary for the operational costs, excluding:

- (a) Capital expenditures;
- (b) Debt service;

(c) Depreciation/amortization; and

(d) Transfers to other funds.

(Ord. No. 2011-11, § 1, 7-19-11)

§ 2-551. Creation of reserve accounts.

There is hereby created, in each of the various governmental fund types (general fund, special revenue funds, debt service funds, and capital projects funds) and proprietary fund type (enterprise funds) of the city, reserve accounts equal to the following:

(1) *General fund—Emergency sinking account.* In the general fund, there shall be created an emergency sinking account with a lower limit of fifteen (15) percent and an upper limit of twenty (20) percent of general fund operating expenditures calculated based on the original adopted fiscal year budget. The purposes of the sinking account shall be:

- a. To advance the funds necessary to pay for non-discretionary expenses such as payroll and insurance premiums that must be paid during the first quarter of the fiscal year and that will be reimbursed when ad valorem revenues are received; and
- b. To advance the funds necessary to pay for construction of grant-funded projects that will be reimbursed by federal or state agencies; and
- c. To advance financial resources necessary for responding to emergencies that will be reimbursed by insurance proceeds or grants from FEMA or other federal or state agencies; and
- d. To mitigate current and future revenue shortfalls, unanticipated expenditures, and to ensure stable tax rates.

(2) *Special revenue funds.* By definition, special revenue funds are created to account for the proceeds of specific revenue sources (other than expendable trusts or for major capital projects) that are legally committed to expenditure for specified purposes. As such, no specific reservation of funds is created by virtue of enactment of this division; rather the amount of any reservation of funds shall be governed by the legal authority underlying the commitment.

(3) *Debt service fund.* Debt service funds are typically subjected to the creation of very specific committed amounts as a part of the ordinance or resolution which authorizes the issuance of the debt instrument which is being repaid. Therefore, this policy does not create any specific reservation of funds within the debt service fund; rather, reserve requirements for any outstanding city debt instruments will be as derived from the ordinance or resolution authorizing the issuance of the debt.

(4) *Capital projects fund.* The capital projects fund was created to account for financial resources to be used for the acquisition and construction of major capital facilities and improvements. Occasionally, these projects may extend beyond a single fiscal year. At a minimum at fiscal year-end committed funds, coupled with estimated revenues for the ensuing fiscal year, must be sufficient to fund all outstanding fund obligations.

(5) *Utility system—Emergency sinking account.* In the utility system fund, there shall be created an emergency sinking account with a lower limit of fifteen (15) percent and an upper limit of twenty (20) percent of utility system operating expenses based on the original adopted fiscal year budget. The purposes of the sinking account shall be:

- a. To advance the funds necessary to pay for construction of grant-funded projects that will be reimbursed by federal or state agencies; and
- b. To advance financial resources necessary for responding to emergencies that will be reimbursed by insurance proceeds or grants from FEMA or other federal or state agencies; and
- c. To mitigate current and future revenue shortfalls, unanticipated expenditures, and to ensure stable fee structure.

(Ord. No. 2011-11, § 1, 7-19-11)

§ 2-552. Surplus.

In the event the emergency sinking account balance exceeds the amounts set forth within the upper limit the surplus may be utilized for any lawful purpose. The following priorities are recommended:

- (1) *Reduction or avoidance of debt.* If there is short-term debt within the fund the surplus may be applied to reduce or eliminate the debt if financial analysis proves this to be advantageous for the city.
- (2) *One-time capital needs.* Since a surplus does not represent a recurring source of revenue it should not be used to fund a recurring expense; however, if a one-time capital expenditure has been identified, but is not already funded through an appropriation, the surplus may be appropriated for this use.
- (3) *Tax, fee, or rate stabilization.* Surplus funds may be designed for stabilization in order to avoid raising taxes, fees, or rates related to a fund in subsequent years.

(Ord. No. 2011-11, § 1, 7-19-11)

§ 2-553. Shortfall.

If it is determined there is a shortfall (an amount below the lower limit of the sinking account range), the sinking account balance is to be rebuilt through the following mechanism:

An appropriation during the next annual budget process of at least ten (10) percent of the lower limit of the sinking account range until the lower limit has been reached. If this is financially infeasible, a written plan shall be forwarded by the city manager to the commission for approval in order to restore the sinking account balance to an amount within the range within a reasonable time frame. The plan may require reduction of services, increases in taxes, fees, or rates, or some combination thereof.

(Ord. No. 2011-11, § 1, 7-19-11)

Division 4. Debt Policy

§ 2-571. Short title.

This division shall be known as and referred to as the "Lake Wales Debt Policy."

(Ord. No. 2013-03, § 1, 2-5-13)

§ 2-572. Introduction.

One of the most important responsibilities of a city is to ensure that the needs of its citizens are met. The city commission's preferred method of funding is "pay-as-you-go" capital planning. As with all purchases, if the city were able to purchase capital items without the use of financing options this would result in the lowest overall cost but the greatest single annual cash flow decrease. The issuance of debt has historically provided governments with a major source of funding for capital needs. Because of the high cost of acquiring or replacing capital assets, governments are often not in a position to be able to accumulate enough cash from current receipts to pay for necessary improvements. Debt permits governments to acquire assets as needed rather than wait until a sufficient amount of cash has been accumulated to begin capital projects or improvements.

Debt issuance is subject to close public scrutiny, because it involves raising large amounts of money, which obligates future generations of taxpayers. The decision to issue debt has far-reaching consequences by committing the city's revenues for future periods, and hence, limiting the city's flexibility in responding to changing service priorities, revenue inflows, or cost structures. The debt issuance process is complex; therefore, it is important that city officials recognize the need to understand and formalize a process in order to make informed and objective judgments with respect to the many decisions that are necessary to successfully complete a debt transaction.

The foundation of any well-managed debt program is a comprehensive debt policy. A debt policy sets forth the parameters for issuing and managing debt and provides guidance to decision makers, helping to ensure that debt is issued prudently and is affordable. A debt policy recognizes a long-term binding commitment to full and timely repayment of all debt as an intrinsic requirement for entry into the capital markets. Adherence to a debt policy helps to ensure that the city maintains a sound debt position and that its credit quality is protected. A debt policy is beneficial because it enhances the quality of decisions, rationalizes the decision-making process, identifies objectives to be implemented, and demonstrates a commitment to long-term financial planning objectives. A consistently applied debt policy provides evidence to the rating agencies of a community's commitment to sound financial management and controlled borrowing practices. As such, it is regarded positively in evaluating a city's creditworthiness. It is important that the debt policy be reviewed and updated on a regular basis to insure the use of the city's resources to meet its commitment to provide needed services to its citizens and to maintain sound financial management practices.

(Ord. No. 2013-03, § 1, 2-5-13)

§ 2-573. Purpose.

The City of Lake Wales Debt Policy ("debt policy") is intended to establish a framework for debt issuance and to provide general direction in the planning, implementation and maintenance of the city's debt program. The debt policy is designed to:

- (1) Promote attainment of financial, planning and management objectives;
- (2) Take a comprehensive approach to affordability;
- (3) Reflect the community attitudes and government philosophy; and
- (4) Set limits while preserving flexibility.

The debt policy will provide guidance to city officials on how to integrate the issuance of debt with other long-term planning, financial and management objectives; evaluate the impact of each issue on the city's overall financial position; and provide guidance so as not to exceed acceptable levels of indebtedness.

While the debt policy establishes a framework for debt issuance, it is written to be sufficiently flexible to permit the city to take advantage of market opportunities and to respond to changing conditions without jeopardizing essential public services.

(Ord. No. 2013-03, § 1, 2-5-13)

§ 2-574. Purpose for which debt may be issued.

The city will consider long-term financing for the acquisition, maintenance, replacement, or expansion of physical assets (including land) with a useful life of at least five (5) years. The repayment term of any debt should not exceed seventy (70) percent of the asset(s) estimated useful life. (Example: If the estimated use life of an asset is ten (10) years, the debt issuance for this item should not exceed seven (7) years.) In the situation of multiple assets being financed within one (1) debt issuance, an averaging of the multiple estimated useful lives and variable costs shall be considered by the city commission relating to the debt financing terms for both reasonableness and cost efficiency. The city normally will rely on internally generated funds and/or grants and contributions from other governments to finance its capital needs. Debt will be issued for a capital project only in the case of emergency or when it is an appropriate means to achieve a fair allocation of costs between current and future beneficiaries. Debt shall not, in general, be used for projects solely because insufficient funds are budgeted at the time of acquisition or construction.

(Ord. No. 2013-03, § 1, 2-5-13)

§ 2-575. Moral obligation pledges.

Recognizing that a city's potential can be measured by the service delivery of its infrastructure, it is the responsibility of the city's officials to:

- (1) Recognize the city's limited inventory of pledgable revenues and the need to manage the use/commitment of these revenues as the consumption of a scarce resource;
- (2) Maintain the current systems, structures and facilities and their service delivery potential and to add building blocks (additions, modifications and expansion) as needed;
- (3) Ensure that decision making with regard to city debt will focus on the need to measure interperiod equity between fiscal years and generations of taxpayers, users and other beneficiaries. Take actions to ensure the fair distribution of costs between periods while equally striving to maintain future flexibility to address unanticipated capital requirements;
- (4) Employ the use of debt to complement, and not in lieu of significant recurring commitments of annual appropriations for capital purposes;
- (5) Act as fiduciaries, for their time as responsible officials, to ensure that each transfers to their successors a city in at least as good a shape (financial, physical, service delivery potential, etc.) as they received from their predecessors; and

(6) Maintain the city's sound financial position, reasonable reserves and positive debt posture and thereby enhance the city's flexibility and related ability to meet the challenges of its future generations.

(Ord. No. 2013-03, § 1, 2-5-13)

§ 2-576. Categorization of debt.

(a) *Self-supporting debt.* To be considered self-supporting, a propriety or governmental debt program will:

- (1) Be payable exclusively from non-general fund revenues; and
- (2) In the case of governmental debt, be secured by a revenue source which has been in effect for at least three (3) years, and would have provided coverage of at least one hundred twenty-five (125) percent of the average annual debt service on such obligations; or if the revenue source has not been in existence for at least three (3) years, be secured by a revenue source that would have provided coverage of at least one hundred twenty-five (125) percent of the average annual debt service on such obligation for at least the last full fiscal year preceding the issuance of such obligations and is projected to provide at least one hundred twenty-five (125) percent debt service coverage for each of the next two years;
- (3) In the case of proprietary fund debt or special assessment debt, be secured by a revenue source which would provide a coverage in each fiscal year of at least one hundred twenty-five (125) percent of the annual debt service in such fiscal year.
- (4) It is anticipated through financial forecasts that no inter-fund contributions from the general fund, without commission approval or consent, to the specific proprietary or governmental fund will be required to make up an operating short fall.

For purposes of calculating the coverage requirements, historical and projected receipts of a particular revenue source will be adjusted retroactively to the initial date of the calculation period to reflect changes in rates or levies enacted.

(b) *Non self-supporting.* Includes all debt of the city that does not meet the definition of self supporting debt.

(Ord. No. 2013-03, § 1, 2-5-13)

§ 2-577. Debt limitations.

(a) *Self-supporting debt.* For the city to issue self-supporting governmental debt, revenues, as defined under the resolution authorizing the revenue bonds in question, shall be a minimum of one hundred twenty-five (125) percent of the debt service for the year in which requirements are scheduled to be the greatest. For proprietary debt, revenues shall be a minimum of one hundred twenty-five (125) percent of the annual debt service in such fiscal year. Annual adjustments to the city's rate structures will be made as necessary to maintain the required coverage factors.

(b) *Non self-supporting debt.* The city shall conduct an objective analysis as to the community's ability to assume and support additional debt service payments before the issuance of non-self supported debt. The city shall use an analytical approach for its determination. This process shall compare generally accepted standards of affordability to the current values for the city.

(1) These standards shall include (1) debt per capita, (2) debt as a percent of taxable value, (3) debt service payments as a percent of current revenues and current expenditures, and (4) the level of overlapping net debt of all local taxing jurisdictions.

(2) An examination the direct costs and benefits of the proposed expenditures.

(3) Staff shall provide the city commission with a "financial condition assessment" based on financial indicators and benchmarks provided by the State of Florida Auditor General Office. Auditor general staff compile the information from audit reports and other sources. (Data source: http://www.myflorida.com/audgen/pages/fca_procedures.htm). Staff shall include an analysis of how any new debt would affect the city's financial condition.

