

Chapter 2

ADMINISTRATION*

* **Cross References:** Fire prevention, Ch. 8; animals, Ch. 4; buildings and building regulations, Ch. 5; code enforcement, Ch. 6; elections, Ch. 7; flood prevention, Ch. 9; garbage and refuse, Ch. 10; health and sanitation, Ch. 11; licenses and business regulations, Ch. 14; pensions and retirement, Ch. 18; taxation, Ch. 24; utilities, Ch. 26; adjustment of standards by the city council acting as a committee of adjustment of a comprehensive landscape ordinance, § 13-45.

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ARTICLE I.

IN GENERAL

Sec. 2-1. Power to furnish local public services.

The city shall have the power to furnish any and all local public service.
(Ord. No. 1038, § 5(11), 2-10-82)

Cross References: Utilities, Ch. 26.

Sec. 2-2. Cultural and educational institutions.

The city shall have the power to acquire, maintain and operate aviation fields, playgrounds, golf courses, swimming pools, stadiums, auditoriums, libraries, aquariums, art museums, municipal theaters, municipal bands and other cultural and educational institutions.

(Ord. No. 1038, § 5(10), 2-10-82)

Secs. 2-3--2-15. Reserved.

ARTICLE II.

CITY COUNCIL*

* **Charter References:** Governing body of city, § 6 et seq.

State Law References: Code of ethics for public officers and employees, F.S. § 112.311 et seq.; public meetings, F.S. § 286.011; public records, F.S. § 119.01 et seq.; procedure for adoption of ordinances, F.S. § 166.041; per diem and travel expense, F.S. § 112.061.

Sec. 2-16. Compensation.

(a) The compensation of the councilmen and mayor shall be reviewed at least annually.

(b) The annual review of the compensation of the mayor and city councilman, where feasible, shall be concurrent with review of salaries of the department heads of the city.

(c) The mayor and each councilman of the city are elected for terms of four (4) years and their compensation shall be fixed by resolution.

(d) Whenever an elected official resigns or otherwise has his term of office prematurely terminated, any compensation and expenses shall be prorated and paid to the termination date of the elected official's term of office and the remaining portion shall be deemed unearned and shall be retained by the city.
(Code 1964, § 2-17; Ord. No. 1038, § 9, 2-10-82)

Cross References: Adjustment of standards by the city council acting as a committee of adjustment of a comprehensive landscape ordinance, § 13-45; administrative appeals from parking violations, § 25-41.

Secs. 2-17--2-30. Reserved.

ARTICLE III.

BOARDS, COMMISSION AND COMMITTEE*

* **Cross References:** Code enforcement, Ch. 6; Code enforcement board created, § 6-2; local planning agency, § 19-31; review committee, § 20-26; zoning, § 27-21 et seq.; board of adjustment, § 27-36 et seq.; landscaping planning and review board, § 13-16 et seq.; planning and zoning board, local planning agency, § 19-31 et seq.

State Law References: Code of ethics for public officers and employees, F.S. § 112.311 et seq.; per diem and travel expenses, F.S. § 112.061; public meetings, F.S. § 286.01-1 et seq.; public records, F.S. ch. 119; resign to run, F.S. § 99.012; municipal board members, suspension or removal, F.S. §§ 112.501, 112.51.

DIVISION 1.

GENERALLY

Sec. 2-31. Board member absences creating vacancy.

(a) Every member of board or committee of the city who shall be absent from four (4) meetings within one (1) year of the anniversary date of their appointment or reappointment, without proper medical reason for same, shall be deemed to have resigned his appointment to such board or committee and the vacancy created by such deemed resignation shall be filled in the same manner as the original appointment was made.

(b) The city clerk shall keep meeting attendance records of all members of all boards and committees of the city, and shall make every effort to advise a member and the mayor or the councilman who appointed such member upon the member's having been absent from three (3) meetings during the calendar year so that the member and those responsible for the appointment will realize that any further absence will result in the resignation of such member.

(Code 1964, § 2-3; Ord. No. 2388, § 1, 6-13-2007)

State Law References: Suspension or removal of municipal board members, F.S. § 112.501, 112.51.

Sec. 2-32. Annual review of appointees or elected officials; uniform appointment process.

(a) Other than for such boards or committees whose members' terms of office are provided to be staggered or for a specified period of time by state statute, all members of boards or committees of the city shall serve one-year terms of office and be subject to replacement or reappointment during the first council meeting in June of each year.

(b) A member of a board or committee of the city shall serve at the pleasure of the elected official making his or her appointment and shall be subject to removal by such elected official at any time without cause. When member appointments are required to be made by an approving resolution or motion, such member shall serve at the pleasure of the elected official having the nominating privilege for the consideration of such approving resolution or motion, and shall be subject to removal by such elected official at any time without cause. Additionally, the mayor may suspend any member of a board or committee of the city at any time without cause, and may appoint a person to perform, temporarily, the duties of the suspended member until such time as either:

- (1) A different person is duly appointed to complete the term of service of the suspended member; or
- (2) The governing body of the city adopts a resolution ending the mayor's suspension (provided however that in such event, all acts of the city board or committee taken with a member appointed by the mayor as a result of a mayoral suspension shall be deemed valid). Furthermore, the governing body of the city may remove at any time without cause any member of any board or committee of the city by promulgating a resolution.

(c) (1) Except when otherwise required and prescribed by state law or other city ordinance or resolution applicable to a particular board, the mayor and each council member shall each appoint one (1) member to each of the city boards, both advisory and nonadvisory (a "nonadvisory" board is an independent board which acts in a quasi-judicial capacity without review of its decisions by the city council). For any board which has more than six (6) members, the seventh member shall be selected by one of the elected officials after the officials draw lots, to determine which official shall first be accorded the privilege of appointing such seventh board member. For boards which have more than seven (7) members, the eighth member shall be appointed by the official occupying the seat number on the city council which is the next higher number subsequent to, and in sequential rotation from, the official who selected the seventh member (for purposes of the foregoing selection process, the mayor shall be considered as occupying seat number six (6)). If appointments to a larger board are to be made, the selection process shall continue based on the foregoing procedure, i.e., the next official in sequential rotation shall make the appointment. Subsequent appointment privileges for each particular board shall be made by using the same sequential rotation basis, dependent upon identification of the seat number of

the official who last had and exercised the appointment privilege. Members of the city council and the mayor may trade their appointments among themselves, depending upon their respective personal knowledge of qualified persons who work in a particular field of endeavor, whether or not such particular fields are specified by law. No person may acquire more than one (1) appointment per board by use of the trading process.

(2) When member appointments are required to be made by the city governing body (e.g., the unsafe structures board, etc.), the members shall be appointed by an approving resolution or motion and the preceding paragraph's procedures shall be followed with the elected officials' appointment privileges being considered nominating privileges.

(d) A person appointed by an elected official or the city governing body to a board or committee of the city government may serve only on one (1) board or committee of the city government, unless service is in an ex-officio capacity. In cases where service is not in an ex-officio capacity, when a member of a board or committee of the city government accepts an appointment by an elected official or the city governing body to another board or committee of the city government and where any portion of the term of service for the second seat is concurrent with the term of service of the first seat, then that person's seat on the first board or committee will be deemed vacated and will be filled according to the procedures pertinent to the first board or committee. As used within this subsection, "board or committee of the city government" means a board or committee created by ordinance or resolution, or authorized by provisions of state law, which exercises some direction or control (even in an advisory capacity) over either: a) the development or application (or both) of law or regulations affecting residents (including commercial and noncommercial residents) of Plantation or property within Plantation; or, b) the method and manner of delivery of city-provided services and amenities to residents (including commercial and noncommercial residents) of Plantation.

(e) No department head or city employee may serve as a member of any board or committee of the city except the review committee, the plans adjustment committee, and a committee whose purpose is to evaluate submissions during competitive procurement. Likewise, no elected official shall serve as a member of any board or committee of the city except the plans adjustment committee, the retirement boards, and a committee whose purpose is to evaluate submissions during competitive procurement. All existing resolution and ordinances which conflict with this subsection are repealed to the extent of such conflict. The composition of any board or committee of the city which is affected by this subsection shall be reduced by the number of department heads or employees who previously served as members of the affected board.

(f) As used within this section, "board or committee of the city" means a board or committee created by ordinance or resolution, or authorized by provisions of state law.
(Code 1964, § 2-23; Ord. No. 2162, § 1, 5-13-98; Ord. No. 2343, § 1, 5-11-2005; Ord. No. 2388, § 2, 6-13-2007)

State Law References: City planning board appointment for staggered terms, F.S. § 163.180; city board of adjustment appointed for terms of three (3) to five (5) years, F.S. § 163.220.

Sec. 2-33. Residency requirement for members of appointed boards.

(a) Except for employees of the city and fee consultants retained by the city, only residents of the city may be appointed or may service on the appointed boards, commissions, agencies or other bodies of the city which are created and exist by ordinance or state statute. Department heads and officers of the city will be considered employees for purposes of this section. This provision shall not apply when the enabling law for a

specific board, agency, or committee permits owners or employees of business residents to serve though such persons may not be residents (by way of example, Plantation Gateway or Plantation Midtown).

(b) Except as provided by subsection (c) below, to be a resident of the city for the purposes of this section, the individual concerned must have his or her permanent place of abode within the city limits and must live and reside there, as living and residing are commonly understood, for at least nine (9) months out of every year, excluding vacations. When a member of an appointed board or other body ceases to be a resident within the meaning of this section, that member's seat will be deemed vacated and will be filled according to the procedures pertinent to that board or body.

(c) There are instances when a member of a board or committee may need to temporarily live outside of Plantation without, in legal sense, waiving his or her rights to his or her claimed permanent place of abode within the city or to living therein. Examples of such instances include, but are not limited to, a temporary living arrangement during a marital dissolution or other litigation, a health condition of the member or a member of his or her family, military service, or an extended out of town employment assignment. In these and other situations, where the member of a board or committee is appointed by an elected official, such elected official may approve a temporary exception to the requirement in subsection (b) above that the member have his or her permanent place of abode within the city limits and must live and reside there, as living and residing are commonly understood, for at least nine (9) months out of every year, excluding vacations. Any such temporary exception must be made in writing in memorandum form and filed with the city clerk. Upon receipt of such memorandum, the clerk shall distribute the temporary exception memorandum to the members of the city governing body. Should any elected official wish city council review of any such temporary exception, he or she shall request in writing that the city clerk agendaize the matter for city council consideration. The temporary exception shall then be considered at the next reasonably available city council meeting and shall be approved or rejected by the governing body of the city. If no written request for city council review of the temporary is received by the city clerk within fourteen (14) calendar days from the memorandum's circulation date, the temporary exception will be deemed effective. The memorandum shall contain language notifying the city elected officials that the temporary exception will be deemed effective if no written objection is received by the city clerk within fourteen (14) calendar days of the memorandum's circulation date and the circulation date shall be clearly identified. In a case where the member of a board or committee is appointed by resolution, the request for an exception must be made to the elected official who has a nominating privilege for the member (who in turn must request the city to promulgate an approving resolution), and the exception must be approved by resolution of the city governing body.
(Code 1964, § 2-24; Ord. No. 2403, § 1, 1-9-2008)

Secs. 2-34--2-45. Reserved.

DIVISION 2.

JOB DESCRIPTION COMMITTEE

Sec. 2-46. Created.

There is hereby created a permanent job description committee from the city council.
(Code 1964, § 2-35)

Sec. 2-47. Members.

The job description committee shall consist of three (3) members, who shall be the individuals occupying the offices of mayor, council president and council president pro tem. Membership on the committee shall change as new mayors, council presidents and council presidents pro tem assume such offices, and any committee work in progress shall be assumed by the new members of the committee for completion.
(Code 1964, § 2-35)

Sec. 2-48. Responsibility.

The job description committee is charged with the responsibility of creating new job duties and descriptions for approval by the entire city council, with the committee's first priorities to be the preparation of job descriptions and duties for department heads herein designated which are not now defined or set forth in the Frank C. Brown Associates Report. After all such job descriptions and duties are so approved for all department heads or officers specified in section 2-126, the job description committee shall periodically, but at least annually and within one (1) month of the new council president and council president pro tem assuming office, meet and review the then existing city departments and their department functions, in order to ascertain whether new departments should be recommended to be created or certain functions removed from one department and placed in another or new department. Similarly, the job descriptions and duties of department heads shall be reviewed at least annually at such meeting by the job description committee.
(Code 1964, § 2-36)

Sec. 2-49. Meetings.