The decision on whether or not to assume new debt shall be based on the identified costs and benefits, the current conditions of the municipal bond market, and the city's ability to "afford" new debt as determined by the aforementioned standards. The city shall strive to achieve and/or maintain these standards at a low to moderate classification.

(c) *Debt burden measures.* For the purposes of measuring the general government debt capacity, the city includes all non self-supporting debt under the definition of general government debt. These are the programs whose expenditures for debt service are in direct competition with other general fund expenditures. Additionally, the city considers all tax supported debt to include all non self-supporting debt, as well as the self-supporting governmental debt. This distinction recognizes that self-supporting proprietary programs should be measured by comparing the user rates of comparable governmental providers, and that such programs do not directly or indirectly place a burden on taxpayers in the form of increased taxes. As long as each system's user rates meet the needs of both operations and debt service, the debt program is not considered part of either the general government or tax supported debt of the city.

(d) *The city commission commits to:*

(1) Act with regard to self-supporting proprietary operations, when necessary, to increase rates to ensure that each operation maintains rate coverage (revenue to debt service ratios) as required by the higher of either city policy or related debt covenants.

(2) Limit with regard to self-supporting governmental revenues, the level of annual debt service as a percentage of available annual revenues to ensure a reasonable ability to address recurring operations and maintenance and/or capital requirements on a pay-as-you-go basis.

(3) Establish with regard to all non self-supporting debt, debt limits to ensure current and future flexibility.

(Ord. No. 2013-03, § 1, 2-5-13)

§ 2-578. Types of debt permitted and the criteria for issuance.

(a) *Short term debt.* Current revenues and/or working capital reserves are expected to cover the expenses associated with the day-to-day operations of the city. However, short-term obligations may be issued to finance projects or portions of projects for which the city ultimately intends to issue long-term debt. Short term debt shall be defined as any debt that is fully due within a twelve-month period. It can be used to provide interim financing which will be refunded with the proceeds of long-term obligations. Interim financing may be appropriate when long-term interest rates are expected to decline in the future. In addition, some forms of short-term obligations can be obtained quicker than long term obligations and thus can be used in emergencies until long-term financing can be obtained.

The city will conduct an analysis of the cost differential of issuing short-term debt to provide for immediate needs versus long-term debt to cover both immediate and future needs taking into account the carrying costs of long term financing which does not have an immediate use.

(b) *Long term debt.* The city will consider the issuance of long-term debt under the following conditions:

(1) One (1) time capital projects or capital improvement projects, when the project is included in the city's capital improvement program and appropriated in the budget.

(2) An unusual equipment purchase for which it is determined to be economically beneficial for the city to purchase through financing. For unusual equipment purchases, city staff shall provide the city commission with a comparison of the annual cost of renting the equipment compared to the annual debt service obligation of purchasing the equipment. An estimate of the useful life expectancy of the equipment shall also be provided.

(3) When a project is not included in the city's capital improvement plan, but it is an emerging critical need whose timing was not anticipated or it is a project mandated immediately by state or federal requirements. An analysis of the project's impact on the city's capital improvement plan and future budget forecasts will be presented at the time of approval.

(4) To finance the acquisition or implementation of a self-supporting proprietary or governmental program/activity.

(c) *General obligation bonds.* When determined to be the most appropriate method of debt issuance, the city will seek approval through voter referendum to issue general obligation bonds. General obligation bonds are either backed by the full faith and credit of the city, with a pledge to levy the necessary ad valorem tax rate to meet the debt service requirements; or of a limited nature were the voters approve a specified millage rate to pledge.

(d) *Revenue debt.* As part of the city's financing activities, specific general fund revenue sources may be identified to pledge for repayment of revenue debt. Recognizing the limited capacity of the city's general fund to support both ongoing operating programs and secure debt obligations, use of the general fund to secure such obligations must be approved after careful review of financial forecasts. Key factors that will be considered in determining whether or not the general fund should be used to secure a particular debt obligation will include the following:

(1) Demonstration of underlying self-support, thus limiting potential general fund financial exposure.

(2) Use of general fund support as a transition to a fully stand alone credit structure, where interim use of general fund credit support reduces borrowing costs and provides a credit history for new or hard to establish credits.

(3) General fund support is determined by the city commission to be in the city's overall best interest.

The city will finance the capital needs of its revenue producing proprietary activities through the issuance of revenue-secured debt obligations. Prior to approval of such debt, the city commission will evaluate financial plans and projections showing the feasibility of the planned financing, required rates and charges needed to support the planned financing, and the impact of the planned financing on ratepayers, property owners, city revenues, and other affected parties. The amount of the debt obligations issued by a city will be limited by the feasibility of the overall financing plan on the proprietary activity.

(e) *Variable rate debt.* The city commission chooses not to issue securities that pay a rate of interest that varies according to pre-determined formula or results from a periodic remarketing of the securities, consistent with state law and covenants of pre-existing bonds, and depending on market conditions.

(f) *Leasing.* When found to be advantageous, the city may lease equipment and facilities rather than purchase them outright. Leasing may be appropriate for assets that will be needed for only a short period of time, or which are subject to rapid technological obsolescence. Leasing may also be determined to be appropriate for procuring assets that are too expensive to fund with current receipts in any one (1) year, but with useful lives too short to finance with long-term debt. The decision to lease will be supported by an analysis of lease vs. purchase.

(g) *Conduit debt.* Conduit debt are securities issued by a government agency to finance a project of a third party, such as a non-profit organization or other private entity. The city may sponsor conduit debt for those activities (e.g., economic development, housing) that have a general public purpose and are consistent with the city's overall service and policy objectives. Unless a compelling public policy rationale exists, such conduit debt will not in any way pledge the city's full faith and credit.

(h) *Taxable debt.* The cost of taxable debt is higher than tax exempt debt. The issuance of taxable debt is mandated in certain circumstances, and may allow valuable flexibility in subsequent contracts with users or managers of the improvement constructed with the debt proceeds. Therefore, the city may issue taxable obligations when determined to be the best method for the intended purpose.

(i) *Bond anticipation notes.* Use of short-term borrowing, such as bond anticipation notes and tax-exempt commercial paper, will be undertaken only if the transaction costs plus interest of the debt are less than the cost of internal financing, or available cash is insufficient to meet working capital requirements.

(j) *Interfund borrowing.* Interfund borrowing will be considered to finance high priority needs on a case-by-case basis, only when planned expenditures in the fund making the loan would not be affected. Interfund borrowing may be used when it would reduce costs of interest, debt issuance, and/or administration.

(k) *Other borrowing facilities.* The city may maintain or procure a special facility that will allow for borrowing on short notice, either in the form of short-term or long-term notes, for small amounts not economical to finance through a regular bond issuance. The facility can be used as an interim financing mechanism when cost effective.

(Ord. No. 2013-03, § 1, 2-5-13)

§ 2-579. Structural features that may be considered.

Debt will be structured to achieve the lowest possible net cost to the city given market conditions, the urgency of the capital project, and the nature and type of security provided. Moreover, to the extent possible, the city will design the repayment of its overall debt so as to recapture rapidly its credit capacity for future use. In general, there will be no debt structures that include increasing debt service levels in subsequent years, with the exception of the first and second year. There shall be no "balloon" bond repayment schedules that consist of low annual payments and one (1) large payment of the balance due at the end of the term. There shall always be at least interest paid in the first fiscal year after the bond issue.

(1) *Backloading.* The city will seek to structure debt with level principal and interest costs-over the life of the debt. Backloading of costs will only be considered in rare circumstances as follows:

- a. When natural disasters or extraordinary/unanticipated external factors make the short-term cost of the debt prohibitive;
- b. When the benefits derived from the debt issuance can clearly be demonstrated to be greater in the future than in the present;
- c. When such structuring is beneficial to the city's overall amortization schedule; or
- d. When such structuring will allow debt service to more closely match project revenues during the early years of the project's operation.

(2) *Call provisions.* The city seeks to minimize the protection from optional redemption given to bondholders, consistent with its desire to obtain the lowest possible interest rate on its debt. The city seeks early call options at low or no premiums to allow for refinancing of debt at greater interest savings, provided there is no interest rate penalty for early call. The city shall obtain advice from its financial advisor in the evaluation of optional call provisions for each issue to assure that the city does not pay unacceptably higher interest rates to obtain more advantageous call provisions.

(3) *Maturity of debt.* Debt will be structured for the shortest period consistent with a fair allocation of costs to current and future beneficiaries or users. Generally, debt maturity should be of a duration that does not exceed the economic life of the asset or improvement that it finances and where feasible should be shorter than the projected economic life, as extended by periodic renewal and component replacement.

(4) *Credit enhancements.* Credit enhancements are mechanisms that guarantee principal and interest payments. They include bond insurance, a line of credit or letter of credit. A credit enhancement, while costly, can result in a lower interest rate on debt and a higher rating from the rating agencies, thus lowering overall costs. During debt issuance planning, the city's financial advisor will advise whether or not a credit enhancement is cost effective under the circumstances and what type of credit enhancement if any, should be purchased. Credit enhancements may be used, but only when net debt service on the bonds is reduced by more than the costs of the enhancement.

(5) *Subordinate lien obligations.* Creation of subordinate lien financing structure, if appropriate, shall be based on the overall financing needs of the city, expected credit ratings, relative cost, and impact to the city.

(6) *Derivatives.* Excluding existing derivative debt obligations currently outstanding, the city commission chooses not to employ the use of derivative products that are authorized under applicable laws. Derivatives are contracts and financing agreements involving interest rate swaps, floating/fixed rate auction or reset securities, or other forms of debt bearing synthetically determined interest rates. The use of derivatives can minimize risk, reduce cost and provide flexibility, however they may also add risk, restrict flexibility and add cost.

Before entering into such contracts or agreements, a review committee consisting of at a minimum the city manager, finance director and the city's financial advisor shall be formed to review the risks and benefits of such financing techniques and expected impacts on the city's long-term financial operations and credit ratings. The committee's findings will be presented in a written report to the city commission for consideration.

(Ord. No. 2013-03, § 1, 2-5-13)

§ 2-580. Credit objectives.

The city seeks to hold the highest possible credit ratings that can be achieved without compromising delivery of basic city services and achievement of city policy objectives. The city recognizes that external economic, natural, or other events may from time to time affect the creditworthiness of its debt. Nevertheless, the city is committed to ensuring that actions within its control are financially prudent.

(Ord. No. 2013-03, § 1, 2-5-13)

§ 2-581. Methods of sale.

The city will select a method of sale that is the most appropriate in light of financial, market, transaction-specific and issuer-related conditions. When a sale is not competitively bid, the city will publicly present the reasons and will participate with the financial advisor in the selection of the underwriter or direct purchaser.

(1) *Competitive sale.* The city, as a matter of policy, shall seek to issue its debt obligations in a competitive sale unless it is determined that this method would not produce the best results for the city. The city, with assistance by its financial advisor, will set the terms of the sale as to encourage as many bidders as possible. In such instances where the city, in a competitive bidding for its debt securities, deems the bids received as unsatisfactory or does not receive bids, it may, at the election of the city commission, enter into negotiation for sale of the securities.

(2) *Negotiated sale.* When certain conditions favorable for a competitive sale do not exist and/or when a negotiated sale will provide significant benefits to the city that would not be achieved through a competitive sale, the city may elect to sell its debt obligations through a negotiated sale. Such determination may be made on an issue by issue basis, for a series of issues, or for part or all of a specific financing program.

(3) *Private placement.* When determined to be beneficial and appropriate, the city may elect to sell its debt obligations through a private placement or limited public offering.

(Ord. No. 2013-03, § 1, 2-5-13)

§ 2-582. Selection of professionals.

The city will employ outside specialists to assist in developing a bond issuance strategy, preparing bond documents, and marketing bonds to investors. When selecting a financing team the city will focus on professionals that have the necessary expertise to represent its interests and to successfully market its bonds. The city will retain professionals under procedures outlined in the city's procurement policies and procedures. The city will hire professionals with an understanding of the city's needs, experience with similar types of securities, knowledge of beneficial approaches to debt financing, an understanding of innovative debt financing methods which can reduce costs or provide greater flexibility, and an ability to complete the transaction in a timely manner without undue burden to the city.

(1) *Financial advisor.* The city will seek the advice of a financial advisor as needed. The financial advisor will advise on the structuring of obligations to be issued, inform the city of various options, advise the city as to how choices will impact the marketability of the city obligations and will provide other services as defined. To ensure independence, the financial advisor will not bid on nor underwrite any city debt issues.

(2) *Bond counsel.* The city will retain external bond counsel for all debt issues. All debt issued by the city will include a written opinion by bond counsel affirming that the city is authorized to issue the debt, stating that the city has met all state constitutional and statutory requirements necessary for issuance, and determining the debt's federal income tax status. The city attorney, as counsel for the issuer, will affirm the city's legal status and authority for borrowing in the manner contemplated.

(3) *Underwriters.* Underwriters will be required to demonstrate sufficient capitalization and experience related to debt issuance.

(Ord. No. 2013-03, § 1, 2-5-13)

§ 2-583. Refunding of debt.

Periodic reviews of all outstanding debt will be undertaken to determine refunding opportunities. Refunding will be considered if and when a net economic benefit is produced or the refunding is required in order to modernize debt covenants essential to operations and management. Advance refunding for economic savings will be undertaken when a targeted net present value savings of at least five (5) percent can be achieved or when a lower percentage is found to be in the best monetary interest of the city. Current refundings, which produce net present value savings, of less than five (5) percent will be considered on a case-by-case basis. Refunding with negative savings will not be considered unless there is a compelling public policy objective. The city may choose to refund outstanding indebtedness when debt covenants or other financial structures impinge on prudent and sound financial management. Savings requirements for current or advance refunding undertaken to restructure debt may be waived by the city commission upon a finding that such a restructuring is in the city's overall best financial interests.

(Ord. No. 2013-03, § 1, 2-5-13)

§ 2-584. Debt defeasance.

The city may defease its debt by irrevocably placing cash or other assets in a trust to be used solely for satisfying scheduled payments of both the interest and principal of the defeased debt. In this situation, the trust is restricted to owning only monetary assets that are essentially risk free as to the amount, timing and collection of interest and principal. Additionally, the city may choose to defease its outstanding indebtedness through purchases of its securities on the open market when market conditions make such an option financially feasible. The city will develop procedures for executing and bidding open market purchases and the savings objectives to be achieved by undertaking such actions.

(Ord. No. 2013-03, § 1, 2-5-13)

§ 2-585. Disclosure practices.

The city is committed to full and complete financial disclosure, and to cooperating fully with rating agencies, institutional and individual investors, other levels of government, and the general public to share clear, comprehensible, and accurate financial information. The city is committed to meeting all disclosure requirements on a timely and comprehensive basis and will contract for the provision of such disclosure information when necessary.

(Ord. No. 2013-03, § 1, 2-5-13)

§ 2-586. Compliance with federal tax law provisions.

Federal arbitrage regulations were put into place for two (2) primary reasons: (1) to ensure that the proceeds of tax-exempt financing are not solely being used to make investment in higher-yielding taxable securities, and (2) to ensure that the bond proceeds are spent in an expeditious manner. In compliance with the spirit of this legislation, the city will not issue obligations except for identifiable projects with a prospect of timely initiation. The city's finance director is responsible for ensuring that a system of record keeping and reporting is maintained to meet the arbitrage rebate requirements of the federal tax code.

The city's finance director will monitor compliance with debt covenants and adherence to federal regulations. Any instances of noncompliance will be reported by the city manager to the city commission.

(Ord. No. 2013-03, § 1, 2-5-13)

§ 2-587. Integration of capital planning and debt financing activities.

(a) *Capital planning and financing system.* The city shall develop and maintain a capital planning and financing system for use in preparing a five-year capital improvement plan for consideration and adoption by the city commission as part of the city's annual budget process. Individual departments shall prepare multi-year capital plans for coordination and integration into the preparation of the citywide capital improvement plan.

(b) *Funding of the capital improvement program.* Whenever possible, the city will first attempt to fund capital projects with grants or developer contributions. When such funds are insufficient, the city will use dedicated revenues such as impact fees or other restricted use revenues. If these are not available, the city will use general revenues, surplus and bond financing. The city is guided by three (3) principles in selecting a funding source for capital improvements - equity, effectiveness and efficiency:

- *Equity*. When appropriate, the beneficiaries of a project or service will pay for it. For example, if a project is a general function of government that benefits the entire community, the project could be funded from general tax revenues directly or through debt service. If the project benefits specific users the source of funding will be derived through user fees/charges or targeted assessments.

- *Effectiveness*. In selection of financing sources for projects, the city will select one (1) or more that effectively fund the total cost of the project.

- *Efficiency*. If grants or current revenues are not available to fund a project, the city will select a financing technique that provides for the lowest total cost consistent with acceptable risk factors and principles of equity and effectiveness.

(c) *Maintenance, replacement and renewal*. Consistent with the city's philosophy of keeping its capital facilities and infrastructure systems in good repair and to maximize the useful life of its capital assets, the city intends to set aside current revenues to finance ongoing maintenance needs and to provide periodic replacement and renewal.

(Ord. No. 2013-03, § 1, 2-5-13)

§ 2-588. Investment of debt proceeds.

Debt proceeds will be invested primarily to assure the safety and liquidity of such investments, and secondarily, to maximize investment yield. The primary goal of liquidity is to ensure that proceeds will be available to fulfill the purposes of the issue on a timely basis. Debt covenants will specifically address investment guidelines for debt proceeds.

(Ord. No. 2013-03, § 1, 2-5-13)

Article VI. Cemetery Administration

Division 1. General Matters

§ 2-601. Short title.

This article, originally adopted by Ordinance No. 96-23 on November 19, 1996 and incorporating all of the preexisting rules and regulations governing the operation of the municipal cemeteries, shall be known and may be cited as the "City of Lake Wales Cemetery Code" or the "Cemetery Rules and Regulations."

(Ord. No. 2009-32, § 1, 12-15-09)

§ 2-602. Legislative intent.

(a) It is the intent of this article to establish uniform rules and regulations for the purchase, sale, use and maintenance of cemetery spaces in cemeteries owned by the City of Lake Wales and to prescribe procedures for the administration of these cemeteries.

(b) It is the intent of the city commission that the rules and regulations established by this article shall apply to every burial space in the municipal cemeteries whether said space is a grave, vault, crypt or niche unless specifically exempted herein.

(c) It is the intent of the city commission that this article shall serve as a contract defining the responsibilities of the city in maintaining the municipal cemeteries and the responsibilities of those paying respect to their loved ones who are interred therein.

(Ord. No. 2009-32, § 1, 12-15-09)

§ 2-603. Definitions.

Effective: Tuesday, August 04, 2015

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

(1) *Block* means a plot of land consisting of lots and spaces which is identified on the cemetery plat filed with the city clerk.

(2) *Cemetery* means property owned or leased by the city for the burial of human remains and any land leased or owned in the future for the burial of human remains.

(3) *Cemetery administrator* means that person designated by the city manager to have responsibility for preparation and storage of documents for the conveyance, sale or transfer of burial rights and the collection and deposit of funds in payment of said conveyance, sale or transfer. The cemetery administrator shall also be responsible for any administrative work related to the interment or disinterment of human remains in the city's cemeteries.

(4) *Cemetery manager* means that person designated by the city manager to have responsibility for the day-to-day maintenance and operation of the cemeteries.

(5) *Certificate of ownership* means the instrument issued by the city, upon payment of the established fee, evidencing a perpetual right of burial in a certain cemetery space of the individual to whom the certificate is issued or a member of the immediate family of that individual.

(6) *City* means the City of Lake Wales, Polk County, Florida.

(7) *City clerk* means the duly appointed city clerk of the City of Lake Wales or his/her designee.

(8) *City commission* means the elected governing body of the City of Lake Wales.

(9) *City manager* means the city manager of the City of Lake Wales or his/her designee.

(10) *Conveyance, sale or transfer* means the conveyance of a right to burial in a space and shall not be deemed to convey fee simple title to the space.

(11) *Deed* means the certificate of ownership executed by the city certifying the conveyance to a purchaser of the right to burial in a space.

(12) *Disinterment* means the opening of a burial site, the removal of a casket or other enclosure containing human remains from the open site, and the closing of the site.

(13) *Final disposition* means the final disposal of human remains by means including, but not limited to, earth interment, aboveground interment or cremation.

(14) *Finance director* means the finance director of the City of Lake Wales or his/her designee.

(15) *Funeral* means the observance, service or ceremony held for a deceased person.

(16) *Funeral directing* means the making of arrangements for, or directing the arrangements for, the preparation and transportation of human remains for final disposition; or using, in connection with one's name, the word "funeral director," "licensed funeral director," "undertaker," or "mortician" or offering or representing one's self as offering such services.

(17) *Funeral director* means any person licensed in the State of Florida to practice funeral directing.

(18) *Grave* means the excavation on a lot for the final disposition of human remains.

(19) *Immediate family* means spouse, child, parent, grandparent, grandchild, brother, sister, mother-in-law and father-in-law.

(20) *Interment* means the opening of a burial site, the placing of a casket or other enclosure containing human remains in the open site, and the closing of the site.

(21) *Lot* means the numbered divisions as shown on the recorded cemetery plat which consists of one (1) or more plots.

(22) *Lot marker* means a marble or granite post used by cemetery staff to locate the corners of the lot or plot; for the purposes of this article, lot marker shall also mean a permanent metal marker embossed with the contract number and date of sale of a burial space and permanently mounted at the northwest corner of a burial space.

(23) *Marker* means any memorial that is composed of only one (1) piece; e.g., a flat marker. There are cases where a marker is composed of two (2) pieces, but has the effect of a marker; e.g., a bronze marker on granite. This is still technically a marker, even though it has two (2) pieces.

(24) *Memorial* means any marker or structure upon or in any lot or niche, placed thereupon or therein or partially therein for the purpose of identification or in memory of the interred.

(25) *Monument* means any memorial that has two (2) separate sections or more; e.g., a stone with a base. The top section of a monument is the "tablet" and the bottom section is the "base."

(26) *Nonresident* means a person not residing within the corporate limits of the city.

(27) *Owner* means any person, firm or corporation who has purchased a lot, part lot or grave space in a city cemetery or the heirs, personal representatives or successors of the owners.

(28) *Plot* or *space* means that parcel within a lot in which the remains of one (1) adult human being will be or have been buried.

(29) *Resident* means a person residing within the corporate limits of the city.

(30) *Service animal* means any animal such as a seeing-eye dog or hearing-ear dog used to assist a person with a disability or an animal trained for law enforcement purposes and under the control of a law enforcement officer.

(31) *Vault* means an underground or aboveground chamber or container used for the final disposition of human remains.

(b) For the purposes of administration and enforcement of this chapter, unless otherwise stated in this chapter, the following rules of construction shall apply:

The word "*shall*" is always mandatory and not discretionary; the word "*may*" is permissive.

The words "*he*," "*his*," and other words denoting the masculine gender shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

Words used in the present tense shall include the future, and words used in the singular number shall include the plural and plural the singular, unless the context clearly indicates the contrary.

Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunction "*and*," "*or*" or "*either...or*," the conjunction shall be interpreted as follows:

(1) "*And*" indicates that all the connected terms, conditions, provisions or events shall apply.

(2) "*Or*" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.

(3) "*Either...or*" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.

(4) The word "*includes*" shall not limit a term to the specific example but is intended to extend its meaning to all other instances or circumstances of like kind or character.

(Ord. No. 2009-32, § 1, 12-15-09; Ord. No. 2015-05, § 1, 08-04-15)

§ 2-604. Rights reserved by the city.

(a) The city reserves and shall have the right to refuse admission to any cemetery and to refuse the use of any of the cemetery's facilities at any time to any person or persons whom the city may deem to be in violation of the provisions of this article.

(b) The city reserves and shall have the right to enlarge, reduce, re-plat or change the boundaries or grading of any or all sections of the cemeteries including the right to modify and change the locations of or remove or re-grade roads, drives, walks, or any part thereof.

(c) The city reserves and shall have the right to lay, maintain and operate, or alter or change water lines for irrigation systems, gutters for drainage, and the like, and reserves an easement along all lot lines for utility purposes as needed.

(d) The city reserves and shall have the right to use cemetery property not sold to individual lot owners for cemetery purposes, including the interment of human remains, or for anything necessary, incidental or convenient thereto.

(e) The city reserves to itself, and to those lawfully using the privileges and facilities of the cemeteries, a perpetual right of ingress and egress over lots for the purpose of passage to and from other lots.