Minutes shall be preserved at all meetings of the job description committee, and all requirements of Florida law shall be met in holding such meetings "in the sunshine," with the media and public invited to the meetings. All minutes of the committee shall be forwarded to the city council for its information. The committee shall meet at least monthly at city hall until appropriate ordinances and resolutions are adopted by the city council, setting forth the descriptions and job duties of the department heads created in this Code, as well as any department heads which may hereafter be created to supervise departments of the city which may be hereafter created.
(Code 1964, § 2-37)

Sec. 2-50. Outside input; consultive advice.

In its deliberations, the job description committee shall call upon any input or consultive advice which it deems appropriate in defining the job descriptions and duties of the various city department heads, including the services of the legal department in preparing the ordinances or resolutions to be submitted to the city council for approval of such job descriptions and duties.
(Code 1964, § 2-38)

Sec. 2-51. Preparation of descriptions for council approval.

When the three (3) members of the job description committee unanimously agree on job descriptions, qualifications and duties of a department head, the legal department shall prepare same in proper form and submit them for approval to the city council. All six (6) members of the city council shall have a vote privilege

on the adoption of any resolution or ordinance setting forth the job descriptions, qualifications and duties of a department head. In order to pass a resolution or ordinance setting forth such job descriptions, qualifications and duties of a department head, four (4) affirmative votes of the six (6) members of the city council shall be required. Whenever four (4) affirmative votes are not obtained for such proposed ordinance or resolution, the ordinance or resolution shall be referred back to the job description committee with the transcribed comments made of the discussion by the city council and the public of such proposed ordinance or resolution, and the job description committee shall then proceed to meet at least weekly in order to revise and resubmit the proposed ordinance or resolution for consideration by the city council, until four (4) affirmative votes can be obtained for the adoption of the resolution or the passage of the ordinance.

(Code 1964, § 2-39)

Sec. 2-52. Procedure when committee is deadlocked.

Whenever the job description committee appears deadlocked and cannot agree on the job duties, qualifications and descriptions of a department head for submission to the city council, a majority report and a minority report shall be submitted at the next ensuing workshop session of the city council and discussions shall be had thereon and a straw vote taken so as to give guidance and assistance to the job description committee in an effort to reconcile the differences of opinions of its members on such job descriptions, qualifications and duties. Whenever it thereafter appears to the committee that it is impossible for the committee to unanimously concur on the job description, qualifications and duties to be given to a department head and there is concurrence among two (2) of the three (3) members of this committee on what duties, qualifications and job descriptions should be recommended to the city council for such department head, such majority concurrence shall be reduced to appropriate written form and shall be submitted to the city council for approval. If four (4) affirmative votes are received for such majority concurrence proposal, the same shall be deemed approved on first reading insofar as an ordinance is concerned or adopted insofar as a resolution is concerned. If the mayor is the dissenting member of the job description committee where a majority consensus resolution or ordinance is submitted to the city council and four (4) affirmative votes are received for the adoption or approval of same, the vote shall be deemed the equivalent of overriding the mayor's veto on such proposal; and the mayor shall not be privileged to veto any such resolution or ordinance receiving four (4) affirmative votes.

(Code 1964, § 2-40)

Sec. 2-53. Descriptions, appointments requiring approval in resolution form.

All full-time employees of the city who are department heads shall have their job qualifications, descriptions and duties prepared by the job description committee for approval by the city council in resolution form, and shall have their appointment also approved in resolution form.

(Code 1964, § 2-41)

Sec. 2-54. Descriptions, appointments requiring approval in ordinance form.

All independent consultants, who now occupy the status of department head and work on a negotiated fee basis, shall be appointed and their job duties and qualifications shall be set forth in ordinance form with their method of selection, although still to be appointed by the mayor with such appointment subject to the approval of the city council, to be in such form as would substantially comply with the intent of Florida's Consultants' Competitive Negotiation Act, F.S. section 287.055. The department heads to which this section applies are the city attorney for which the procedure for filling vacancies in such office is section 2-144 of this Code, and the

city engineer whose future vacancy shall be filled by a procedure substantially similar to section 2-144 of this Code and the intent of the Consultants' Competitive Negotiation Act.
(Code 1964, § 2-42)

Sec. 2-55. Deferment of legislation until all council members are present.

Any resolutions or ordinances submitted to the city council pertaining to the approval and adoption of job qualifications, duties and descriptions of department heads shall be deferred until all members of the city council are present to publicly debate and vote upon the proposed resolution or ordinance.
(Code 1964, § 2-43)

Secs. 2-56--2-70. Reserved.

DIVISION 3.

REVIEW COMMITTEE*

* **Cross References:** Buildings and building regulations, Ch. 5; landscaping, Ch. 13; planning and development, Ch. 19; platting, Ch. 20; police, Ch. 21; utilities, Ch. 26; fire protection, Ch. 8; approval of all plats required by the review committee, § 20-26 et seq.

Sec. 2-71. Created; composition; meetings.

(a) There is hereby created the review committee, which shall consist of the following department heads or their designee:

- (1) Director of utilities;
- (2) City landscape architect;
- (3) Director of recreation;
- (4) Chief building official and in his absence the chief building inspector;
- (5) Chief of police;
- (6) Fire chief;
- (7) City engineer;
- (8) Public works director;
- (9) City planner;
- (10) City traffic consultant.

(b) The city comptroller shall from time to time be asked to attend meetings of the review committee when matters of fiscal consideration are involved. The city attorney shall be asked to attend meetings of the review committee when legal opinions or determinations are deemed advisable on matters before the committee.

(c) The chief building official shall be the chairman of the review committee and perform the function of moderator, as well as to set the agendas for the review committee. The chief building inspector shall be the vice-chairman of the committee and shall serve as and perform the duties of the chairman in the chairman's absence.

(d) Minutes shall be kept of the review committee meetings and the votes of the members recorded. (Code 1964, App. A, Art. XXIII 1/2, § 2(a)-(c))

Sec. 2-72. Duties.

The review committee shall review all proposals to be submitted to the planning and zoning board and other matters as required by council.

(Ord. No. 2222, § 1, 5-31-2000)

Cross References: Platting, Ch. 20; zoning, Ch. 27.

Sec. 2-73. Proposals.

Proposals to be presented to the review committee for subsequent submittal to the planning and zoning board must be received in the building and zoning department before 10:00 a.m. of the Friday which precedes by ten (10) days the date of the scheduled review committee meeting. Should any review committee meeting be scheduled for a day of the week other than a Monday, the submission deadline will be 10:00 a.m. of the Friday, which is at least eleven (11) days before the meeting, but not more than sixteen (16) days before the meeting. A schedule of review committee meeting dates shall be published semiannually by the building and zoning department.

(Code 1964, App. A, Art. XXIII 1/2, § 2(1); Ord. No. 2222, § 1, 5-31-2000)

Cross References: Zoning, Ch. 27.

Sec. 2-74. Reports to applicants.

(a) The review committee members will meet and present reports and make recommendations covering committee members' areas of responsibility and such reports and recommendations will be furnished in writing to the proponent within seven (7) days following the review committee meeting.

(b) Proponents may then amend their proposals by incorporating the review committee recommendations.

(Code 1964, App. A, Art. XXIII 1/2, § 2(c)(2),(3))

Sec. 2-75. Appeals.

If a proponent chooses to appeal from the recommendations and requests of the review committee, such appeal may be heard by the planning and zoning board. The planning and zoning board will make recommendation to the city council, and the council will make decision upon matters appealed and such

decision shall be incorporated in the proposal.
(Code 1964, App. A, Art. XXIII 1/2, § 2(c)(6); Ord. No. 2222, § 1, 5-31-2000)

Secs. 2-76--2-90. Reserved.

ARTICLE IV.

OFFICERS AND EMPLOYEES*

* **Charter References:** Disciplinary procedure for employees, § 5(46); city treasurer, § 30.
Cross References: Code enforcement, Ch. 6; traffic and vehicles, Ch. 25; signs and advertising, Ch. 22; utilities, Ch. 26; zoning, Ch. 27; pensions and retirement, Ch. 18.
State Law References: Unemployment compensation, F.S. ch. 443; workers' compensation law, F.S. ch. 440; age discrimination in employment, F.S. § 112.044; code of ethics, F.S. § 112.311 et seq.; oath, F.S. § 876.05; political activities, F.S. § 104.31; collective bargaining law, F.S. ch. 447; per them and traveling expenses of public officers, employees and authorized persons, F.S. § 112.061.

DIVISION 1.

GENERALLY

Sec. 2-91. Disposition of fees, fines collected by city.

No officer or employee of the city shall retain any fees or cost for any service he may perform, nor shall he receive any compensation other than the salary fixed by ordinance except as hereinafter prescribed. All fines shall be a part of the revenue of the city and shall be paid into the city treasurer by the officer receiving the fines.

(Ord. No. 1038, § 26, 2-10-82)

Sec. 2-92. Bonds of officers.

The city council shall determine by resolution what officers, clerks or employees shall give bond and the amount of penalty thereof. All officers, clerks and employees of whom bond is required by the city council shall, before entering upon their respective duties, give bond with surety to be approved by the city council, conditioned for the faithful performance of the duties of their respective offices. All such bonds shall be payable to the city.

(Ord. No. 1038, § 36, 2-10-82)

Secs. 2-93--2-105. Reserved.

DIVISION 2.

INDEMNIFICATION

Sec. 2-106. Definition.

In this division, the word "official" includes every mayor, city councilor, officer, agent or employee of the city, masculine or feminine, whether elected, appointed or employed, with or without compensation, including all advisory board members.

(Code 1964, § 2-60)

Cross References: Definitions and rules of construction generally, § 1-2.

Sec. 2-107. Defense and indemnification.

(a) *Defense.*

- (1) Whenever in the performance of, or in connection with the performance of, official duties on behalf of the city, an official is sued either in a representative or personal capacity (in either an administrative, judicial, or criminal proceeding) with or without the city as a co-party in the matter and the city learns that no insurance defense is offered on any claim made in such litigation against the official, the mayor of the city (or the president of the city council if the official sued is the mayor) is authorized, upon request of such official, to obtain legal counsel for such official, and such legal counsel may appear in such litigation or proceedings and conduct the uninsured claims defense on behalf of the official and is authorized to incur costs and expenses therein without prior approval of the city council. In the event of an emergency where circumstances are such that the city does not have time to tender the defense to the insurer, the authorization shall be temporary until such tender can reasonably be made and either accepted or rejected.
- (2) Should it appear to the city by a preponderance of evidence after such defense is undertaken that such official's act or omission was outside the course and scope of his employment, or was committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property, then the continuing defense of such official shall be referred to the city governing body in order to have the city determine whether the defense of such individual shall continue at city expense.
- (3) If the official's act or omission was within the scope of his employment or function, and was not committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property, the city shall promptly preserve, protect, defend, aid and assist the official. If the official shall willfully fail or refuse to cooperate in his defense, the city may, to the extent that the city was damaged thereby, reduce the defense protection provided.
- (4) The city may refuse to pay an official's legal fees and costs where the expenses are unreasonable, where the representation was not approved before the services were rendered, or where the services were unnecessary because one lawyer could have reasonably represented the city and the official, or could have represented more than one official having common interests.
- (5) The decision of the mayor, president of the city council, or city governing body to defend the official or not to defend the official, and the terms of the defense, shall be subject to review by the city governing body at any time from the inception of the dispute, proceeding, or litigation until the determination of the case or proceeding.

(b) *Indemnification.* If the official's act or omission was within the scope of his employment or function, and was not committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property, the city shall exonerate, indemnify and hold harmless the official from and against any and all expenses, liabilities, claims, demands, proceedings, damages, losses, charges, advances, disbursements, payments, expenses, costs, including reasonable counsel fees, awards, settlements, judgments, decrees and mandates, paid, incurred by or imposed upon the official in all disputes, proceedings, trials and appeals, by reason of the official's being or having been a city official, even though he is no longer an official at the time the expenses are incurred or the claims are made against him. That portion of the indemnity provided in this paragraph which concerns defense expenditures is subject to the provisions of paragraphs (3), (4), and (5) of subsection (a) above. If the official shall wilfully fail or refuse to cooperate in his defense, the city may, to the extent the city was damaged thereby, reduce the indemnification provided.