(f) The city reserves and shall have the right to correct any error that may be made by it in the description, transfer or conveyance of any interment rights, either by cancelling such conveyance and substituting and conveying in lieu thereof other interment property of equal value and similar location as far as possible, or as may be selected by the city manager or his designee, or, in the sole discretion of the city manager, by refunding the amount of money paid on account of said purchase.

(g) The city reserves and shall have the right to correct any error that may be made by it in making interments, disinterments or removals. In the event such error shall involve the interment of the remains of any person, the city reserves and shall have the right to remove or transfer such remains so interred to such other property of equal value and similar location as may be substituted and conveyed in lieu thereof.

(h) The city reserves and shall have the right to prohibit, modify or remove any structure, object, improvement or adornment from any lot which may have been placed therein in violation of the rules, or which may be considered objectionable, or injurious to the lot, adjoining lots or to the cemetery in general. For the purposes of this article, the term "objectionable" means that an item interferes with the operation of maintenance equipment, has poor aesthetic value, or does not conform to established societal values.

(i) The city reserves and shall have the right to adopt additional rules and regulations or to amend, alter or repeal any rule or regulation established by this article, at any time, and subject only to the public notice requirements provided by Florida Statutes for ordinance adoption.

(Ord. No. 2009-32, § 1, 12-15-09)

§ 2-605. Care of cemeteries; limitation of liability; responsibilities of city; responsibilities of public.

Effective: Tuesday, August 04, 2015

(a) The city shall endeavor at all times to provide general maintenance and care to the municipal cemeteries.

(b) The city shall take all reasonable precautions to protect cemetery lot owners and the property rights of cemetery lot owners from loss or damage, but the city shall not be liable, and disclaims all responsibility, for loss or damage to property or rights of lot owners arising from causes beyond its reasonable control including, but not limited to, damage caused by the elements, an act of God, thieves, vandals, malicious mischief-makers, or unavoidable accidents, whether the damage be direct or collateral.

(c) When cemetery fees are insufficient for the perpetual care of the municipal cemeteries, the cost associated with such perpetual care shall be borne by the taxpayers of the city and includes the cutting and irrigation of the grass at reasonable intervals, the raking and cleaning of the grounds, the pruning of shrubs and trees, and the maintenance of pathways and roadways. Perpetual care by the city shall in no case mean the maintenance, repair or replacement of any memorial, tomb or mausoleum placed or erected upon lots by persons, firms or corporations; nor the doing of any special or unusual work in the cemeteries, including work caused by impoverishment of the soil; nor does it mean the reconstruction of any marble or granite work in any section or portion of a cemetery damaged by the elements, an act of God, thieves, vandals, malicious mischief-makers, or unavoidable accidents, whether the damage be direct or collateral.

(d) Those members of the public honoring their loved ones must realize that anything that prohibits the city from fulfilling its commitment to care for the municipal cemeteries or adds undue cost for the taxpayers shall not be allowed. It shall be the responsibility of those honoring their loved ones to observe the cemetery rules and regulations, to place items permitted well within the spaces allowed, and to remove perishable items when they are no longer performing their role in beautifying the grave site; i.e., dead flowers, faded and weathered artifacts, and similar items.

(Ord. No. 2009-32, § 1, 12-15-09; Ord. No. 2015-05, § 1, 08-04-15)

§ 2-606. Responsibility for cemetery administration and maintenance.

Effective: Tuesday, August 04, 2015

(a) The general administration and maintenance of the municipal cemeteries shall be the responsibility of the cemetery manager who shall be an employee of the city and subject to all rules, policies and procedures governing all employees of the city.

(b) The cemetery manager is hereby empowered and required to enforce all rules and regulations provided by this article and to exclude from the cemeteries any person violating the same.

(c) The duties of the cemetery manager shall be as follows:

(1) *Attendance at cemetery.* At a minimum, the cemetery manager shall be available from 8:00 a.m. until 4:00 p.m. on Monday through Friday or have one (1) employee present in his absence who is competent in performing the duties of the cemetery manager in order to discharge those duties without delay. The cemetery administrative office in the municipal administration building shall be open during all normal business hours of the city.

(2) *Assistance to the public.* The cemetery manager shall aid and assist the public in the locating of burial spaces, entombment crypts and inurnment niches or in interpreting the meaning of this article and shall take such steps as are necessary for the protection and convenience of all funeral service attendees.

(3) *Supervision of cemetery maintenance.* The cemetery manager shall supervise city employees in the general care and maintenance of the municipal cemeteries.

(4) *Examination of burial permits.* The cemetery manager shall require and examine burial permits and shall refuse burial, entombment or inurnment until such permit shall comply with the state law and the restrictions of the city.

(5) *Location of burial space.* The cemetery manager shall locate the burial space and authorize the opening of the grave, crypt or niche before work by any party shall commence and shall prepare and issue to the funeral director the vault and casket identification tags required by subsection 2-631(d). The cemetery manager shall locate the burial space and authorize the placement of a monument or marker before a monument or marker shall be set or engraved by any party.

(6) *Record of burials, entombments and inurnments.* The cemetery manager shall keep complete and accurate records at the cemetery office of the names of the deceased, the lot, section and plot in which the burial is made, or the mausoleum wall, row and crypt in which an entombment is made, or columbarium wall, row and niche in which an inurnment is made, the date of burial, entombments, or inurnment, and the name of the funeral director conducting the funeral. Duplicate records shall be maintained and updated on a regular basis which shall be stored with the official records of the city in the municipal administration building.

(7) *Sale of lots, plots, crypts and niches.* The cemetery administrator shall sell such lots, plots, crypts and niches in the municipal cemeteries as authorized by the city commission and at the price established by the city commission. The cemetery administrator shall cause to be issued a certificate of ownership of interment rights upon payment of the whole amount by the purchaser and shall cause the cemetery manager to place a permanent marker on all ground burial lots which indicates the contract number and date of sale.

(8) *Record of plots, crypts and niches sold.* The cemetery manager shall keep a plat book of the cemeteries on which shall be shown all plots, crypts and niches which are sold or are for sale, and a record made of the date, name of purchaser and amount received for each sale.

(9) *Reports.* The cemetery administrator shall make annual reports to the finance director on a form developed by the finance department showing the total number of interments, entombments and inurnments with other pertinent information, including a statement of the lots, crypts and niches sold or transferred and funds received for such sales and transfers.

(Ord. No. 2009-32, § 1, 12-15-09; Ord. No. 2015-05, § 1, 08-04-15)

§ 2-607. Conduct of cemetery workers.

(a) Workers assigned to perform work at a city cemetery shall not perform any work for lot owners, funeral directors, monument companies, vault companies, or similar entities except by direction of the city manager.

(b) No cemetery worker shall solicit or accept any fee, tip, gratuity, commission or other compensation for work performed at a city cemetery from any person, firm or corporation except the city.

(c) Cemetery workers shall always be vigilant and shall report promptly to the cemetery manager all cases of vandalism, disorder, theft or other matters that might present any disruption to the good order of the cemetery. In the absence of the cemetery manager, they will report all such instances to the cemetery administrator.

(d) Cemetery workers shall at all times refrain from using equipment in a careless or haphazard way that may cause damage to markers, monuments or other property in the cemetery. In case of damage to any property by a cemetery worker, said damage shall immediately be reported to the cemetery manager who shall conduct an investigation and report the results of the investigation to the public works director.

(e) Cemetery workers shall, at all times, behave in a courteous manner toward users of the cemeteries, and shall comport themselves in a dignified and respectful manner.

(Ord. No. 2009-32, § 1, 12-15-09)

§ 2-608. Handling of cemetery monies.

(a) No cash transactions shall occur at the cemeteries. All monies due the city for the sale of burial spaces or cemetery services shall be paid by the person, firm or corporation from whom said monies are due to the cashier in city hall.

(b) Under emergency circumstances, it may be necessary to complete a sales transaction after normal business hours. In the case of an emergency, the cemetery manager and the cemetery administrator are authorized to accept a check or money order from the purchaser which shall be deposited with the paperwork documenting the transaction in the locked drop-box at city hall for processing by the cashier on the next business day.

(Ord. No. 2009-32, § 1, 12-15-09)

§ 2-609. Modification of provisions.

Effective: Tuesday, August 04, 2015

The city commission hereby recognizes that cases may arise in which strict enforcement of the provisions of this article may impose unnecessary hardships. Therefore, the city commission delegates authority to the city manager to make exceptions to the provisions of this article upon a finding by the city manager that an exception is necessary to prevent hardship.

(Ord. No. 2009-32, § 1, 12-15-09; Ord. No. 2015-05, § 1, 08-04-15)

§§ 2-610-2-615. Reserved.

Effective: Tuesday, August 04, 2015

(Ord. No. 2015-05, § 1, 08-04-15)

Division 2. Burial Spaces

§ 2-616. Sale of interment rights in burial spaces.

Effective: Tuesday, August 04, 2015

(a) *Price.* The city commission, by adopted Resolution, shall set cemetery fees to fund all, or any portion of the cost, of provision of perpetual care for the municipal cemeteries. Cemetery fees, established by the city commission, shall be automatically adjusted beginning on October 1, 2016 to reflect an increase based on June's annual CPI or two and one-half percent (2.5%), whichever is greater, without further need for commission action.

(b) *Acquired rights.* No interment rights shall be acquired by the purchaser until the cost of the burial space is fully paid and a deed of conveyance is issued to the purchaser.

(c) *Payment by installment agreement.* Payment for burial spaces may be made by installment agreement after a minimum down payment of twenty (20) percent and a five (5) percent administrative fee provided that the period of the installment agreement does not exceed twelve (12) months for each space and provided that installment payments shall be due and payable on the twentieth day of the month. If an installment payment remains unpaid for thirty (30) days after the date due, the installment agreement shall be cancelled and the city shall require full payment of the unpaid principal balance and shall so notify the purchaser. Notice by ordinary mail, sent to the purchaser at the last address on file with the city, shall be considered sufficient and proper legal notification. If the balance due remains unpaid for thirty (30) days after such notification, the purchaser shall forfeit his right to the burial space or spaces, and the city shall have the right to offer the space or spaces to the general public for resale. The cemetery administrator shall request that the finance department refund to the purchaser all installment payments paid to the city less one hundred dollars (\$100) which shall be retained by the city as an administrative fee.

(d) *Reservation of space.* A burial space shall not be reserved or held unless a non-refundable deposit of one hundred dollars (\$100) has been paid to the city, and no burial space shall be reserved or held for more than thirty (30) days.

(e) *Payment prior to interment.* No interment shall occur unless the cost of the burial space and other applicable fees have been paid in full except as provided in paragraph (g). All fees shall be paid by 4:00 p.m. on the business day preceding the interment with the following exceptions:

(1) When a request is made after 4:00 p.m. on Friday for interment on Saturday for reasons provided in subsection 2-628(b), the cemetery manager is authorized to accept a check or money order which shall be deposited with the paperwork documenting the transaction in the locked drop-box at city hall for processing by the cashier on the next business day.

(2) When a request is made after 4:00 p.m. on Friday for interment on Monday, all applicable fees may be paid as in paragraph (1) above or on Monday provided that all fees are paid no later than two (2) hours before the interment takes place.

(f) *Payment prior to placement of markers.* When a burial space has been purchased in advance of need and payment is made by installment agreement, no grave marker or grave decoration shall be placed on the burial space until the cost of the burial space has been paid in full.

(g) *Assignment of life insurance proceeds.* In cases of extreme financial hardship, the city manager or his designee may authorize the acceptance, in lieu of cash for the purchase of burial space, an assignment of the proceeds of a valid life insurance policy. Before the assignment will be accepted, it must be verified and attested to as valid by the funeral home. In the event that the life insurance policy is invalid or insufficient to cover the cost of the burial space and has been accepted by the city upon the verification and attestation of the funeral home, all costs incurred by the city will be the responsibility of the funeral home. In the event that insurance proceeds are not remitted to the city within six (6) months after the date of the burial, all costs incurred by the city will be the responsibility of the funeral home and the city shall be authorized to take whatever action is necessary to obtain payment for such costs.

(h) *Address of lot owner.* It shall be the duty of the lot owner to keep the city informed as to his current correct mailing address and the current address of his legal representative if notices are to be sent to that representative. Notices or other correspondence mailed to the address on file with the city for the lot owner or his representative shall constitute actual delivery and notification. It shall be the duty of the lot owner to keep informed of any changes in the rules, regulations or laws governing the operation of the cemeteries.

(Ord. No. 2009-32, § 1, 12-15-09; Ord. No. 2011-08, § 1, 4-19-11; Ord. No. 2015-05, § 1, 08-04-15)

§ 2-617. Deeds of conveyance.

(a) The mayor-commissioner and the city clerk are hereby authorized to execute deeds of conveyance on behalf of the city to the purchasers of interment rights in burial spaces within the cemetery, which conveyances shall be valid for all purposes as the act and deed of the city when the city clerk affixes the seal of the city.

(b) No deed of conveyance shall be executed before the cost of the burial space has been paid in full by the purchaser.

(c) All deeds of conveyance shall bear a description of the burial space in accordance with the cemetery plats approved by the city commission, the name and address of the purchaser, and the official book and page number in which the conveyance is recorded in the official records of the city.

(d) All deeds of conveyance are hereby declared to incorporate and shall be subject to all rules, regulations and conditions set forth in this article, and subject, further to such other additional rules and regulations, amendments or alterations as shall be adopted by the city from time to time. The reference to such rules and regulations in deeds conveying the right of interment shall have the same force and effect as if the same were set forth in full therein.

(e) The deed conveying interment rights to purchasers and the rules and regulations of the city now in force or which may hereafter be adopted, including modifications or amendments thereof, shall be the sole agreement between the city and the purchaser. The statement of any sales agent or employee of the city, unless confirmed in writing by the city manager, shall in no way bind the city.

(f) A certified copy of the executed deed conveying interment rights shall be filed with the city clerk who shall permanently maintain said copy in the official records of the city.

(Ord. No. 2009-32, § 1, 12-15-09)

§ 2-618. Lot markers.

All ground burial lots shall be marked by the cemetery manager at the time of sale with a permanent metal marker which shall be embossed with the sales contract number and the date of sale. Lot markers shall be permanently mounted at the northwest corner of the burial lot.

(Ord. No. 2009-32, § 1, 12-15-09)

§ 2-619. No easement granted.

The conveyance of interment rights in a burial space shall not grant an easement or right of interment to any owner in any road, drive, alley or walk within the cemetery, but such road, drive, alley or walk may be used as a means of access to the cemetery or cemetery buildings.

(Ord. No. 2009-32, § 1, 12-15-09)

§ 2-620. Sale, transfer, assignment or re-subdivision.

(a) No interment rights in a burial space shall be sold, transferred, assigned or conveyed in any manner by the owner or his heirs without the written authorization of the city and the payment of a fifty-dollar transfer fee.

(b) The re-subdivision of any burial space in any manner is prohibited.

(c) The city is authorized to repurchase an unused burial space for the same price at which it was originally sold. No transfer fee will be required.

(Ord. No. 2009-32, § 1, 12-15-09)

§ 2-621. Family burial lot.

(a) Whenever an interment is made in a lot for which the interment rights have been conveyed to an individual owner by the city and is held as a separate lot, it shall be indivisible, and, at the option of the city, the whole of such burial lot thereby becomes inalienable and shall be held as the family burial lot of the owner in which one (1) grave may be used for the owner's interment and one (1) for the interment of the surviving spouse, if any, of the owner.

(b) In the event there has been no written order by the owner filed with the city designating those whom he authorizes to be interred therein, the parents or children of such deceased owner may be interred in such lot in the order of need without the consent of any person claiming any interest therein.

(c) In the event there shall be no parent or child surviving such deceased person, the right of interment therein shall go the next heirs at law of such deceased owner as specified by the statutes of descent of the state.

(d) Any surviving spouse and any parent, child or heir of a deceased owner may waive his right to interment in such lot in favor of any other relative of such deceased owner or of his spouse, and upon such waiver, the remains of the person in whose favor the waiver is made may be interred therein.

(Ord. No. 2009-32, § 1, 12-15-09)

§ 2-622. Use of burial space.

No burial space shall be used for any purpose except the interment of human remains.

(Ord. No. 2009-32, § 1, 12-15-09)

§§ 2-623-2-625. Reserved.

Effective: Tuesday, August 04, 2015

Division 3. Interments And Disinterments

§ 2-626. Interment prohibited except in duly designated or platted cemeteries.

(a) It shall be unlawful for any person to bury or otherwise inter any human remains within the corporate limits of the city, except in a municipal cemetery designated in this article or in a platted cemetery, the plat of which has been approved by the city commission, and which plat shall show the size and situation of the cemetery, its subdivisions and the methods used and intended to be used to designate plainly the location of burial lots or graves therein, and which plat shall be recorded in the public records of Polk County, Florida, and a copy thereof furnished to the city.

(b) No person, firm or corporation shall establish any cemetery or burial ground, or create, lay out, plat or use any piece or parcel of land within the corporate limits as a burial ground or cemetery for the interment of human remains without first obtaining a permit from the city.

(c) Any person convicted of violating this section shall be punished pursuant to section 1-15 of the city Code.

(Ord. No. 2009-32, § 1, 12-15-09)

§ 2-627. Burial permit required.

No interment shall be made unless the remains are accompanied by a burial permit as required by state law. The city shall not be liable for the correctness of the information on the burial permit nor for the identity of the person sought to be interred.

(Ord. No. 2009-32, § 1, 12-15-09)

§ 2-628. Hours when interments are permitted.

(a) *Regular Hours.* Interments shall be made between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. Interments shall not be made on Saturdays, Sundays or city holidays except as provided in paragraph (b) and paragraph (c). City holidays are defined as New Year's Day, Martin Luther King Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, Friday after Thanksgiving Day, and Christmas Day. Other holidays may be designated by the city commission from time to time.

(b) *Saturdays.* Where a burial must be scheduled on a Saturday, interments shall be made between the hours of 10:00 a.m. and 5:00 p.m. Interments to be scheduled on a Saturday shall require a minimum of twenty-four (24) hours' notice to the cemetery manager except where immediate burial is required by the laws of the State of Florida, the rules and regulations of the board of health, or for religious reasons. The notice requirement may be waived by the city manager or his designee if extenuating circumstances prevent twenty-four (24) hours' notice.

(c) *Sundays and holidays.* Where immediate burial is required by the laws of the State of Florida, the rules and regulations of the board of health, or for religious reasons, interments may be made on Sundays or city holidays after payment of a service charge in the amount of three hundred dollars (\$300.00) by the funeral director. Interments shall be made between the hours of 12:00 noon and 4:00 p.m.

(Ord. No. 2009-32, § 1, 12-15-09)

§ 2-629. Interment authorization required.

(a) No interment shall be made unless the burial space has been located by the cemetery manager. The cemetery manager shall clearly mark the burial space in which the interment will occur with a temporary tag indicating the name of the deceased, the date and time of the interment, and the name of the funeral director. The cemetery manager shall issue an interment authorization to the funeral director which specifies the name of the deceased, the name of the funeral director, the date and time of the interment, and the location of the burial space. The interment authorization shall not be issued unless the cost of the burial space and other applicable fees have been paid in full except as provided in section 2-616, paragraph (g).

(b) A request for interment authorization must be made to the cemetery manager no later than twenty-four (24) hours prior to the time scheduled for the interment. For interments scheduled on a Monday, the request for interment authorization must be made to the cemetery manager no later than 4:00 p.m. on the preceding Friday. This requirement may be waived by the city manager or his designee if extenuating circumstances prevent twenty-four (24) hours' notice.

(c) A copy of the interment authorization shall be filed with the permanent records of the city.

(Ord. No. 2009-32, § 1, 12-15-09)

§ 2-630. Opening and closing of burial space.

(a) Funeral directors shall be responsible for arranging the opening and closing of burial spaces at their expense.

(b) The opening of a burial space shall not commence without an interment authorization issued by the cemetery manager or his designated representative and shall not commence unless the burial space has been located and marked by the cemetery manager or his designated representative. If any problem is encountered during the opening of a burial space, the person opening the burial space shall cease work immediately and notify the cemetery manager who will resolve the problem before work is permitted to continue.

(c) Graves shall have a minimum cover of twelve (12) inches of soil from the top of the vault or liner to the ground surface level. Grave mounds shall not be allowed. Persons opening a grave must place excavated soil on suitable material to protect the grass on adjacent lots.

(d) Graves shall be closed immediately after the funeral service.

(e) Removal of excess soil after burial or the filling of the grave site with additional soil after settling shall be the responsibility of the funeral director. Any excess soil must be removed the same day as the burial, and any filling needed as a result of setting must be accomplished within five (5) days of the burial. Upon failure to remove excess soil or to fill as required above, the cemetery manager may cause the same to be accomplished with the costs thereof charged to the funeral director, which cost shall be immediately due and payable.

(f) Any additional city services required due to failure by the applicable funeral director to abide by this article and any reasonable rules and regulations promulgated to implement this article shall be charged to the funeral director and be immediately due and payable.

(g) All openings and closings which have been pre-paid or pre-arranged by an agreement between the city and the purchaser prior to the effective date of this article shall be the responsibility of the city.

(h) The funeral director and his subcontractors (i.e., vault company, grave diggers, and the like) shall exercise all possible care to protect grave markers, monuments, water lines, and other cemetery fixtures, and shall be held liable for any damage incurred.

(Ord. No. 2009-32, § 1, 12-15-09)

§ 2-631. Graves and vaults.

(a) No burial above ground shall be permitted.

(b) Only one (1) interment shall be made in a grave, except for the following:

(1) A parent and an infant;

(2) Two (2) children in one (1) coffin; or

(3) One (1) casketed remains and up to two (2) urns bearing cremated remains.

(c) Pre-cast concrete, natural stone, or steel vaults or grave liners shall be used in every uncremated interment except the interment of newborn infants. Such vaults shall be of sufficient construction and weight as to prevent retention of water and cave-in of the grave space.

(d) A permanent identification tag shall be affixed securely to the foot end of every vault and every casket used in an interment after November 19, 1996. The tag shall bear the name of the deceased and the date of the interment written or inscribed in a legible and indelible manner and shall be made of metal, plastic or other non-biodegradable material. The cemetery manager shall prepare the tags and provide them to the funeral director with the interment authorization specified in section 2-629. It shall be the responsibility of the funeral director to ensure that said tags are affixed, and the city shall not be liable for the failure of the funeral director to comply with this section.

(Ord. No. 2009-32, § 1, 12-15-09; Ord. No. 2010-21, § 1, 10-5-2010)

§ 2-632. Liability for delays.

The city shall in no way be liable for damages caused by any delay in the interment of a body where a protest, just or unjust, of the interment has been made, where the rules and regulations have not been complied with, where a burial space has not been paid for, or where the body is not accompanied by a proper burial permit.

(Ord. No. 2009-32, § 1, 12-15-09)

§ 2-633. Written protests.

The city shall refuse to recognize any protest of an interment unless said protest is made in writing and filed in the office of the city clerk. The remains shall be retained by the funeral director and shall not be admitted to the cemetery until such protest is resolved.

(Ord. No. 2009-32, § 1, 12-15-09)

§ 2-634. Interments for remuneration.

Owners shall not allow interments to be made in their burial spaces for remuneration.

(Ord. No. 2009-32, § 1, 12-15-09)

§ 2-635. Disinterment.

(a) Although removal contrary to the expressed or implied wish of the original owner of the burial space shall not be allowed, a body or cremated remains may be removed from the original burial space to another burial space within the cemetery at the request of the surviving spouse or heirs when there has been an exchange or purchase of a burial space for that purpose. A disinterment at the request of the surviving spouse or heirs shall be arranged by a funeral director and shall be the responsibility of the funeral director.

(b) A disinterment directed by the order of a court of competent jurisdiction shall be the responsibility of the person, firm or corporation requesting the court order.

(c) A disinterment directed by a medical examiner for the purpose of holding an inquest shall be the responsibility of the medical examiner or his lawful agents.

(d) All disinterments shall be subject to the same rules and regulations established by this article for interments. All disinterments for the purpose of removing the remains from the cemetery shall, in addition, require a transit permit signed by the appropriate public authority.

(e) As provided in section 2-604, paragraph (g), the city may perform a disinterment to correct an error in interment and may transfer the remains erroneously interred to the correct burial space or to another burial space of equal value and similar location as may be substituted and conveyed in lieu thereof.

(Ord. No. 2009-32, § 1, 12-15-09)

§ 2-636. Compliance with all laws.