(c) *Availability of indemnity and defense pursuant to law.* This section shall not supersede any official's substantive rights to indemnification or defense which may be provided pursuant to self-executing provisions of state, federal, constitutional, statutory or regulatory law, or which may be provided pursuant to common law.

(Code 1964, § 2-61; Ord. No. 2008, § 1, 11-16-94)

State Law References: Defense and indemnification of public officials, F.S. § 111.07 et seq.

Sec. 2-108. Actions authorized.

All officials of the city are hereby authorized, required and directed promptly to perform any and all acts necessary, expedient or proper to carry out the purposes of this section, not limited to the following:

- (1) The city attorney shall appear in all disputes, proceedings, litigation and appellate proceedings, and conduct the same in behalf of the officials, and is authorized to incur costs and expenses.
- (2) The finance department shall promptly pay, disburse and reimburse the necessary funds required for costs, expenses and indemnification, and shall, after final hearing and determination by the city council, satisfy any awards, settlements, judgments, mandates or decrees recovered or entered against the officials.
- (3) The city officials shall execute as principal or surety any and all judicial or other bonds, including supersedeas or appeal bonds, or post cash or securities in lieu of surety bonds.
- (4) The payment of all the foregoing sums is hereby declared to be a proper municipal purpose and expense, and the appropriation of all funds necessary for such payment is hereby authorized and made.

(Code 1964, § 2-62)

Sec. 2-109. Duties of officials.

Each official protected hereby shall promptly cooperate in his own defense and shall:

- (1) Attend hearings, trials and depositions and furnish such evidence as shall be needed.
- (2) Grant the city full rights of subrogation and the right to recover under any claims, offsets or

counterclaims of the protected official arising in connection with the controversy involved in this section, provided that if the protected official shall recover any sum, the city shall deduct all disbursements, costs and expenses of litigation including attorneys' fees and any award against the city, and the remainder shall belong to the protected official.

- (3) Execute and deliver to the city all assignments, papers and documents needed to carry out the purposes of this section.

(Code 1964, § 2-63)

Sec. 2-110. Nonliability of city.

The obligation of the city under this division shall extend only to the officials referred to in this division; but nothing in this division shall extend the liability of the city to the general public, and no act or omission hereunder shall constitute any waiver of defenses or any admission of liability to the general public.

(Code 1964, § 2-63)

Sec. 2-111. When division effective.

The provisions of this division will only be effective when the official is not fully protected under applicable liability insurance carried by the city, or in those instances when the liability carrier defends under a reservation of rights clause. The protection guaranteed in this division shall exist during and after the term of office or employment, for liabilities incurred during the term of office or employment.

(Code 1964, § 2-65)

Secs. 2-112--2-119. Reserved.

DIVISION 3.

SETTLEMENT OF LAWSUITS

Sec. 2-120. Procedure.

The mayor may settle any suit against the City of Plantation, for any cause of action, when such settlement can be obtained for no greater than twenty-five thousand dollars (\$25,000.00) in complete satisfaction of the suit, including all claims for the claimant's fees and costs. The members of the city council shall be notified immediately in memorandum form by the city insurance supervisor of any tentative settlement approved by the mayor. Should any councilmember wish city council review of a tentative settlement, he or she shall request in writing that the insurance supervisor agendaize the matter for city council consideration. The proposed settlement shall then be considered at the next reasonably available city council meeting and shall be approved or rejected by the governing body of the city. If no written request for city council review of a tentative settlement is received by the city insurance supervisor within fourteen (14) calendar days from the memorandum's circulation date, the tentative settlement will be deemed final and binding upon the city. The memorandum shall contain language notifying the city councilmembers that the settlement will be deemed final if no written objection is received by the city insurance supervisor within fourteen (14) days of the memorandum's circulation date and the circulation date shall be clearly identified.

(Ord. No. 2017, § 1, 2-1-95)

Secs. 2-121--2-125. Reserved.

ARTICLE V.

DEPARTMENTS*

* **Cross References:** Building and building regulations, Ch. 5; fire protection, Ch. 8; planning and development, Ch. 19; police, Ch. 21; streets, sidewalks and other public places, Ch. 23; utilities, Ch. 26; elections, Ch. 7; city water department, § 26-16.

DIVISION 1.

GENERALLY

Sec. 2-126. City departments created.

There is hereby created the following city departments with the chief supervising officer or department head of the departments to bear the titles specified:

Department title	Department head title
Administration	Assistant to the chief executive officer/mayor
Building and zoning department	Building and zoning director
Comptroller's and/or finance department	Comptroller and/or finance director
Data processing	Director of computer operations
Engineering department	City engineer
Fire department	Director of fire services
Legal department	City attorney
Library	Library director
Office of the city clerk	City clerk
Parks and recreation department	Director of parks and recreation
Personnel department	Personnel director
Planning department	City planner
Police department	Chief of police
Public works department	Director of public works
Utility department	Utilities director

All department heads shall serve in such supervisory offices at the pleasure of the majority of the city council. (Code 1964, § 2-20)

Sec. 2-127. Policy statement, job descriptions and duties adopted; exceptions.

There is hereby adopted as an interim policy statement for the department heads specified in section 2-126, those job descriptions or duties now on file with the city clerk as prepared by Frank C. Brown Associates, other than the later enacted resolutions or ordinances of the city pertaining to the offices of the city attorney, the

library administrator and the fire director, which later enacted resolutions or ordinances shall control should a conflict exist in the duties of those officers.

(Code 1964, § 2-21)

Sec. 2-128. Conduct of city business in absence of key personnel; costs.

(a) Whenever a person within a department is absent, and such person is required to approve or inspect projects, that person's department head shall appoint (or engage, if no other qualified person exists within the department, on a per diem or per inspection fee basis) alternative personnel to act on behalf of such absent person, and failing so to do or if the department head is also absent, then, to ensure the fluid and normal conduct of business, the mayor shall designate an alternative person (or fee consultant) to perform the functions during such absences. Should the mayor also be absent, such responsibility shall pass to the council president (acting mayor); it being the expressed intent of this section that a chain of command be defined under which city business shall not be unreasonably delayed or curtailed during absences of key city employees.

(b) The costs of any fees involved in the services of qualified individuals to perform specified approvals (such as acting chief plumbing inspector or acting landscape architect) shall be absorbed by the city and not the applicant where the city is incapable of having its own employees fulfill the functions during the absence of personnel who would otherwise perform such functions for the city.

(Code 1964, § 2-22)

Secs. 2-129--2-140. Reserved.

DIVISION 2.

LEGAL DEPARTMENT

Sec. 2-141. Created; function.

There is hereby created the legal department of the city, which shall also be known as the office of the city attorney. The legal department of the city shall perform such duties as from time to time are directed by the city council or as are required by the mayor, and shall otherwise be responsible for all litigation wherein the city or any of its departments are named as party litigants.

(Code 1964, § 2-27)

Sec. 2-142. Department head; assistant city attorneys.

The department head of the legal department shall have the title of city attorney and shall, when employed under the selection procedures hereafter set forth, recommend to the city council such assistants, each to be given the title of assistant city attorney, as are deemed appropriate or necessary to assure the city adequate legal representation during any absence, due to sickness or vacation, of the city attorney.

(Code 1964, § 2-28)

Sec. 2-143. Continuation of terms of attorneys.

The designated city attorney and designated assistant city attorneys shall hereafter continue to serve as

the legal department of the city at the pleasure of the majority of the city council.
(Code 1964, § 2-29)

Sec. 2-144. Procedure for filling vacancy in office of city attorney.

Whenever a vacancy occurs in the office of the city attorney, the same shall be filled by the following procedures, which are deemed to substantially comply with the intent of the Consultants' Competitive Negotiation Act, F.S. section 287.055:

- (1) The mayor shall cause an advertisement to be placed in a daily newspaper of general circulation in the city, and shall use such other means as he deems appropriate to give notice that the city is seeking resumes for a stipulated period of time from attorneys qualified to practice law in the state who are members in good standing of The Florida Bar and who wish to consider employment as the designated city attorney.
- (2) The mayor shall review all resumes timely submitted to him and decide on which of the lawyers submitting such resumes he shall interview.
- (3) Following such interviews, the mayor shall certify not less than three (3) applicants to the city council for interview as being suitable for his appointment and ratification by the council.
- (4) Following such interviews by the city council, the elected body shall establish a priority of preference and shall then attempt to negotiate a satisfactory employment arrangement with the applicant having first priority at a price and on such terms as the city council determines to be fair, competitive and reasonable; and failing to reach accord on such employment the city council shall then undertake similar negotiations with the second most qualified applicant; and failing accord with the second most qualified applicant, the city council shall undertake negotiations with the third most qualified applicant and similarly proceed to negotiate with all qualified applicants in the order of their priority until a satisfactory employment agreement can be achieved.
- (5) Should the city council be unable to negotiate a satisfactory employment contract with any of the initially selected applicants, a secondary list of applicants interviewed by the mayor shall be submitted to the city council for interviews, with negotiations to be conducted by the council on such priority basis until a satisfactory employment contract can be reached.
- (6) Should the mayor and city council deem it necessary to designate a temporary department head for the city's legal department, following a vacancy occurring in the department, and while the foregoing selection procedure is being conducted, the mayor shall appoint, subject to the ratification of a majority of the city council, a temporary department head for the city's legal department to serve for such compensation as the majority of the city council deems fair and reasonable until the selection of a designated department head for the city's legal department pursuant to the foregoing selection procedures.

(Code 1964, § 2-30)

Secs. 2-145--2-160. Reserved.

ARTICLE VI.

CITY PROPERTY*

* **Cross References:** Streets, sidewalks, bridges and other public places, Ch. 23; other public places, § 23-141 et seq.

Sec. 2-161. Property in trust.

The city shall have the power to take by devise, bequest, gift, donation or otherwise, any property, real or personal, in trust, for public charitable or other purposes, and to do all acts and things necessary or appropriate to effectuate such trust and/or trusts with power to manage, sell, lease or otherwise dispose of property, in accordance with the terms of the trust.

(Ord. No. 1038, § 5(8), 2-10-82)

Sec. 2-161.5. Purchases of real property.

(a) The city may purchase real property utilizing the procedure set forth in F.S. § 166.045, as same may be amended from time to time, when it wishes to temporarily except certain records from the Public Records Law's disclosure requirement or it may utilize the provisions set forth in this section.

(b) For each purchase of real property in an amount of one hundred thousand dollars (\$100,000.00) or less, no written appraisal or comparables must be obtained or reviewed as part of the city's negotiation process. For each purchase greater than one hundred thousand dollars (\$100,000.00) and less than or equal to five hundred thousand dollars (\$500,000.00), the city shall receive comparable information and may receive one (1) written appraisal by a state certified real estate appraiser to consider as part of the purchase process. For each purchase between five hundred thousand dollars (\$500,000.00) and less than or equal to five million dollars (\$5,000,000.00), the city shall obtain at least one (1) written appraisal by a state-certified real estate appraiser to consider as part of the negotiation process. For each purchase of real property in an amount in excess of five million dollars (\$5,000,000.00), the city shall obtain at least two (2) written appraisals by appraisers independent of each other who are state-certified real estate appraisers. The administration shall be responsible to negotiate the essential terms of the purchase and same shall be presented to the city council. The city administration need not obtain the comparable or appraisal information provided in this section until immediately prior to the time the contract to purchase is presented to the city council, the time the applicable due diligence period expires, or the time of closing, whichever is later. A failure to obtain such appraisals or comparables shall not be cause to set aside a closed real estate transaction or affect the city's title derived by the deed delivered at closing.

(c) The city may contract to purchase real property pursuant to any terms if finds acceptable. All purchases shall be presented to the city council for approval, after they have been approved by the administration and legal departments and signed by the seller(s). A city resolution approving the closing of the contract shall be required prior to the city being obligated to purchase any property.