In addition to the rules and regulations established by this article, all interments, disinterments and removals shall be subject to the orders and laws of the properly constituted public authorities.

(Ord. No. 2009-32, § 1, 12-15-09)

§§ 2-637-2-640. Reserved.

Effective: Tuesday, August 04, 2015

Division 4. Memorials, Plants And Grave Decorations

§ 2-641. Monuments and markers.

Effective: Tuesday, August 04, 2015

(a) All burial spaces shall have no more than two (2) monuments or grave markers with the exception that family burial lots may have a family marker and a marker for each family member interred therein.

(b) For interments after November 19, 1996, a permanent monument or grave marker shall be required on all burial spaces.

(c) All monuments, grave markers and corner markers shall be of bronze, granite, marble or other equally durable stone material, metal or metal alloy. Monuments and markers shall be placed on a foundation which is no closer than three (3) inches to the boundary lines of the grave space. All foot stones set after November 19, 1996 shall be flush-mounted except where they are placed to duplicate a foot stone pre-existing on the lot.

(d) Within the area of a cemetery designated as a memorial section, markers which are flush with the ground shall be required. All markers shall be flush with the ground in the Lake Wales Memorial Gardens Cemetery.

(e) No monument or marker shall be set unless the burial space has been located by the cemetery manager or his designated representative. The cemetery manager shall clearly mark the burial space upon which the monument or marker will be set and shall issue written authorization to the monument company to proceed with the construction of the foundation for the monument or marker. A request for authorization must be made to the cemetery manager by 4:00 p.m. on the business day preceding the day on which the setting of the monument or marker will occur. All monuments, grave markers and corner markers shall be set between the hours of 8:00 a.m. and 4:00 p.m. If it is necessary to set a monument or marker before 8:00 a.m. or after 4:00 p.m., a fifty dollar (\$50.00) service fee will be paid to the city by the monument company.

(f) All monuments, grave markers and corner markers shall be placed on a foundation which shall be adequately designed to prevent future settlement, tilting or cracking. All foundations shall be built by the monument company at the cost of the owner. In order to ensure consistent installation of cemetery monuments and markers within all city-owned cemeteries, the following shall apply: (note: corner markers are only allowed in the Lake Wales Cemetery and the Willow Lawn Cemetery; corner markers will not be allowed in the Lake Wales Memorial Gardens Cemetery):

(1) *Permit required.* Installation of all foundations will require the issuance of a permit to the monument company by the cemetery administrator. The cost of the permit will be nonrefundable. The permit fee will be paid by the monument company and will cover the cost of one (1) foundation inspection. Additional inspections will require payment of a twenty-five-dollar service fee by the monument company. No additional fee will be required for the actual placement of the monument or marker onto the foundation.

(2) *Monument or upright marker.* For monuments having a vertical height of three (3) feet or less, a foundation shall be installed that is three (3) inches wider than the monument on all four (4) sides so that a three-inch margin is created around the base of the monument. For monuments taller than three (3) feet, the width of the foundation shall be increased on all four (4) sides by one (1) inch per vertical foot or fraction thereof. The foundation shall be constructed of concrete that is a minimum of six (6) inches in depth and shall be reinforced with a steel bar one-half ($\frac{1}{2}$) inch in diameter. For monuments that will exceed five (5) feet in height, installation must receive prior approval by the city's building official. Upright markers are only allowed in the Willow Lawn Cemetery and designated areas within the Lake Wales Cemetery; upright markers will not be allowed in the Lake Wales Memorial Gardens Cemetery.

(3) *Flush-mounted marker.* A foundation shall be installed that is at least as long and as wide as the marker that will be resting upon it. The foundation shall be constructed of concrete that is a minimum of three (3) inches in depth and shall be reinforced with a steel bar one-half ($\frac{1}{2}$) inch in diameter.

(4) *All foundations.* In all installations, the foundation shall be constructed upon well-compacted soil. The foundation shall be constructed of Portland-based concrete and shall have a minimum designed strength of two thousand (2,000) pounds per square inch (psi). Foundations shall be constructed with the use of forming for the upper four (4) inches of the cast-in-place concrete. Wood forms are permitted, but must be removed after the concrete has cured in place. The surface of the foundation shall be level and have a smooth float finish and shall finish at least one and one-half ($1\frac{1}{2}$) inches below the grade. After curing of the concrete foundation, form work shall be removed and the area back-filled with screened topsoil prior to setting of the monument or marker.

(5) *Inspection.* All foundations shall be inspected by the cemetery manager. If the foundation installation is determined to be satisfactory, the cemetery manager shall issue written authorization to the monument company to proceed with the setting of the monument or marker. A copy of this written authorization shall be provided to the family and shall serve as notice to the family that the foundation has been installed satisfactorily. If the foundation installation is determined to be unsatisfactory, the cemetery manager shall issue written notice to the monument company requiring that the problem(s) be corrected. No authorization shall be issued to proceed with the setting of the monument or marker until the foundation installation is determined to be satisfactory.

(6) *Time of inspection.* To facilitate inspection by the cemetery manager, all foundations shall be set between the hours of 8:00 a.m. and 4:00 p.m. If it is necessary to set a foundation before 8:00 a.m. or after 4:00 p.m., a fifty dollar service fee will be paid to the city by the monument company in addition to the permit fee.

(7) *Rights reserved.* The city reserves the right to modify the specifications contained herein for installation of any foundation, monument or marker, if, in the sole discretion of the building official, such modification is deemed to be desirable.

(g) Where a monument or marker has been previously set, no monument or marker shall be engraved unless the burial space has been located by the cemetery manager or his designated representative. The cemetery manager shall clearly mark the burial space upon which the monument or marker will be engraved and shall issue written authorization to the monument company to proceed with the engraving of the monument or marker. A request for authorization must be made to the cemetery manager by 4:00 p.m. on the business day preceding the day on which the engraving of the monument or marker will occur.

(h) Any monument or marker which has been set in violation of the rules and regulations established by this section shall be removed from the grave site by the monument company. It shall be the responsibility of the monument company to reset the monument or marker in accordance with the rules and regulations of this section without charge to the owner or the city.

(i) Lettering on mausoleum crypts and niches shall comply with all requirements established by the city for uniformity. Any lettering which has been placed on a crypt or niche which fails to comply with all such requirements shall be replaced by the monument company without charge to the owner or city.

(j) It shall not be the responsibility of the city to replace or repair temporary metal grave markers, and all temporary grave markers shall be removed when the permanent marker is set. Any temporary grave marker remaining on the grave six (6) months after the interment shall be removed by the cemetery manager at no risk to the city. Prior to removal, notice shall be provided in accordance with section 6-245, and the family of the deceased shall be given the option of installing a memorial brick in lieu of the monument or marker required in paragraph (c). The brick shall be purchased from the city, and shall be inscribed with the name of the deceased, birth date, and date of death. Cemetery staff shall flush-mount the memorial brick on a foundation at the head of the grave. The memorial brick may remain on the grave as a permanent marker or until replacement by a bronze, granite or marble monument or marker. A family may elect to install a memorial brick immediately following the burial in lieu of placing a temporary metal grave marker.

(k) While the city will exercise all possible care to protect raised lettering, carving or ornaments on any monument or memorial, it disclaims responsibility and shall not be liable for any damage or injury thereto.

(l) The monument company shall exercise all possible care to protect grave markers, monuments, water lines, and other cemetery fixtures, and shall be held liable for any damage incurred.

(Ord. No. 2009-32, § 1, 12-15-09; Ord. No. 2015-05, § 1, 08-04-15)

§ 2-642. Plants, shrubs, flowers, trees and grasses.

Effective: Tuesday, August 04, 2015

(a) Permanent planting, maintenance and removal of grasses, shrubs, trees, flowers, and the like, shall be done only by the city.

(1) The planting of trees, shrubs and other plants in a memorial section violates the contract rights of those who purchased lots in a memorial section with the expectation that there be uniformity and interferes with the maintenance of the grave sites by cemetery staff. Accordingly, the cemetery manager will remove any and all trees, shrubs and other plants installed in a memorial section prior to December 1, 2009 after providing notice as specified in section 6-245. Trees, shrubs and other plants so removed may be transplanted to a common area of the cemetery if appropriate.

(2) Trees, shrubs and other plants installed prior to December 1, 2009 in a section of the cemetery that is not a memorial section may remain in place provided said trees, shrubs and plants are properly maintained by the family. The cemetery manager may remove the trees, shrubs or plants when they become unsightly, dangerous, detrimental or diseased or when they interfere with the normal maintenance of the cemetery. Notice of such removal shall not be required.

(3) Any permanent trees, shrubs, flowers, or similar items planted anywhere in a city cemetery after December 1, 2009 shall be removed by the city following notice as required in section 2-645. Plantings so removed may be transplanted to a common area of the cemetery if appropriate.

(b) The cemetery manager shall remove all floral designs, flowers, weeds, trees, shrubs, plants or herbage of any kind from a cemetery as soon as, in the judgment of the cemetery manager, they become unsightly, dangerous, detrimental or diseased or when they interfere with the normal maintenance of the cemetery. Except as provided in paragraph (a) of this section, notice of such removal shall not be required.

(c) The city shall not be liable for frozen plants or herbage of any kind or for plantings damaged by the elements, thieves, vandals or by other causes beyond its control.

(d) Live flowers from burial services shall be removed by the cemetery manager within five (5) days after an interment. Upon the written request of the owner or legal representative of the owner within forty-eight (48) hours after an interment, flowers, baskets, designs or frames may be held for such owner or legal representative for a period not exceeding thirty (30) days. If not called for and removed by the end of the thirty-day period, such flowers, baskets, designs or frames shall become the property of the city and may be sold, destroyed or otherwise disposed of without incurring any liability whatsoever to donors, grave owners or their legal representatives.

(e) All vases and receptacles must be approved by the city. Approved vases may be of the invertible type. Fixed vases shall not exceed six (6) inches in diameter and ten (10) inches in height. No other receptacle may be used as a permanent vase. A frame may be used in lieu of a vase to support non-live flowers placed on a grave site on special dates or until a permanent marker can be installed, provided that the combined height of the frame and non-live flowers does not exceed twenty-four (24) inches. Glass or ceramic containers shall not be permitted under any circumstances.

(f) Potted plants will be allowed in the Lake Wales Cemetery and the Willow Lawn Cemetery subject to the following:

- (1) A pot shall be buried so that the top edge of the pot is flush with the ground;
- (2) A pot shall not exceed one (1) gallon in size, and a plant shall not exceed twenty-four (24) inches in height;
- (3) A potted plant shall not bear thorns or stickers or otherwise be potentially hazardous to the cemetery staff or the public;
- (4) A potted plant shall be maintained by the family, and, if not maintained by the family, shall be removed by the cemetery manager in accordance with paragraph (b) of this section.

(g) Potted plants will not be allowed in the Lake Wales Memorial Gardens Cemetery.

(Ord. No. 2009-32, § 1, 12-15-09; Ord. No. 2015-05, § 1, 08-04-15)

§ 2-643. Enclosures, coping, curbing and borders.

Effective: Tuesday, August 04, 2015

(a) Fences, hedges, pipe, chains or raised enclosures of any kind are prohibited on grave sites. No coping or curbing shall be installed after November 19, 1996. Where coping or curbing exists prior to that date, it shall be permitted to remain at no risk to the city, and the repair of damage due to routine maintenance, settling, erosion, and the like, shall be the responsibility of the family.

(b) Flat borders will be permitted in the Lake Wales Cemetery and the Willow Lawn Cemetery subject to the following:

(1) A border must be flush-mounted and must be laid upon a foundation that will prevent tilting or shifting out of place.

(2) A border must be made of a material specified by the city, and an example of such acceptable material shall be displayed in the cemetery office.

(3) A border must be maintained by the family; if a border appears to be unkempt or not maintained for a period of three (3) months, the city shall remove the border after providing notice as required in section 2-645

(4) No border shall be installed unless the burial space has been located and clearly marked by the cemetery manager or his designated representative. The cemetery manager shall issue written authorization to the family to proceed with the setting of the border. A request for authorization must be made to the cemetery manager by 4:00 p.m. on the business day preceding the day on which the border will be set.

(5) A border installed in violation of this section shall be removed by the city after providing notice as required in section 2-645

(c) Flat borders will not be permitted in the Lake Wales Memorial Gardens Cemetery.

(d) The requirements of this section shall not apply to portable fences, chains and other structures or equipment used during interments or memorial ceremonies provided said fences, chains, structures, or equipment are removed immediately after completion of the interment or ceremony.