(d) No particular form advertising shall be required prior to the city considering and approving such purchase; however, the matter must be placed on an agenda for a city council meeting.

(Ord. No. 2301, § 3, 8-6-2003)

Sec. 2-162. Eminent domain.

The city shall have the power to acquire by the exercise of the right of eminent domain, condemnation or otherwise, fire and police stations, hospitals, canals, parks, markets, lighting and power plants, waterworks, sewerage plants and systems, gas plants, municipal buildings, edifices, libraries, swimming pools, auditoriums, aquariums, cultural and educational institutions, markets for any and all purposes necessary or useful to the city, together with riparian rights, easements or other legal or equitable rights, and to make and maintain public improvements or further improvements of all kinds on the property so obtained.

(Ord. No. 1038, § 5(9), 2-10-82)

State Law References: Eminent domain, F.S. § 166.401 et seq.

Sec. 2-163. Disposal of city real property.

(a) *Power to sell.* The City of Plantation is empowered to sell, transfer, and dispose of any real property, improved or unimproved, now owned or hereafter acquired by or owned by the city, as provided herein. These procedures supplement any other procedures that may now or in the future be applicable as provided by law or regulation.

(b) *Disposal of property which will involve a conveyance of the city's fee simple interest and which does not involve a vacation of a dedicated interest or granted easement.*

(1) *Resolution declaring surplus.* Before any improved or unimproved property owned by the city shall be sold or otherwise disposed of, the governing body shall adopt a resolution declaring same surplus.

(2) *Determination concerning surplus.*

a. The city governing body shall review and consider the following:

1. The legal description (by reference to a recorded plat or government survey);
2. The property address by street number, if there be any;
3. A description of all improvements located upon the land;
4. How said land has been used since same has belonged to the city;
5. The current use of the property;
6. How the property was acquired and financed;
7. The needs of the city;
8. Whether disposal is consistent with the city comprehensive plan;

9. The estimated property value;
10. Any relevant property history;
11. The property's title; and,
12. Whether the disposal of the property is precluded by grant provisions of other agencies.

(3) *Public hearing.* The city governing body shall hold one (1) public hearing prior to adopting a resolution declaring property as surplus. An advertisement for such public hearing shall appear once in a newspaper of general circulation at least ten (10) days prior to the hearing. The advertisement will contain the resolution title and the date, time and place of the hearing. The city clerk shall advertise the proposed resolution for public hearing by placing it on the city council agenda and posting such agenda at least three (3) business days prior to the city council meeting.

(4) *When appraisals are needed.*

- a. Any real property that the city proposes to sell or otherwise dispose of must be appraised by two (2) independent appraisers, who are designated members of the Appraisal Institute, if the property is estimated to have a value that exceeds one million dollars (\$1,000,000.00).
- b. Any real property that the city proposes to sell or otherwise dispose of must be appraised by one (1) independent appraiser, who is designated member of the Appraisal Institute, if the property is estimated to have a value between five hundred thousand dollars (\$500,000.00) and one million dollars (\$1,000,000.00).
- c. Any real property that the city proposes to sell or otherwise dispose of with an estimated value below five hundred thousand dollars (\$500,000.00) shall not require an appraisal.
- d. Notwithstanding subparagraphs a., b., and c. above, no appraisal shall be needed:
 1. Where the city acquired the property from Broward County as a result of the tax sale process and is returning such asset to the private sector; or,
 2. Where the city transfers the property to another governmental entity or agency; or,
 3. Where the city is exchanging such real property with the private sector for a replacement parcel determined by the city council to have similar utility and where the public interests would be served.

(5) *Methods of disposal.*

- a. *Methods.* The city may dispose of property utilizing the following methods: negotiation, trade with other governmental entities or agencies, request for letters of intent, sealed bids, or request for proposals. The city may retain professional real estate services to aid in the disposal of property.
 1. *Negotiation.* The city may negotiate the sale of real property with a particular person or entity, and no further advertising will be needed to effect a transfer.
 2. *Sealed bids, requests for letters of intent, and request for proposals.* At any time no more than ninety (90) days after adoption of resolution declaring the property surplus, the land may be offered for public disposition, and a notice shall be published by the city in a newspaper of general circulation in the city once not less than ten (10) days before sealed bids, letters of intent, or proposals are due. The notice shall state, at a minimum, the date when sealed bids, letters of intent, or proposals shall be received and whether the sale is with or without reservation. Sealed bids, letters of intent, and proposals shall be received accompanied by cashier's checks or certified checks payable to the city in an amount equal to at least ten (10) percent of the disposition price.
 3. *Transfer to governmental agencies.* The city may sell or transfer any of its property to any other governmental agency, if the city council finds that:
 - i. A transfer of the property to the other governmental agency shall provide a benefit to the city; and,
 - ii. That the terms received by the city are fair and equitable.
- (6) *Proceeds from sale or transfer.* Any proceeds derived from the sale of any land, as authorized in this section, shall be deposited in the general fund of the city, or such other fund or account of the city as is determined by the finance director.
- (7) *Conveyance.* The city council may adopt a resolution authorizing the execution of a deed. Notwithstanding anything required in this section, the city may reject any and all offers, bids, letters of intent, or proposals, or terminate negotiations at any time and choose not to dispose of property.
- (c) *Vacation of a dedicated interest in real property or a granted easement.*
 - (1) *Applicability.* This subsection shall apply to any application for the vacating or releasing of interests in portions of streets, easements, and other rights-of-way for development infrastructure within the city. All such applications shall be deemed review requests under the city's prepayment program established by Ordinance No. 1461, and as implemented by Resolution No. 4620, and shall comply with the provisions of Resolution No. 4620 regarding review requests.
 - (2) *Application requirements.* The applicant seeking the vacation of any portions of streets, easements, and other rights-of-way within the city shall submit to the engineering department an

application fulfilling the following requirements:

- a. The application should state specifically the street, easement or other right-of-way that is proposed to be vacated and the reasons why the vacation is being requested.
 - b. If a street vacation is requested, the application must be signed by all property owners abutting the proposed property to be vacated, a separate page for the signatures of the abutting property owners, consenting to the vacation shall be provided.
 - c. The application shall contain a legal description and sketch of the property to be vacated, signed and sealed by a licensed Florida land surveyor or engineer that conform to the minimum requirements adopted by the Florida Administrative Code, Section 21HH-6, Minimum Technical Standards for Land Surveyors in the State of Florida.
 - d. For all applications seeking to vacate a street the application shall be accompanied by a title opinion of an attorney-at-law licensed in Florida, or a search certification by an abstractor or title company, current within thirty (30) days of review by the city attorney, showing that apparent record title to the property abutting the proposed street to be vacated, is in the names of the persons, firms, or corporations consenting to the requested abandonment. The title opinion or certification shall also show all mortgages not satisfied or released of record on the abutting property.
 - e. If the subject land lies in any drainage district, the application shall be submitted to the drainage district and the drainage district shall indicate its approval.
 - f. The application is to be submitted to the city review committee. Each of the departments shall indicate its approval and comments at the city review committee meeting.
 - g. *Application fee.* An application fee of one hundred dollars (\$100.00) shall be submitted with each application for vacation.
- (3) *Approvals.* The following approvals shall be required for the application, and shall be obtained by the engineering department:
- a. Approvals to the request shall be obtained from all affected utility companies, including, but not limited to, Florida Power & Light Company, BellSouth, Peoples Gas, cable television companies, and any other affected utility.
 - b. The applicant will obtain and provide with the application the county section map and aerial for the affected property.
 - c. A tax letter shall be obtained from the Broward County Tax Collector stating that all taxes have been paid on the abutting property.
 - d. The engineering department shall determine that proper consents are obtained for all abutting property owners and for any property owner affected by the vacation, and that

the application and application fee are proper.

- e. The legal department shall review the provided title opinions or certifications and review evidence of ownership of abutting property.
- f. The legal department shall prepare a resolution for the proposed vacation.
- g. All applications which have obtained the approval of all city departments with jurisdiction shall be submitted to the city council for approval by resolution.

- (4) *Public hearing.* The city governing body shall hold one (1) public hearing prior to adopting a resolution vacating or releasing interests in streets, easements, and other rights-of-way for development infrastructure. An advertisement for such public hearing shall appear once in a newspaper of general circulation at least ten (10) days prior to the hearing. The advertisement will contain the resolution title and the date, time, and place of the hearing. The city clerk shall advertise the proposed resolution for public hearing by placing it on the city council agenda and posting such agenda at least three (3) business days prior to the city council meeting.
- (5) *County approval.* Those applications requiring county approval shall be transmitted by the applicant to the county property division. The county review and approval shall be monitored by the engineering department. The applicant shall provide the city engineer with a recorded copy of the county resolution of approval.
- (6) *Required easements.* Where any easements are required by any utility or city department as a condition of approval of the requested vacation, the applicant shall provide the required easement conveyance along with a legal description and sketch of the easement. The engineering department shall review the description and sketch of the easement, and the legal department shall review the content and form of the easement.

(Ord. No. 2355, § 1, 10-5-2005; Ord. No. 2404, §§ 1, 2, 2-27-2008)

Secs. 2-164--2-175. Reserved.

ARTICLE VII.

ADMINISTRATION OF BUILDING CODE AND OTHER ORDINANCES*

* **Cross References:** Buildings and building regulations, Ch. 5; code enforcement, Ch. 6.

Sec. 2-176. Enforcement officials designated.

The following officials of the city are hereby appointed and designated as personnel authorized and empowered to enforce the provisions of the South Florida Building Code and any duly enacted ordinance of the city when, based upon investigation, the official has just and reasonable grounds to believe that a person including corporate or fictitious entities has committed any offense or violation under the provisions of any such duly enacted ordinance:

- (1) The city clerk;
- (2) The building official of the city and the designees and appointees under the South Florida Building Code, as amended, and the building code of the city;
- (3) The chief of police;
- (4) The utilities director;
- (5) The fire chief.

(Code 1964, § 2-111)

Sec. 2-177. Notice.

(a) *Forms.* Enforcement personnel shall be supplied with appropriate notice of violation forms to be issued in prenumbered books with citations in quadruplicate in the form which may be found in the office of the city clerk.

(b) *Service.*

(1) The notice of violation shall be served on the alleged violator of any provision of the South Florida Building Code or any duly enacted ordinance of the city by personal service on the alleged individual violator or person in charge of the alleged violator's place of business, or by posting the notice of violation upon the front door of such violator's establishment or residence and by certified mail, return receipt requested, if personal service cannot be effected.

(2) A notice to appear, issued by a certified law enforcement officer, returnable to a date with a court having jurisdiction of the offense alleged, shall be served on such alleged violator, or in the alternative, civil remedies may be pursued, including but not limited to injunctive relief, the city's costs of remedying the alleged violation, attorney's fees for deliberate violation, or other remedies available under the circumstances.

(c) *Delegation of powers.* Each official set forth in section 2-176 shall be empowered to delegate his powers and duties to the employees of his respective departments; provided, however, that such individual enforcement inspectors shall be duly certified in accordance with law. Such officers are further empowered to implement regulations providing for enforcement of ordinances within the jurisdiction of such official.

(Code 1964, § 2-112)

Secs. 2-178--2-190. Reserved.

ARTICLE VIII.

INSURANCE*

* **State Law References:** Social Security, F.S. ch. 650.

DIVISION 1.

GENERALLY

Secs. 2-191--2-200. Reserved.

DIVISION 2.

CITY VEHICLES

Sec. 2-201. Liability insurance.

(a) The city is required to carry for all city-owned or-operated vehicles, whether leased, borrowed or owned by the city, insurance coverage indemnity in the following amounts:

- (1) For bodily injury to any one (1) person in any one (1) occurrence, insurance of not less than two hundred fifty thousand dollars (\$250,000.00);
- (2) For bodily injury resulting from any one (1) occurrence for more than one (1) person, bodily injury liability insurance in the amount of not less than five hundred thousand dollars (\$500,000.00);
- (3) For property damage liability insurance for each and any occurrence, insurance in the amount of not less than one hundred thousand dollars (\$100,000.00).

(b) Such policy will contain a clause whereby if the insurer elects to cancel or deny renewal of the policy, a minimum of sixty (60) days' notice will be given the city.
(Code 1964, § 2-4)

Secs. 2-202--2-215. Reserved.