(Ord. No. 2009-32, § 1, 12-15-09; Ord. No. 2015-05, § 1, 08-04-15)

§ 2-644. Grave decorations.

(a) Grave decorations of any kind will be removed when they violate cemetery rules and regulations. Prior to removal, notice of violation shall be provided as specified in section 2-645 unless otherwise specified in this section.

(b) Special decorations placed on a grave site on special dates such as birthdays, anniversaries, Mother's Day, Father's Day, Memorial Day, Veteran's Day, Christmas, Easter or other dates of religious or cultural significance, may be placed no more than seven (7) calendar days before the holiday or special date and shall be removed within seven (7) calendar days after the holiday or special date. Decorations not removed within the specified time shall be removed by cemetery personnel without the need for notice but shall be stored in accordance with procedures specified in subsection 2-645(b) except that perishable items shall be discarded.

(c) The following shall not be allowed upon grave sites and, if so placed, shall be removed at no risk to the city after notice as specified in section 2-645

(1) Toys, dolls, stuffed animals or similar articles;

(2) Shells, rocks, stones or pebbles;

(3) Glass, ceramic or plastic objects;

(4) Metal designs, frames, or hangars except as allowed on a temporary basis in accordance with paragraph 6-242(e);

(5) Chairs, settees, benches or tables;

(6) Wood or metal boxes or cases;

(7) Lights, with the following exceptions:

- a. A single solar-powered light may be flush-mounted on each side of the headstone provided that the solar-powered light is of a style and material specified by the city; an example of such acceptable solar-powered light shall be displayed in the cemetery office; and
- b. Up to two (2) battery-powered or solar-powered candles may be placed on a grave site at Christmas and other dates of religious significance;

(8) Inflatable items, with the exception that up to one (1) balloon no larger than fourteen (14) inches in diameter may be placed on a grave site on special dates;

(9) Figurines or statuettes, with the exception that up to one (1) figurine or statuette of a religious subject (e.g., angel, saint, or the like) may be placed on a grave site on special dates provided it is placed upon a headstone or grave maker, is no more than twelve (12) inches in height, and is made of natural stone or cast concrete;

(10) An ornament or item of any type that:

- a. Interferes with the maintenance of the cemetery; or
- b. Presents a potential safety hazard to cemetery staff and the public; or
- c. Offends or insults any segment of the population that resides in the community; or
- d. Disrespects the hallowed ground of the cemetery; or
- e. Disrupts the good order of the cemetery.

(d) Flags may be placed on the grave site of a veteran in accordance with the following rules:

(1) Up to one (1) American flag no larger than thirteen by eight inches (13" × 8") may be placed on a grave site on Veteran's Day, Memorial Day and Independence Day;

(2) Any flag remaining on a grave site after seven (7) days shall be removed by cemetery staff without the need for notice; flags so removed shall be delivered to the local chapter of the VFW for re-use or, if faded or damaged, shall be destroyed in a dignified manner in accordance with Title 4, Chapter 1, Section 8, U.S. Code ("Respect for the Flag").

(3) A length of one-quarter-inch (¼") PVC extending no higher than six inches (6") above the ground may be installed as a permanent receptacle for flags to be placed on dates that honor veterans.

(4) Small American flags no larger than six inches by four inches (6" × 4") be incorporated into floral arrangements at all times during the year.

(e) All decorations shall be placed on a grave site at the owner's risk, and the city shall not be responsible for the loss of any decorations by any cause whatsoever.

(Ord. No. 2009-32, § 1, 12-15-09; Ord. No. 2010-04, § 1, 3-16-10)

§ 2-645. Notice of noncompliance with rules and regulations.

(a) If a grave site is determined to be in violation of the rules and regulations of the cemetery, the cemetery manager shall place upon the grave site a flag or other marker that will serve as notification of the violation. If the violation is not corrected within thirty (30) days of flagging or marking the grave site, the cemetery manager shall remove the item(s) that are determined to be in violation of the rules and regulations at no risk to the city. Concurrent with the marking of the grave, the cemetery administrator shall forward written notice of the violation to the address on file with the city for the lot owner or his representative. If there is no address on file with the city, flagging or marking the grave site shall be the only notice required. Second and subsequent violations of the same rule or regulation shall not require notice, and the cemetery manager shall immediately remove the item(s) that are determined to be in violation at no risk to the city.

(b) With the exception of plantings, items removed from a grave site for violation of rules and regulations shall be placed in a bag that is sealed and labeled with the name of the deceased, the location of the grave site, and the date of removal from the grave site. The bag shall be stored by the city for a period of twelve (12) months. After the expiration of twelve (12) months, unclaimed bags shall be disposed of by the city. The city shall bear no liability for items so disposed.

(c) Trees, shrubs, or other plantings removed from a grave site may be transplanted to a common area of the cemetery or discarded, whichever is most appropriate.

(d) The cemetery manager shall maintain a record that lists items removed from a grave site, the name of the deceased, the location of the grave site, the date of removal from the grave site, the date claimed by the family or the date of disposal by the city, if applicable.

(Ord. No. 2009-32, § 1, 12-15-09; Ord. No. 2010-04, § 1, 3-16-10)

§§ 2-646-2-650. Reserved.

Effective: Tuesday, August 04, 2015

Division 5. Rules Of Conduct

§ 2-651. Visiting hours.

The cemeteries shall be open for visitation purposes from sunrise to 9:00 p.m. daily. Persons visiting between sunset and 9:00 p.m. shall do so at their own risk. Any person entering the cemeteries after 9:00 p.m. and before sunrise without the prior approval of the city shall be deemed to be trespassing and subject to the penalty provided in section 1-15 of the city Code.

(Ord. No. 2009-32, § 1, 12-15-09)

§ 2-652. Use of roadways and entrances.

(a) No person shall use the roadways of the cemeteries as public thoroughfares for passage through the cemetery or for any other purpose, other than for attendance at funerals, memorial occasions, visits to graves or cemetery lots, or other similar uses and purposes, including official business.

(b) No person shall climb over, go through or go over any wall, fence or hedge in the cemetery, trespass in any manner upon cemetery property, or enter or leave the cemetery at any place other than at regularly established gateways or entrances and at such times as are established by the city for visitation.

(Ord. No. 2009-32, § 1, 12-15-09)

§ 2-653. Pedestrians.

(a) Persons walking within a cemetery shall use only the avenues, roads, walks and alleys and no one shall be permitted to walk upon or across lots or lawns unless it is necessary to do so to gain access to one's own lot. The city shall not be liable for any injury sustained by anyone violating this rule.

(b) Persons visiting a cemetery or attending a funeral are strictly prohibited from writing upon, defacing or injuring any memorial, fence or other structure within the cemetery.

(c) Persons visiting a cemetery or attending a funeral are strictly prohibited from gathering flowers, either wild or cultivated, breaking or injuring any tree, shrub or plant, or feeding or disturbing the birds, fish or other animal life within the cemetery.

(Ord. No. 2009-32, § 1, 12-15-09)

§ 2-654. Vehicles.

(a) *Admission.* Admission of vehicles upon cemetery roads shall be permitted as a privilege and not as a right inherent to the ownership of interment rights in a burial space. Admission of vehicles is restricted to persons who observe the traffic rules of the city.

(b) *Entrance.* No vehicle shall enter a cemetery except through a regular entrance maintained for such purpose.

(c) *Driving on lots and lawns.* No person shall drive a vehicle over cemetery lots or upon cemetery lawns under any circumstances whatsoever.

(d) *Parking.* No person shall park any vehicle so as to obstruct any cemetery driveway, and no person shall drive or park any vehicle on any burial space. Parked vehicles must not be left with the engine running, and the emergency brake must be set when the driver is not in the vehicle.

(e) *Speed.* No person shall drive a vehicle at a speed in excess of ten (10) miles per hour.

(f) *U-turns.* No person shall make a U-turn on any road or driveway within the cemetery.

(g) *Horns, sirens or other similar noise emitting instrumentalities.* The sounding of horns, sirens or similar signals within the cemeteries is prohibited.

(h) *Funeral processions.* Drivers of vehicles in a funeral procession shall obey all traffic rules. When a vehicle meets a funeral procession, the driver must stop until the procession passes. A driver must not pass a funeral procession going in the same direction.

(i) *Pedestrian safety.* Visitors upon foot have the primary right to use of the road, and all drivers of vehicles are required to observe pedestrian rights by careful driving and strict adherence to the rules.

(Ord. No. 2009-32, § 1, 12-15-09)

§ 2-655. Miscellaneous rules of conduct.

(a) *Alcoholic beverages.* No person shall consume any alcoholic beverage, including beer and wine, within the boundaries of the cemeteries.

(b) *Children.* Children under fifteen (15) years of age shall not be permitted within a cemetery or its buildings unless accompanied by an adult who will be responsible for their conduct. Children, when accompanied by an adult, shall not play upon cemetery lots or lawns.

(c) *Dogs and other animals.* Dogs and other domestic animals or non-domestic animals are prohibited on cemetery grounds or in cemetery buildings, except that this prohibition shall not apply to service animals accompanied by their owner.

(d) *Disrespecting grave sites.* No person shall disrespect or desecrate grave sites by lying, sitting, or standing on top of markers, monuments or any other memorial structures.

(e) *Disturbing funerals.* No loud talking shall be permitted within hearing distance of funeral services.

(f) *Peddling or soliciting.* Peddling of flowers or plants or soliciting the sale of any commodity is prohibited within the boundaries of the cemeteries.

(g) *Littering.* The throwing of trash or litter on the drives, paths, lawns, lots or any other part of the cemetery grounds is prohibited.

(h) *Food and beverages.* No food or beverages shall be permitted in the cemeteries.

(i) *Signs and advertisements.* No signs, notices or advertisements of any kind shall be allowed in a cemetery unless placed by the city.

(j) *Reserved.*

(k) *Other inappropriate activities.* No person shall disturb the peace or disrupt the proper order of any cemetery by yelling, fighting, running, engaging in games or sports activities, engaging in horseplay, playing loud music, or using offensive words or insults. No person shall loiter or wander aimlessly about on cemetery grounds.

(Ord. No. 2009-32, § 1, 12-15-09; Ord. No. 2011-20, § 7, 9-20-11)

§ 2-656. Vandalism or injury to cemeteries.

(a) In accordance with F.S. § 872.02, any person who willfully and knowingly destroys, mutilates, defaces, injures or removes any tomb, monument, marker, gravestone or other item intended for the protection, identification or ornamentation of any tomb, monument or gravestone or willfully destroys, mutilates, removes, cuts, breaks or injures any tree, shrub, or plant placed or being within the boundaries of the cemeteries is guilty of a misdemeanor of the first degree, punishable as provided in F.S. § 775.082 or F.S. § 775.083. However, if the damage to such property is greater than one hundred dollars (\$100.00) or if any property removed is greater in value than one hundred dollars (\$100.00), then he is guilty of a felony of the third degree, punishable as provided in F.S. § 775.082, F.S. § 775.083, or F.S. § 775.084.

(b) Any person who willfully and knowingly disturbs the contents of a tomb or grave is guilty of a felony of the third degree, punishable as provided in F.S. § 775.082, F.S. § 775.083, or F.S. § 775.084.

(c) This section shall not apply to any person authorized by law to remove or disturb a tomb, monument or gravestone or the contents of a tomb or grave.

(Ord. No. 2009-32, § 1, 12-15-09)

§§ 2-657-2-699. Reserved.

Effective: Tuesday, August 04, 2015

Article VII. Program Administration

Division 1. Aware Program

§ 2-700. Legislative intent and statement of policy. [Repealed]

Effective: Tuesday, February 07, 2017

It is the intent of the city commission to establish a program for rewarding with monetary compensation those individuals who provide information which assists law enforcement officials in the arrest of offenders engaged in crimes. Said program shall be known as the AWARE program.

(Ord. No. 97-03, § 1, 5-6-97; Ord. No. 98-17, § 2, 10-20-98; Ord. No. 2017-02§ 10, 02-07-2017)

§ 2-701. Program funding. [Repealed]

Effective: Tuesday, February 07, 2017

The AWARE Program shall be funded by general fund operating revenues.

(Ord. No. 97-03, § 1, 5-6-97; Ord. No. 98-17, § 2, 10-20-98; Ord. No. 2017-02§ 10, 02-07-2017)

§ 2-702. Board of directors. [Repealed]

Effective: Tuesday, February 07, 2017

(a) A board of directors shall allocate informant rewards in excess of five hundred dollars (\$500.00) that are distributed through the AWARE program.