ARTICLE IX.

CONTRACTS AND PURCHASING

DIVISION 1.

GENERALLY

Secs. 2-216--2-219. Reserved.

Sec. 2-220. Types of competitive procurement processes.

- (a) *Competitive procurement.* The city may formally advertise for and competitively award contracts

based upon (i) the submission of sealed bids in response to an invitation to bid; (ii) proposals submitted in response to a request for sealed proposals; (iii) proposals submitted in response to a request for qualifications; or (iv) proposals submitted in response to a request for competitive proposals; (v) proposals submitted in response to a professional services request for proposals solicited in accordance with the Consultants Competitive Negotiation Act; or (vi) proposals submitted in response to a qualifications-based or competitive proposal-based request for design-build proposals solicited in accordance with F.S. § 287.055, (2002) as same may be amended.

(b) *Request for sealed proposals (RFSP).*

- (1) The city may formally advertise for and competitively award contracts based upon a request for sealed proposals (RFSP). This procurement method typically solicits offers to provide a solution to a problem. A RFSP is characterized by a description of the desired results and a scale of how the proposals to obtain these results will be evaluated. RFSPs include a price proposal which is part of the evaluation. This process may not always be available for use when restrictions on grants or other source funding mandate that competitive bidding be used, or when other provisions of law require contracts to be awarded by sealed bids.
- (2) The RFSP should include all documents, whether attached or incorporated by reference, utilized in soliciting proposals. The RFSP shall include, but is not limited to, general information, functional or general specifications, statement of work, proposal instruction, and evaluation criteria.
- (3) All RFSPs may state the evaluation criteria. In the absence of provisions concerning the evaluation criteria, the following criteria shall be considered in determining which proposals are most advantageous:
 - a. The proposer's understanding of the project;
 - b. The proposer's business structure;
 - c. The proposer's experience and qualifications;
 - d. The proposer's ability to perform;
 - e. The relative desirability of the proposer's deliverables;
 - f. The proposer's management plan for the project; and
 - g. The proposer's business terms (i.e. price, insurance coverage, time of completion, warranties, bonding, etc.).
- (4) The city may engage in competitive negotiations with responsible proposer determined to be reasonably susceptible to being selected for award for the purpose of clarification to assure full understanding and conformance to the solicitation requirements. Proposers shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals and

such revisions may be permitted after submissions and prior to award for the purpose of obtaining the best and final proposal.

- (5) When the city utilizes a RFSP, the award shall be made to the proposer whose proposal is determined to be the most advantageous to the city taking into consideration the evaluation factors and criteria set forth in the RFSP or set forth above.
 - (6) The city will not be liable for any cost incurred in the preparation, submission, or review of any proposals.
 - (7) The city shall not be contractually or otherwise bound to any proposer until an agreement in writing has been approved by the city administration and signed by the appropriate city officers.
- (c) *Request for qualifications (RFQ).*
- (1) A request for qualifications (RFQ) may be issued when the city seeks to formally advertise for and competitively award contracts using a qualifications-based procurement process. When the city engages in a qualifications-based competitive procurement process, it will first review qualifications of respondents and determine which respondents are the most qualified to perform. A group of the respondents shall be ranked based upon their relative qualifications to perform. The city will not consider compensation or price during the qualification ranking process, although a respondent's willingness to meet a defined budget requirement for the project will be considered. This process may not always be available for use when restrictions on grants or other source funding mandate that competitive bidding be used, or when other provisions of law require contracts to be awarded by sealed bids.
 - (2) The RFQ may state the factors to be considered by the city when evaluating qualifications and the relative importance of each factor. In the absence of provisions set forth in the RFQ concerning the evaluation of qualifications, the following factors will be considered in making a qualifications-based determination:
 - a. Willingness to meet the city's preliminary budget requirements;
 - b. The ability of professional personnel, licenses and certifications held by professional and managerial personnel, and existence of professional or occupational disciplinary actions by appropriate licensing or regulatory agencies;
 - c. Reputation, experience, and past performance in similar projects;
 - d. Willingness to meet time requirements;
 - e. Financial ability;
 - f. History of violations of Federal, State, or Local law or regulations;
 - g. Recent, current and projected work loads of the firm;

- h. Past contract performance experience with Plantation, if any;
- i. Technical support capability and compatibility with city hardware, software, and firmware;
- j. Information on the questionnaire;
- k. The capabilities and adequacy of nonprofessional personnel;
- l. The volume of work previously awarded by the city;
- m. Length of time the firm has been in business;
- n. Length of tenure of key personnel with the firm;
- o. Place of residence of the corporate principals;
- p. Location of firm headquarters and offices; and
- q. The size of the firm;

In subjectively evaluating these criteria, factors a. through j. will weigh more heavily in the decision than the other factors.

- (3) Once the respondents are ranked, the city will then undertake to negotiate a contract with the respondent determined most qualified at a compensation which the city determines is fair, competitive, and reasonable. Should the city be unable to negotiate a satisfactory contract with the respondent determined to be the most qualified at a price the city determines to be fair, competitive, and reasonable, negotiations with that respondent must be formally terminated. The city may then abandon this procurement process or undertake negotiations with the second most qualified respondent. Failing accord with the second most qualified respondent, the city must terminate negotiations. The city may then abandon this procurement process or undertake negotiations with the third most qualified respondent. Should the city be unable to negotiate a satisfactory contract with any of the selected respondents, the city may then abandon this procurement process or select additional respondents in order of their competence and qualifications and continue to negotiations in accordance with this process until additional respondents have been subjected to competitive negotiations.
- (4) The method by which the city formally terminates negotiations shall be a letter signed by the mayor indicating that negotiations have terminated.
- (5) The city will not be liable for any cost incurred in the preparation, submission, or review of any responses.
- (6) The city shall not be contractually or otherwise bound to any respondent until an agreement in

writing has been approved by the city administration and signed by the appropriate city officers.

- (d) *Request for competitive proposals (RFCP).*
- (1) The city may use a request for competitive proposals (RFCP) when it desires to formally advertise for and competitively award contracts by first determining which respondents may be the most qualified to perform, and after this determination is made, then seeking sealed proposals from such respondents. This is commonly called "pre-qualification". This process may not always be available for use when restrictions on grant or other source funding mandate that competitive bidding be used, or when other provisions of law require contracts to be awarded by sealed bids. The city will not consider specific compensation or price during the qualification ranking process although the respondent's willingness to meet defined budget requirements for the project will be considered.
- (2) The RFCP may state the factors to be considered by the city when evaluating qualifications and the relative importance of each factor. In the absence of provisions set forth in the RFCP as to the criteria that will be used to determine relative qualifications of respondents, the following factors will be considered:
- a. Willingness to meet the city's preliminary budget requirements;
 - b. The ability of professional personnel, licenses and certifications held by professional and managerial personnel, and existence of professional or occupational disciplinary actions by appropriate licensing or regulatory agencies;
 - c. Reputation, experience, and past performance in similar projects;
 - d. Willingness to meet time requirements;
 - e. Financial ability;
 - f. History of violations of federal, state, or local law or regulations;
 - g. Recent, current and projected work loads of the firm;
 - h. Past contract performance experience with Plantation, if any;
 - i. Technical support capability and compatibility with Plantation's hardware, software, and firmware;
 - j. Information on the questionnaire;
 - k. The capabilities and adequacy of non-professional personnel;
 - l. The volume of work previously awarded by the city;

- m. Length of time the firm has been in business;
- n. Length of tenure of key personnel with the firm;
- o. Place of residence of the corporate principals;
- p. Location of firm headquarters and offices; and,
- q. The size of the firm;

In subjectively evaluating these criteria, factors a. through j. will weigh more heavily in the decision than the other factors.

- (3) After the qualifications review, this process will then involve the solicitation of competitive proposals from the determined most qualified respondents and the evaluation of the responses submitted by such respondents based upon the evaluation, criteria and procedures established prior to the solicitation of competitive proposals. In the absence of evaluation criteria set forth in the RFCP as to how proposals will be reviewed to determine which is most advantageous, the city will consider the following:
 - a. Price and business terms;
 - b. Times and commitments for completion;
 - c. Quality of materials and services;
 - d. Financial assurances given for performance;
 - e. Warranties, guarantees, and post completion support; and
 - f. Construction or design methods or attributes for the project including any value engineering (if applicable).
- (4) When the city utilizes a RFCP procurement process, the award shall be made to the responsible proposer whose proposal is determined to be the most advantageous to the city taking into consideration the evaluation of the criteria set forth in the RFCP or set forth above.
- (5) The city will not be liable for any cost incurred in the preparation, submission, or review of any proposals.
- (6) The city shall not be contractually or otherwise bound to any proposer until an agreement in writing has been approved by the city administration and signed by the appropriate city officers.

(e) *Sealed bids in response to an invitation to bid (ITB)*. The city uses this process when it wishes to formally advertise for and competitively award a contract using an invitation to bid for competitive sealed bids with the title, date and hour of the public bid opening designated therein and which specifically defines the

matter for which bids are sought. This process is appropriate when the city is capable of specifically defining the scope of work desired, or where it can establish precise specifications defining the actual matter desired. Invitations to bid typically include instructions to bidders, plans, drawings and specifications, if any, bidding forms, and other required forms and documents. The city will award the contract to the responsible bidder who submitted the lowest bid.

- (1) *Responsible bidder* means the person or business entity having the capability in all respects to perform fully the contract requirements and the experience, ability, reliability, capacity, facilities, equipment, financial resources, and credit which will give a reasonable expectation of good faith performance. In determining whether a bidder is responsible, the city shall consider the following:
 - a. The ability, capacity and skill of the bidder to perform under the terms of the bid documents;
 - b. Whether the bidder can perform the contract or provide the materials or service promptly, or within the time specified, without delay or interference;
 - c. The character, integrity, reputation, judgment, experience, and efficiency of the bidder;
 - d. The quality of performance of previous contracts and the providing of materials or services, or both;
 - e. The previous and existing compliance by the bidder with the laws and ordinances relating to the contract, or providing of materials or services, or both;
 - f. The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the materials or services, or both;
 - g. The quality, availability and adaptability of supplies, equipment, or contractual services to the particular use required;
 - h. The ability of the bidder to provide future maintenance and service for the use of the subject of the contract;
 - i. The number and scope of conditions attached to the bid; and
 - j. Prior litigation experience.
- (2) *Responsive bidder* means a person who has submitted a bid which conforms in all material respects to the invitation to bid or sealed request for proposals.
- (3) The city will not be liable for any costs incurred by bidders in the preparation or submission of bids or bid material.
- (4) The city reserves the right to reject all bids at any time for any reason.

- (5) The city will not be liable to any bidder, despite an award determination by the mayor or city council, until the city administration approves a written contract, which is then executed by the appropriate city officers.

(f) *Design-build projects which are competitively procured using a competitive proposal process (RFCDBP).* The city may decide to formally advertise for and competitively award design-build contracts using the competitive proposal selection process set forth in F.S. § 287.055(10)(c), (2002), as same now exists or as it may be later amended, from time to time. This process may not always be available for use when restrictions on grants or other source funding mandate that competitive bidding be used, or when other provisions of law require contracts to be awarded by sealed bids. The procedures to be used prior to entering into design-build agreements shall at a minimum incorporate the following:

- (1) The preparation of a design criteria package for the design and construction of the public construction project.
- (2) The qualification and selection of no fewer than three (3) design-build firms as the most qualified, based on the qualifications, availability, and past work of the firms, including the partners or members thereof. In the absence of provisions in the request for competitive design-build proposals (RFCDBP) which set forth the evaluative criteria to be used in determining relative qualifications, the following will apply:
 - a. Willingness to meet the city's preliminary budget requirements;
 - b. The ability of professional personnel, licenses and certifications held by professional and managerial personnel, and existence of professional or occupational disciplinary actions by appropriate licensing or regulatory agencies;
 - c. Reputation, experience, and past performance in similar projects;
 - d. Willingness to meet time requirements;
 - e. Financial ability;
 - f. History of violations of federal, state, or local law or regulations;
 - g. Recent, current and projected work loads of the firm;
 - h. Past contract performance experience with Plantation, if any;
 - i. Technical support capability and compatibility with Plantation's hardware, software, and firmware;
 - j. Information on the questionnaire;
 - k. The capabilities and adequacy of nonprofessional personnel;

- l. Whether the firm is a certified minority business enterprise as defined by the Florida Small and Minority Business Assistance Act of 1985;
- m. The volume of work previously awarded by the city;
- n. Length of time the firm has been in business;
- o. Length of tenure of key personnel with the firm;
- p. Place of residence of the corporate principals;
- q. Location of firm headquarters and offices; and,
- r. The size of the firm;

In subjectively evaluating these criteria, factors a. through j. will weigh more heavily in the decision than the other factors.

- (3) The submission and evaluation of competitive proposals from the determined qualified firms. The criteria, procedures, and standards for the evaluation of design-build contract competitive proposals, based on price, technical, and design aspects of the public construction project, weighted for the project shall be stated in the RFCDBP. In the absence of evaluation criteria set forth in the RFCDBP as to how competitive proposals will be reviewed to determine which is most advantageous, the city will consider the following which will be weighed equally:
 - a. Price and business terms;
 - b. Times and commitments for completion;
 - c. Quality of materials and services;
 - d. Financial assurances given for performance;
 - e. Warranties, guarantees, and post completion support; and
 - f. Construction or design methods or attributes for the project including any value engineering (if applicable).
- (4) For consultation with the employed or retained design criteria professional concerning the evaluation of the responses or bids submitted by the design-build firms, the supervision or approval by the city of the detailed work drawings of the project; and for evaluation of the compliance of the project construction with the design criteria package by the design criteria professional.
- (5) In the case of public emergencies, for the city to declare an emergency and authorize

negotiations with the best qualified design-build firm available at that time.

- (6) The city will not be liable for any cost incurred in the preparation, submission, or review of any proposals.
- (7) The city shall not be contractually or otherwise bound to any proposer until an agreement in writing has been approved by the city administration and signed by the appropriate city officers.

(g) *Design-build projects and professional services contracts which are competitively procured using a statutory request for qualifications-based proposals process (SRQBP).* The city may decide to formally advertise and competitively award design-build contracts using the qualifications-based selection process set forth in F.S. § 287.055(10)(c), (2002), as the same now exists or as it may be later amended, prior to the entering into of design-build agreements where the contract may include a guaranteed maximum price and a guaranteed completion date. This process may not always be available for use when restrictions on grants or other source funding mandate that competitive bidding be used, or when other provisions of law require contracts to be awarded by sealed bids.

The city may also seek professional services for architecture, professional engineering, landscape architecture, or registered surveying and mapping when the Consultants Competitive Negotiation Act is applicable to the contract.

This process shall at a minimum incorporate the following:

- (1) The employment or retention of a licensed design professional appropriate to the project to serve as a city representative during the selection process (for design-build projects only);
- (2) A review of information bearing upon qualifications submitted by proposers and that may be on file with the city.
- (3) In the absence of provisions in the statutory request for qualifications-based proposals (SRQBP), the following evaluative criteria shall apply in determining qualifications:
 - a. Willingness to meet the city's preliminary budget requirements;
 - b. The ability of professional personnel, licenses and certifications held by professional and managerial personnel, and existence of professional or occupational disciplinary actions by appropriate licensing or regulatory agencies;
 - c. Reputation, experience, and past performance in similar projects;
 - d. Willingness to meet time requirements;
 - e. Financial ability;
 - f. History of violations of federal, state, or local law or regulations;

- g. Recent, current and projected work loads of the firm;
- h. Past contract performance experience with Plantation, if any;
- i. Technical support capability and compatibility with Plantation's hardware, software, and firmware;
- j. Information on the questionnaire;
- k. The capabilities and adequacy of nonprofessional personnel;
- l. Whether the firm is a certified minority business enterprise as defined by the Florida Small and Minority Business Assistance Act of 1985;
- m. The volume of work previously awarded by the city;
- n. Length of time the firm has been in business;
- o. Length of tenure of key personnel with the firm;
- p. Place of residence of the corporate principals;
- q. Location of firm headquarters and offices; and,
- r. The size of the firm;

In subjectively evaluating these criteria, factors a. through j. will weigh more heavily in the decision than the other factors.

- (4) Discussion with no less than three (3) proposers regarding their qualifications, approach to the project, and abilities;
- (5) A selection and ranking of no less than three (3) proposers deemed to be the most highly qualified.
- (6) In determining qualifications, price and compensation shall not be discussed or considered when determining qualifications, but the city and proposers will discuss the city's overall budget requirements for the project.
- (7) Should the city be unable to negotiate a satisfactory contract with the proposer considered to be the most qualified at a price the city determines to be fair, competitive, and reasonable, negotiations with that proposer must be formally terminated. The city shall then undertake negotiations with the second most qualified proposer. Failing accord with the second most qualified proposer, the city must then terminate negotiations. The city shall then undertake negotiations with the third most qualified proposer. Should the city be unable to negotiate a satisfactory contract with any of the selected proposers, the city shall select additional proposers

in the order of their competence and qualifications and continue negotiations in accordance with this paragraph until an agreement is reached.

- (8) The method by which the city formally terminates negotiations shall be a letter signed by the mayor indicating that negotiations have terminated.
- (9) In the case of public emergencies, the city may declare an emergency and authorize negotiations with the best qualified firm available at that time.
- (10) The city will not be liable for any cost incurred in the preparation, submission, or review of any proposals.
- (11) The city shall not be contractually or otherwise bound to any proposer until an agreement in writing has been approved by the city administration and signed by the appropriate city officers.
(Ord. No. 2301, § 2, 8-6-2003; Ord. No. 2355, § 2, 10-5-2005)

Secs. 2-221--2-225. Reserved.

DIVISION 2.

COMPETITIVE PROCUREMENT REQUIREMENTS

Subdivision A.

General

Sec. 2-226. Procurement requirements.

(a) For purposes of this section, the term "purchase" shall refer to any competitive procurement for the purchase of supplies, equipment, or material for the City government, or for the construction of public streets, bridges, buildings or structures, park areas, or public utilities works (i.e., plants, lift stations, pumping stations, wells, storm drainage basins, and underground infrastructure). The word "purchase" shall not include maintenance activities or projects designed to maintain the foregoing.

(b) All purchases in an amount of three thousand dollars (\$3,000.00) and under may be based upon telephone quotes, without any advertising. All purchases in an amount greater than three thousand dollars (\$3,000.00) and less than or equal to fifteen thousand dollars (\$15,000.00) shall be approved after informal competitive bids or proposals are obtained from at least three (3) different sources and memorialized in writing, without any advertising. All purchases greater than fifteen thousand dollars (\$15,000.00) and less than or equal to seventy-five thousand dollars (\$75,000.00) may be approved after informal competitive bids or proposals are obtained from at least three (3) different sources in writing and after an internet posting soliciting such informal bids or proposals, is posted for at least three (3) complete work days prior to the solicitation deadline.

(c) All purchases in an amount that exceed seventy-five thousand dollars (\$75,000.00), shall be presented to the city governing body for approval only after the city formally advertises for and seeks to competitively award a contract using one of the competitive procurement processes set forth in section 2-220 of

this Code. Except where provided otherwise by state statute, the advertisement for competitively procured bids or proposals shall occur in a newspaper of general circulation published in the county, such publication to appear at least once in a newspaper not less than ten (10) days prior to the initial receipt of bids, proposals, or responses.

(d) Purchases in the amount of fifteen thousand dollars (\$15,000.00) or less, may be authorized by the mayor. All purchases in excess of fifteen thousand dollars (\$15,000.00) shall be approved by the city council.

(e) The numerical dollar thresholds set forth in subsections (b) to (d) of this section concerning the purchasing process shall be adjusted each year by the percentage change in the Consumer Price Index -- All Urban Consumers -- South Urban Area from January 1, 2005 to January 1 of the year in which the purchase is being made. Additionally, the city governing body may also promulgate a resolution which can increase any numerical dollar thresholds set forth in this section; however, such resolution must be considered and passed as an agendaed item at a city council meeting. When and if the city governing body increases the numerical thresholds herein by resolution, the Consumer Price Index shall thereafter be the percentage change in the Consumer Price Index from January 1 of the year in which the resolution became effective to January 1 of the year in which the purchase is being made.

(f) Notwithstanding the obvious benefit and public interest served by having all purchases submitted to competitive procurement, circumstances can arise when the city may determine that competitive procurement is impractical, or that there is no need for the city to seek competitive procurement, or the city may determine that there is an overriding public interest to waive competitive procurement. In cases where the amount of the purchase requires that the city governing body approve the purchase, the city governing body must approve a waiver of competitive procurement. In cases where the governing body need not approve the purchase, the mayor or the mayor's designee may approve a waiver of competitive procurement.

(g) In the following cases, formal or informal competitive procurement shall not be required by this division (although same may be required by operation of state law such as F.S. § 255.20, (2004), and F.S. § 287.055, (2004), as amended, for example):

- (1) If the city seeks to acquire (either by purchase, lease or otherwise) a utility, facility, enterprise, work, undertaking or project, or a combination of any of the same, which utility, etc., has already been constructed and is in existence, no advertisement for bids shall be necessary nor will competitive procurement be required;
- (2) Where repairs or renovations are required for existing equipment, machinery, or other improvements (including utilities facilities) and such repairs or renovations can best be done, due to warranties or the nature of such equipment, or machinery, or improvements by authorized dealers;
- (3) Where the item being acquired is by its very nature unique, or is available only through a sole source vendor;
- (4) Where the delay attendant with the competitive procurement procedures is not practical in view of an emergency making time of the essence in obtaining necessary repair or renovation, or is

otherwise found to be desirable for acquisition by the city without competitive procurement;

- (5) Where purchases are based upon prices from contracts executed within the preceding eighteen (18) months of the contemplated purchase by the state, a state agency or district, a county or municipal corporations within the state, including the city, which contracts were based upon an advertised competitive bid or proposal process, and which purchases use city approved forms or contract documents;
- (6) Where the purchases are franchised items from the city's franchisees (such as Peoples Gas, Florida Power & Light, BellSouth Telephone, etc.);
- (7) Where the purchases are standard products (i.e., pens, paper, forms, detergents, chemicals) from vendors with whom the city keeps a monthly account, where the purchase of such standard products may exceed the seventy-five thousand dollars (\$75,000.00) threshold either in a single purchase or on an accumulated basis; provided, that vendor is the lowest responsive, responsible per unit bidder for such products on a yearly basis or where the city desires to purchase such items on terms substantially equivalent to the lowest responsive bid received in an advertised competitive bid selection for substantially similar product and has been awarded a contract by the state, state agency or district, a county within the state, or a municipal corporation within the state, including the city itself, within the preceding eighteen (18) months. Such vendor purchases shall be appropriated by resolution as part of the standard weekly bill list resolution approval procedure, after the yearly bid therefor is approved. Nothing in this section will require the city to give such vendor a year's worth of business, nor will the city be precluded from rebidding the vended product at some time within the year;
- (8) Contracts for services, except professional services which must be competitively procured pursuant to the Consultants Competitive Negotiation Act as a result of the services exceeding the triggering thresholds for the act's application;
- (9) Emergency purchases, or purchases made during a determined state of emergency or high threat of terrorism or in response to natural disaster, war, or terrorism threats or occurrences. These purchases may be authorized on such terms and conditions as are in good faith believed reasonable and appropriate under the circumstances by the mayor (or the president of the city council in the absence or disability of the mayor), the department head of the city charged by the mayor with the responsibility to oversee emergency operations, or any of the following individuals: the assistant to the mayor, the building official, the city engineer, the director of public works, the fire chief, the police chief, or the utilities director;
- (10) Purchases of art for public places;
- (11) Purchases of food and drink for city-sponsored programs or events on public property, hotels, motels, or restaurants;
- (12) Where the city has competitively awarded a contract to a private sector contractor and the contractor has abandoned the project before completion or the local government terminated the contract;

- (13) Purchases of information technology and information technology systems, where such purchases do not entail the custom design of the technology (as distinguished from the configuration and installation of such). (Information technology means equipment, hardware, software, firmware, programs, systems, networks, infrastructure, media, and related material used to automatically, and electronically collect, receive, access, transmit, display, store, record, retrieve, analyze, evaluate, process, classify, manipulate, manage, assimilate, control, communicate, exchange, convert, converge, interface, switch, or disseminate information or data of any kind or form. Information technology systems means any transmission, emission, and reception of signs, signals, writings, images, and sounds of intelligence of any nature by wire, radio, optical, or other electromagnetic systems and includes all facilities, equipment, hardware, software, firmware, operations, integration, and networking.)
- (14) Such other instances which may from time to time arise where the city finds there is an overriding public interest to waive competitive bidding.
- (15) The procedures of this section shall not apply to purchases of material, equipment, supplies, services (including professional services), and the continuation of other business arrangements, where the city has an existing agreement and where the mayor approves an adjustment to the rates or pricing established by such agreement; provided however, that such adjustments:
- a. May only be made once a year;
 - b. May be made effective on a fiscal year basis;
 - c. May not increase rates or pricing prior to the adjustment by more than ten (10) percent; and,
 - d. May not increase rates or pricing such that the cumulative increase of administrative adjustments exceeds twenty (20) percent of the rates or pricing previously approved by the city council.