(b) The board of directors shall consist of seven (7) members.

(1) One (1) member shall be a city commissioner and shall be appointed annually by the city commission at the first meeting in October.

(2) One (1) member shall be the chief of police or his designee.

(3) One (1) member shall be the city manager or his designee.

(4) Four (4) members shall be citizens at-large and shall be appointed by the city commission to serve a three (3) year term. At-large members shall reside within the city limits, own property located within the city limits or have a current business tax receipt issued by the city.

(c) The members of the board of directors shall adopt rules to conduct its meetings and business and shall elect a chairman to serve a one (1) year term.

(d) Meetings of the board of directors shall be called by the chairman as necessary. Four (4) members in attendance shall constitute a quorum.

(e) Members of the AWARE board of directors are subject to section 2-26 of the Lake Wales Code of Ordinances which regulates city boards and committees, the Florida Sunshine Law, the Public Records Law, financial disclosure requirements, and all other laws which govern members of public agencies.

(f) Members of the AWARE board of directors who are serving on the effective date of ordinance 98-17 (Oct. 20, 1998) shall continue to serve the terms to which they were appointed until expiration of said terms.

(Ord. No. 97-03, § 1, 5-6-97; Ord. No. 98-17, § 2, 10-20-98; Ord. No. 2006-47, § 3, 12-5-06; Ord. No. 2017-02, § 10, 02-07-2017)

§ 2-703. Investigation. [Repealed]

Effective: Tuesday, February 07, 2017

Information received from an informant by any means shall be forwarded to the chief of police or his designee who shall conduct an investigation in accordance with standard departmental operating procedures.

(Ord. No. 97-03, § 1, 5-6-97; Ord. No. 98-17, § 2, 10-20-98; Ord. No. 2017-02 § 10, 02-07-2017)

§ 2-704. Eligibility for reward. [Repealed]

Effective: Tuesday, February 07, 2017

(a) Any person, except as stated in paragraph (b), who provides information which leads to the arrest and filing of information or indictment against an offender committing a crime shall be considered for a reward.

(b) Employees of the criminal justice system, members of the board of directors and their immediate families, or victims of the crime or related crime for which information is provided shall not be eligible for reward.

(c) If two (2) or more persons furnish information about the same crime, the reward monies shall be awarded as determined by the board of directors.

(Ord. No. 97-03, § 1, 5-6-97; Ord. No. 98-17, § 2, 10-20-98; Ord. No. 2017-02 § 10, 02-07-2017)

§ 2-705. Limit on amount of reward. [Repealed]

Effective: Tuesday, February 07, 2017

An award for information that leads to the arrest and filing of information or indictment against an offender shall not exceed one thousand dollars (\$1,000.00).

(Ord. No. 97-03, § 1, 5-6-97; Ord. No. 98-17, § 2, 10-20-98; Ord. No. 2017-02 § 10, 02-07-2017)

§ 2-706. Allocation of reward in the amount of five hundred dollars (\$500.00) or less. [Repealed]

Effective: Tuesday, February 07, 2017

Up to five hundred dollars (\$500.00) for each solved crime may be awarded administratively with the approval of the city manager or his designee upon submittal of a recommendation as provided in section 2-708(a) of this article.

(Ord. No. 97-03, § 1, 5-6-97; Ord. No. 98-17, § 2, 10-20-98; Ord. No. 2017-02§ 10, 02-07-2017)

§ 2-707. Allocation of reward in excess of five hundred dollars (\$500.00). [Repealed]

Effective: Tuesday, February 07, 2017

(a) A reward in excess of five hundred dollars (\$500.00) for information which has assisted in the solving of a crime shall be awarded at the discretion of the board of directors upon submittal of a recommendation as provided in section 2-708(b) of this article and shall require the concurring vote of the majority present.

(b) The board of directors shall have the final authority to determine the amount of the reward when the recommended reward exceeds five hundred dollars (\$500.00) and such determination shall give consideration to the relative significance of the arrest and the recommendation of the case officer.

(Ord. No. 97-03, § 1, 5-6-97; Ord. No. 98-17, § 2, 10-20-98; Ord. No. 2017-02§ 10, 02-07-2017)

§ 2-708. Recommendation for reward. [Repealed]

Effective: Tuesday, February 07, 2017

(a) Recommendation for payment of a reward in an amount up to and including five hundred dollars (\$500.00) for information which has assisted in the solving of a crime shall be submitted to the city manager or his designee on a standard form created for the purpose. The form submitted shall include a recommended amount of reward and shall not identify the name or address of the informant but shall show the informant's code number and case number.

(b) Recommendation for payment of a reward in an amount that exceeds five hundred dollars (\$500.00) for information which has assisted in the solving of a crime shall be submitted to the board of directors by the case officer on a standard form created for the purpose. The form submitted shall include a recommended amount of reward and shall not identify the name or address of the informant but shall show the informant's code number and case number.

(Ord. No. 97-03, § 1, 5-6-97; Ord. No. 98-17, § 2, 10-20-98; Ord. No. 2017-02§ 10, 02-07-2017)

§ 2-709. Disbursement of funds. [Repealed]

Effective: Tuesday, February 07, 2017

(a) To pay an informant reward in the amount of five hundred dollars (\$500.00) or less, the case officer shall submit a request for disbursement on a standard form created for the purpose.

(1) The request for disbursement form shall be approved by the city manager or his designee.

(2) The request for disbursement form shall be forwarded to the city clerk and shall be accompanied by the original AWARE request for reward payment form as back-up documentation. Neither the request for reward payment nor the request for disbursement form shall identify the name or address of the informant but shall show only the informant's assigned code number and case number.

(b) To pay an informant reward when the amount exceeds five hundred dollars (\$500.00), the case officer shall submit a request for disbursement on a standard form created for this purpose.

(1) The request for disbursement form shall be approved by a member of the board of directors other than the chief of police or his designee. The request for disbursement form shall bear the signature of the city manager in addition to the signature of another member of the board of directors.

(2) The request for disbursement form shall be forwarded to the city clerk and shall be accompanied by the original AWARE request for reward payment form as back-up documentation. Neither the request for reward payment nor the request for disbursement form shall identify the name or address of the informant but shall show only the informant's assigned code number and case number.

(c) Disbursement of funds for rewards shall be the administrative responsibility of the city clerk who shall prepare a confirming requisition and forward requests for disbursement to the finance department for processing.

(1) The reward shall be paid in the form of a city check made payable to the case officer and shall reference the informant's code number and case number.

(2) After making a disbursement, whether by check or by transfer to another account, the finance department shall "cancel" the request for disbursement form by stamping it paid and indicating the check number or other method of disbursement.

(3) Checks payable to the case officer shall be forwarded to the city clerk.

(4) All canceled request for disbursement forms shall be returned to the city clerk immediately upon disbursement of funds. The city clerk shall maintain a file containing all canceled forms with appropriate back-up documentation.

(d) After receiving the check from the finance department, the city clerk shall release the check to the case officer requesting the disbursement.

(1) The city clerk shall indicate on the canceled request for disbursement form the check number, date of release to the case officer, and verification of code number, case number and check amount.

(2) The case officer shall indicate receipt of the check from the city clerk by placing his/her signature on the receipt line of the canceled request for disbursement form.

(3) No check shall be released unless the receipt is signed by the case officer and initialed by the city clerk.

(e) The reward shall be released to the informant and a receipt obtained by the case officer in accordance with standard departmental operating procedures; such receipt shall be maintained in the department's confidential files but shall be available for audit by the city's auditors.

(Ord. No. 97-03, § 1, 5-6-97; Ord. No. 98-17, § 2, 10-20-98; Ord. No. 2017-02§ 10, 02-07-2017)

Article VIII. Grant Administration

§ 2-801. Applicability.

All grants, including subsequent phases of an initial grant award, shall be subject to the requirements of this article.

(Ord. No. 2004-10, § 1, 5-18-04)

§ 2-802. Grant application.

(a) All grant applications shall be forwarded to the finance director for analysis of present and future impact on the city's financial resources. Within ten (10) working days of receiving a grant application for analysis, a statement certifying fiscal impact shall be forwarded with the grant application to the city manager for review. It shall be the responsibility of the person preparing the grant application to pay close attention to application deadlines and allow sufficient time for fiscal impact analysis by the finance director and approval by the city manager or city commission, as applicable.

(b) All grant applications representing a cost to the city whether through requirement of a local contribution, either in-kind or monetary, or through a restrictive covenant or other stipulation that binds the city to future expenditures of any amount for maintenance, personnel or any other costs shall be presented to the city commission for approval. The fiscal impact statement prepared by the finance director shall be presented to the city commission with the application at the next regularly scheduled meeting following completion of the fiscal impact analysis. The city commission may authorize the city manager to execute the grant application documents or may elect not to submit the application.

(c) Unless the granting agency specifically requires city commission approval of a grant application, the city manager is hereby authorized to execute application documents for grants that are certified by the finance director as representing no present or future cost to the city through local contribution requirement, restrictive covenant or other stipulation. The city manager is the sole agent of the city so authorized. The city manager, however, may elect to require city commission approval of any grant application.

(d) When a granting agency requires that a public hearing be held prior to submitting an application, said public hearing shall be held before the grant application is presented to the city commission for approval and the minutes showing public comments shall be presented to the city commission with the grant application.

(e) After execution of the grant application document by the city manager and prior to its submittal to the granting agency, the city clerk shall certify a true copy of the entire document. Said certified copy shall be filed by the city clerk with the official records of the city.

(Ord. No. 2004-10, § 1, 5-18-04)

§ 2-803. Grant acceptance.

(a) Following a notice of grant award, all grant agreement documents, including restrictive covenants or stipulations, if any, shall be forwarded to the finance director for an updated analysis of present and future impact on the city's financial resources. Within ten (10) working days following receipt of the grant agreement for analysis, a statement certifying fiscal impact shall be forwarded with the grant agreement to the city manager for review. It shall be the responsibility of the person preparing the grant application to pay close attention to grant acceptance deadlines and allow sufficient time for fiscal impact analysis by the finance director and approval by the city manager or city commission, as applicable.

(b) All agreements for grants representing a cost to the city as stated in section 2-802(b) shall be presented to the city commission for approval. The updated fiscal impact statement prepared by the finance director shall be presented to the city commission with the agreement at the next regularly scheduled meeting following completion of the fiscal impact analysis. The city commission may authorize the city manager to execute the grant agreement documents or may elect not to accept the grant.

(c) Unless the granting agency specifically requires city commission acceptance of a grant, the city manager is hereby authorized to execute agreement documents for grants that are certified by the finance director as representing no present or future cost to the city through local contribution requirement, restrictive covenant or other stipulation. The city manager is the sole agent of the city so authorized. The city manager, however, may elect to obtain city commission approval for the acceptance of any grant.

(d) After execution of the grant agreement by the city manager and the representative of the granting agency, the city clerk shall file the original copy of the executed grant agreement with the official records of the city. Restrictive covenants or stipulations, if any, shall be attached to the grant agreement.

(Ord. No. 2004-10, § 1, 5-18-04)

§ 2-804. Grant expenditure records and financial reports.

(a) The finance director or designee shall maintain a record of all expenditures of grant proceeds with bid files, invoices and other supporting documentation and shall be responsible for the filing of all financial reports required by the granting agency.

(b) The finance director may delegate responsibility for the development of financial records and filing of reports to another department for any grant that is more conveniently administered in said other department. Such delegation shall be made at the sole discretion of the finance director but shall require the consent of the other department. The department to which such delegation is made shall comply with all requirements of paragraph (a). All records, supporting documentation and financial reports shall be forwarded to the finance department upon the request of the finance director for audit and other accounting purposes.

(c) Grant expenditure records, supporting documentation, and financial reports shall be forwarded to the city clerk for filing with the official records of the city following the final audit and close out of the grant by the granting agency. Grant records shall be retained until expiration of restrictive covenants or as required by State of Florida retention schedules, whichever is longer.

(Ord. No. 2004-10, § 1, 5-18-04)

Article IX. Reserved

§ 2-826. Reserved.

EDITOR'S NOTE

Ord. No. 2007-61, adopted Jan. 2, 2008, repealed § 2-826 in its entirety. Formerly, said section pertained to surcharges related to local government funding.