Where an agreement has a fixed term with no provisions for further renewals, the mayor may extend such term one (1) time as part of an adjustment; provided however, that such extension does not exceed the term of the original contract or the last renewal period (whichever is less), and where the extension permits the city to cancel the agreement without cause with ninety (90) days prior notice of such cancellation.

(Ord. No. 1038, § 37, 2-10-82; Ord. No. 1869, § 1, 8-26-92; Ord. No. 2214, § 1, 3-29-2000; Ord. No. 2301, § 2, 8-6-2003; Ord. No. 2355, § 3, 10-5-2005)

Secs. 2-227--2-235. Reserved.

Subdivision B.

Procurement Protests*

* **Editors Note:** Ord. No. 1411, § 1, adopted Aug. 27, 1986, amended "section 1-10," which section, deriving from Ord. No. 1301, adopted Feb. 27, 1985, was codified as Subdiv. B, §§ 2-236--2-253, of Div. 2 of Art. IX of this chapter. The provisions added by Ord. No. 1411 have been incorporated as new §§ 2-236--2-244 of Subdiv. B, at the editor's discretion.

Sec. 2-236. Applicability.

This division shall apply to the solicitation or pending award of any contract with an estimated value in excess of one hundred fifty thousand dollars (\$150,000.00) which is required by state law or this Code to be competitively procured (herein, "contracts"). The rule of construction for computing time as set forth in section 1-2 of the Code shall apply to this section, notwithstanding that many time periods set forth herein are described in calendar days. As used in this subdivision B, the word "bidder" is synonymous with the word "proposer" and the word "bid" shall be synonymous with the word "proposal", and the word "bidders" shall be synonymous with the word "proposers", and the word "bids" shall be synonymous with the word "proposals". (Ord. No. 1411, § 1(1-10(a)), 8-27-86; Ord. No. 1870, § 1, 8-26-92; Ord. No. 2155, § 1, 3-23-98; Ord. No. 2301, § 4, 8-6-2003; Ord. No. 2355, § 4, 10-5-2005)

Sec. 2-237. Right to protest.

Any actual or prospective bidder, quoter, or offeror, who is aggrieved in connection with the solicitation or pending award of a contract (hereafter the "complainant") may protest to the city bid protest review committee as hereinafter provided. The three (3) types of bid protests that shall be reviewed by the bid protest review committee are:

- (1) *Solicitation protests*, i.e., protests based upon alleged improprieties in the solicitation of bids;
- (2) *Nonsolicitation protests*, i.e., protests involving matters related to the opening of bids and not improprieties in the solicitation or prospective award of bids;
- (3) *Award protests*, i.e., protests related to the prospective award of a public works contract and not based upon matters related to the opening of bids or the manner in which such bids were solicited.

(Ord. No. 1411, § 1(1-10(b)), 8-27-86; Ord. No. 2355, § 5, 10-5-2005)

Sec. 2-238. Consent to procedure adopted.

Whenever an offeror, quoter or actual or prospective bidder bids on a contract, or otherwise files a bid protest, such offeror, quoter, or bidder shall be deemed to have had consented to having its agents, employees, or officers available for examination by any party during a bid protest review committee hearing; however, no party or grievant shall be deemed to have consented to having its attorney or legal counsel subject to such examination. As a condition precedent to such examination, the complainant or party wishing to call or examine such witness must demonstrate that the testimony which is sought, would not be irrelevant, immaterial, unduly repetitious, or inherently unreliable. It is recognized that, the bid protest review committee does not have subpoena power and thus cannot compel witness to appear or testify; however, should any witness not testify or refuse to be examined after it appears that such testimony would not be inappropriate as aforescribed, the procedures in section 2-242(3)d.9 shall be followed.

(Ord. No. 1411, § 1(1-10(c)), 8-27-86; Ord. No. 2355, § 6, 10-5-2005)

Sec. 2-239. Solicitation protests.

(a) Any protest based upon alleged improprieties in the solicitation of bids shall be submitted in writing to the city clerk before the bid opening or before the closing date for receipt of bids, whichever first occurs (hereafter "solicitation deadline"). Failure to submit the written protest alleging improprieties in the solicitation of bids within the solicitation deadline shall constitute a waiver of the right to make the protest. Any person making a solicitation protest shall notify all bidders who have bid on the contract as of the solicitation deadline of the nature of the protest.

(b) Notice must be given to the other bidders on the contract within four (4) calendar days after the solicitation deadline. The acceptable methods of giving notice shall be by telephone with a certified mailing of a copy of the protest to follow, although federal express mailing (or similar express mailing) of the notice, without a phone call, is also adequate. Notice shall have been deemed given when the complainant certifies that a copy of the written protest was delivered for mailing. Within four (4) calendar days after the solicitation deadline, the complainant shall file a statement certifying that notice was given to all bidders as required by this subsection, and identifying to whom such notice was addressed. Failure to file such statement or failure to provide notice to all bidders within the time prescribed herein shall constitute a waiver of the right to continue the protest. All bidders to whom notice is to be given pursuant to this section shall be deemed "parties" to solicitation protest proceedings.

(c) The bid protest review committee decision may be reviewed by state or federal agency proceedings, where appropriate, or by judicial review as hereinafter set forth. If review is desired and no specifically applicable federal or state law or regulation prescribes when such review must be initiated, such review must be commenced within ten (10) calendar days of the complainant's receipt of the bid protest review committee's written decision. Failure to seek such review within the time required shall constitute a waiver of same and a bar to such review. All such reviews of the bid protest committee decision shall be limited to the record developed at the bid protest committee protest hearing.

(d) After a written solicitation protest is filed, and during the pendency of same, either before the bid protest review committee, before a state or federal agency, or before any court, the progress of the bidding procedure (except the continued solicitation of bids until the solicitation deadline) shall cease, and no sealed bids shall be opened until such protest has been resolved, unless the city council makes a written finding that such continued progress, is necessary to protect the substantial interests of the city. Notwithstanding the foregoing, the city may, at any time during the pendency of a solicitation protest, moot such protest by rejecting all bids and rebidding the public works contract.

(Ord. No. 1411, § 1(1-10(d)), 8-27-86; Ord. No. 1870, § 1, 8-26-92; Ord. No. 2155, § 2, 3-23-98)

Sec. 2-240. Opened bid (nonsolicitation) protests.

(a) Any protest based upon matters related to the opening of the bids and not involving alleged improprieties in the solicitation or prospective award of bids shall be submitted in writing within four (4) calendar days after the bids are opened (hereafter "nonsolicitation deadline") by filing the written protest with the city clerk. Failure to file such written protest within the time prescribed herein shall constitute a waiver of the right to submit an opened bid protest.

(b) Within four (4) calendar days after the nonsolicitation deadline, the complainant must notify all parties of the nature of the protest. This notice shall consist of communicating the subject matter and nature of the written protest to each party. A telephone call with a copy of the written protest sent certified mail will be sufficient; however, a copy of the written protest sent by federal express mail, or similar express mail service, without such phone call, will also be sufficient. Within four (4) calendar days after the nonsolicitation deadline, the complainant shall file a statement listing the parties so notified and how such parties were notified. Notice will have been deemed to have been given when a copy of the written protest was delivered for mailing. Failure to file such statement of notification or failure to effect notice within the time and in the manner herein required shall constitute a waiver of the right to continue the protest. For purposes of this paragraph, a "party" to an open bid protest shall be those bidders who are the four (4) lowest bidders on the contract or who are within twenty (20) percent of the lowest bid amount, whichever test produces the greatest number of parties.

(c) The complainant or any party may seek review of the bid protest review committee's written decision by filing a written request for a review by the city council with the city clerk within ten (10) calendar days after certified mailing of such written decision. Failure to timely request such review by the city council shall constitute an acceptance of the bid protest review committee's decision, and a waiver and bar of further council, agency, or judicial review. Except as provided in subsection (e) below, the city council shall not consider the award of the contract, at a city council meeting sooner than seven (7) calendar days after the opening of such bids, or until any pending open bid (nonsolicitation) protest is concluded and review thereof (if any) is no longer available pursuant to this division.

(d) The bid protest review committee decision may be reviewed by the city council, as herein set forth, and thereafter, by state or federal agencies, where appropriate, or by judicial review as set forth herein. If agency or judicial review is desired and no specifically applicable federal or state law or regulation prescribe when such review is to be initiated, such review must be commenced within ten (10) calendar days of receipt of the city council decision. Failure to seek such review within the time required shall constitute waiver of same and a bar to such review. All such reviews of the bid protest committee decision shall be limited to the record developed at the bid protest committee protest hearing.

(e) After a written protest is filed and during the pendency of an open bid protest, either before the bid protest review committee, the city council, an appropriate state or federal agency, or an appropriate state or federal court, the public works contract shall not be awarded by the city council unless the city council makes a written finding that the award of the contract is necessary to protect substantial interests of the city. Nothing herein set forth shall preclude the city council from both hearing any requested review of the bid protest review committee's written decision on an opened bid protest and also awarding the contract at the same city council meeting. This section, however, shall not preclude the city from mooted the nonsolicitation protest by rejecting all bids and from rebidding the public works contract.
(Ord. No. 1411, § 1(1-10(e)), 8-27-86; Ord. No. 1870, § 1, 8-26-92; Ord. No. 2155, § 3, 3-25-98)

Sec. 2-241. Award protests.

(a) Any protest based upon the prospective award of a public works contract, and not upon matters related to the opening of bids or alleged improprieties in the solicitation of bids, shall be submitted in writing within four (4) calendar days after the date of the prospective award determination (the date the city council gives administrative direction on whom to award the contract, hereafter the "award protest deadline") by filing a written protest with the city clerk.

(b) Within four (4) calendar days after the award protest deadline, the complainant must notify all parties of the nature of the protest. This notice shall consist of communicating the subject matter and nature of the written protest to each party. A telephone call with a copy of the written protest sent certified mail will be sufficient; however, a copy of the written protest sent by federal express mail, or similar express mail service, without such phone call, will also be sufficient. Within four (4) calendar days after the award protest deadline, the complainant shall file a statement listing the parties notified, and to whom such notice was directed. Notice will have been deemed to have been given when a copy of the written protest was delivered for mailing. Failure to file such statement of notification shall constitute a waiver of the right to continue the protest. For purposes of this paragraph, a "party" to an award protest shall be those bidders who are the four (4) lowest bidders on the contract or who are within twenty (20) percent of the lowest bid amount, whichever test produces the greatest numbers of parties.

(c) The complainant or any party may seek review of the bid protest review committee's written decision by filing a written request for a review by the city council with the city clerk within ten (10) calendar days after certified mailing of such written decision. Failure to timely request such review by the city council shall constitute an acceptance of the bid protest committee decision shall constitute an acceptance of the bid protest committee decision and a waiver and bar of and to further city council, agency, or judicial review. Except as provided in subsection (e), the city council shall not execute the public works contract until any pending award protests have been concluded and review thereof is no longer available pursuant to this division.

(d) The bid protest review committee decision may be reviewed by the city council, as herein set forth, and thereafter, by state or federal agencies, where appropriate, or by judicial review as set forth herein. If agency or judicial review is desired and no specifically applicable federal or state law or regulation prescribes when such review is to be initiated, such review must be commenced within ten (10) calendar days of receipt of the city council decision. Failure to seek such review within the time required shall constitute a waiver of same and a bar to such review. All such reviews of the bid protest committee shall be limited to the record developed at the bid protest committee protest hearing.

(e) During the pendency of an award protest either before the bid protest review committee, the city council, an appropriate state or federal agency, or an appropriate state or federal court, the public works contract shall not be awarded by the city council unless the city council makes a written finding that the award of the contract is necessary to protect substantial interests of the city. Nothing herein set forth shall preclude the city council from both hearing any requested review of the bid protest review committee's written decision on an opened bid protest and also awarding the contract at the same city council meeting.
(Ord. No. 1411, § 1(11-10(f)), 8-27-86; Ord. No. 1870, § 1, 8-26-92; Ord. No. 2155, § 4, 3-25-998)

Sec. 2-242. Bid protest review committee created; hearings.

There is hereby created in the City of Plantation, Florida, a bid protest review committee whose function shall be to review any protests that may be filed pursuant to the provisions of this division.

- (1) *Composition.* The bid protest review committee shall be composed of the following three (3) regular members: (a) the finance director, who will act as chairman; (b) the building and zoning-director, and (c) the utilities director. However, if the protest is directly related to a bid solicited by or [on] behalf of one (1) or more of the departments of any of the regular members, the mayor

shall appoint one (1) or more substitute committee members who is or are the directors of departments not directly involved in the solicitation or not on whose behalf the solicitation was made. Additionally, in the event any member of the bid protest review committee is unable to attend any hearing, then the mayor may appoint any responsible person as an alternate to sit upon the bid protest review committee for that protest.

- (2) *Preliminary hearing.* In bid protests where the contract has an estimated value in excess of five hundred thousand dollars, (\$500,000.00), a preliminary hearing shall be required as set forth in this paragraph. The bid protest review committee shall convene solely to schedule a preliminary hearing regarding any timely filed written protest within ten (10) calendar days of the solicitation deadline, nonsolicitation deadline, or award protest deadline, whichever is appropriate. The preliminary hearing shall be scheduled no sooner than twenty-five (25) calendar days of [before] the solicitation deadline, nonsolicitation deadline, or protest deadline, whichever is appropriate. The preliminary hearing is designed to help the complainant and parties preparing for the protest hearing by enabling the complainant and parties to anticipate matters discussed, contested or considered at the protest hearing. If the complainant does not attend the preliminary hearing, the protest shall be considered voluntarily dismissed. If any party does not attend the preliminary hearing, such party shall be deemed to have waived the right to participate in further protest proceedings.
- a. The complainant and parties shall be notified, at least twelve (12) calendar days beforehand, of the date, time, and place where the bid protest review committee shall convene to hold a preliminary hearing. This notification may be made by any reliable means, and a telephone call with a confirming letter to follow shall be acceptable.
 - b.
 1. Within six (6) calendar days before the preliminary hearing the complainant and each party shall submit to each other and file with the city clerk a prepared preliminary evaluation. Such preliminary evaluation shall be prepared to the best of the complainant's or each party's ability and in good faith and shall address in turn:
 - i. A statement of ultimate issues relevant to the resolution of the protest.
 - ii. A statement of factual questions considered by the complainant or party submitting the preliminary evaluation to be at issue.
 - iii. A detailed statement of ultimate facts which support a favorable resolution of the issues identified in subparagraph i, above.
 - iv. A detailed disclosure of evidence believed relevant to support favorable findings of ultimate facts, identified in subparagraph iii, above, ultimate issues identified in subparagraph i, above, or resolution of factual issues identified in subparagraph ii, above. This statement shall include the nature and types of such supportive evidence, and, if such evidence is to be presented in oral form, the name of the person so testifying.

2. The following procedure shall apply at the preliminary hearing:
 - i. Attendance shall be taken.
 - ii. The complainant shall make an updated statement of the nature of his protest.
 - iii. The complainant and each party shall, in turn, be allowed to comment upon and ask questions about each preliminary evaluation submitted prior to the hearing, except those of parties not present at the hearing.
 - iv. After this first round of discussion, a second discussion period shall ensue which shall consist of an open forum and free exchange of questions and answers. This second discussion period shall continue until a majority of the complainant and parties vote to convene the meeting.
3. At the conclusion of the preliminary hearing, the complainant and parties shall be notified of the date of the protest hearing, which hearing shall be held not more than twenty-one (21) calendar days after the preliminary hearing nor less than ten (10) calendar days after the preliminary hearing. In addition, they shall be notified that they may request permission to present testimony (that is not rebuttal and not re-direct in nature) or make oral argument, and that their requests must contain the information detailed in paragraph (3)b, below, and be submitted prior to said paragraph's deadline.

(3) *Protest hearing.*

- a. Except as provided in (2)b.3. above where the bid protest procedure requires a preliminary hearing, the bid protest committee shall convene to schedule a protest hearing date within ten (10) calendar days of the solicitation deadline, nonsolicitation deadline, or bid protest deadline, whichever is applicable. In such cases, the protest hearing shall be scheduled no sooner than twenty-five (25) days after the solicitation deadline, nonsolicitation deadline, or award deadline, whichever is applicable. The complainant and parties shall be notified at least twelve (12) calendar days beforehand of the date, time, and place where the bid protest committee shall convene to hold a protest hearing. The notifications may be made by any reliable means, and a telephone call with a confirming letter to follow shall be acceptable.
- b. The complainant and parties shall be encouraged to present documentary evidence, affidavits, and other written statements regarding the protest and shall be encouraged to submit those matters to the bid protest review committee prior to the protest hearing.
- c. A request to present direct testimony (that is not rebuttal and not re-direct in nature) or make oral argument to the bid protest committee must be made by a submission to the bid protest review committee within six (6) calendar days before the protest hearing. The request shall list all factual questions such person considers at issue (to encompass, as a

minimum: what are the pertinent sections of the documents on which the protest is based, the suggested procedure or language that should be utilized to fairly resolve the protest, a list of all persons whose testimony they wish to present or examine, and a statement of why testimony or argument is necessary.) Failure to timely request the opportunity to present direct testimony (that is not rebuttal or re-direct in nature or make oral argument to the bid protest review committee at the protest hearing shall constitute a waiver of same.

- d. The following procedures will be followed at the protest hearing with appropriate modification should the committee determine that direct testimony (that is not rebuttal and not re-direct in nature) or oral argument has been waived:
1. The chairman of the bid protest review committee will request the complainant and each party to submit any additional documentation they may desire to introduce. The complainant and each party will be permitted to examine any document submitted to the bid protest review committee. Documentary evidence may be received in the form of a copy or excerpt if the original is not readily available; if at all conveniently possible, parties and the complainant shall, upon request, be given an opportunity to compare the copy or excerpt with the original.
 2. The complainant and each party will be given an opportunity to make a brief opening statement.
 3. The complainant and each party will be given an opportunity to present witnesses. The complainant and each party shall also have the right to cross-examine witnesses presented by any party when such witnesses are produced for such purposes.
 4. The members of the bid protest review committee shall be free at all times to ask questions of the complainant, any party, or any witnesses.
 5. The chairman of the bid protest review committee shall preside over the meeting and shall have the right at all times to restrict testimony or other evidence he considers irrelevant, immaterial, unduly repetitious, redundant, or inherently unreliable.
 6. The complainant and each party shall have the right to have an attorney present.
 7. All witnesses shall testify under oath.
 8. After all witnesses have been initially questioned and cross-examined, and before the hearing concludes, the complainant or any party may present witnesses for re-direct examination and may re-cross-examine such witnesses presented for rebuttal purposes or otherwise. Failure to request re-direct or re-cross-examination shall constitute a waiver thereof.

9. The complainant and all parties shall be given the right to make a brief closing oral argument.
10. If, after the bid protest review committee determines that live witness testimony is appropriate, the complainant or any party refuses to present a witness, allow a witness to fully testify, or permit a witness to be cross-examined, such witness shall not be permitted to testify during rebuttal and all testimony given by such witness shall be stricken and not made a part of the bid protest review committee hearing record. Furthermore, the bid protest review committee may determine that a complainant who frustrates such testimony shall have its protest dismissed, or that a party who frustrates such testimony, shall have its position waived.
11. Minutes shall be kept of all bid protest review committee hearings on bid protests.

- (4) *Assistance to bid protest review committee.* At every meeting or hearing of the bid protest review committee, whether or not oral testimony is received, the bid protest review committee shall have the benefit of the assistance and advice of the city attorney, or his assistant, as to legal issues, and also the consulting engineer or architect that the city retained to help prepare the bid specifications or contract, as to questions involving such documents or the preparation of same.

(Ord. No. 1411, § 1(1-10(g)), 8-27-86; Ord. No. 1870, § 1, 8-26-92; Ord. No. 2155, § 5, 3-25-98; Ord. No. 2355, § 7, 10-5-2005)

Sec. 2-243. Authority of the bid protest review committee.

The bid protest review committee shall have the authority to settle, resolve, or deny a timely filed bid protest in keeping with the provisions below. After reviewing all matters presented in the bid protest review committee hearing, the bid protest review committee shall close the hearing, and thereafter, as expeditiously as practicable, deliberate and decide the issues of the protest by a majority vote, and thereafter with the advice of the city attorney, or his assistant, issue a written decision which shall make factual findings and conclusions. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but it shall not be sufficient, in and of itself, to support a factual finding unless it would be admissible over objection in civil actions.

- (1) *Solicitation protests.* In the event the decision of the bid protest review committee is that there was a violation of the laws or rules or regulations pertaining to bid solicitation or that there was other inherent unfairness in the solicitation process (such as, but not limited to, irreconcilable ambiguities of a pertinent part of the solicitation documents), then the solicitation shall be canceled or, if curable, revised to comply with the laws or rules and regulations or to otherwise cause the solicitation to be more fair and competitive. In the event the bid protest review committee's decision is that the protest was without merit, then the protest will be dismissed. The complainant or any party may either accept the decision of the bid protest review committee or seek review of the bid protest review committee's decision before an appropriate state or federal agency or court. Aside from such agency or court review, the decision of the bid protest review committee as to solicitation protests shall be binding upon the city council.
- (2) *Open bid and award protests.* The bid protest review committee shall have the authority to

resolve any open bid or award protests, subject to a properly initiated request for review by the city council in which event the decision of the bid protest review committee shall be treated as advisory to the city council. Upon review, the city council shall be able to draw different factual findings and conclusions from the record developed at the bid protest review committee hearing, but shall not consider in drawing such factual findings or in reviewing the bid protest review committee's written decision, any evidence which is not part of the bid protest committee record. (Ord. No. 1411, § 1(1-10(h)), 8-27-86; Ord. No. 2155, § 6, 3-25-98)

Sec. 2-244. Court or agency action.

Any complainant or party who feels aggrieved because of any bidding procedures as contemplated by this division, shall file such protests as are provided hereunder, and shall exhaust all administrative remedies available, whether they be municipal, state or federal, before initiating an action in court. Where the public improvement project for which the public works contract is being bid upon is funded either in whole or in part by grant monies awarded by agencies of the State of Florida or of the United States, then a complainant or party must, after exhausting any municipal remedies hereinabove, exercise the right to timely take an administrative protest review to the appropriate state or federal agency who has participated in the funding of such public improvement project, pursuant to such agency's applicable regulations or this division's provisions before initiating any action in court. Thereafter, any action in a court brought against the city concerning such protest shall, where no one (1) specific court is designated or described by applicable state or federal law as being the appropriate court of jurisdiction and venue or when such law permits judicial review in the appropriate state or federal court which is geographically nearest to the City of Plantation, be brought in the United States District Court for the Southern District of Florida or the United States Court of Appeals for Eleventh Circuit, if federal grant monies are involved and federal law or regulation require that ultimate adjudication of any legal issue be in the federal court system, otherwise, such action shall only be brought in the Circuit Court of the Seventeenth Judicial Circuit of Florida, in and for Broward County, Florida, or the Florida District Court of Appeal for the Fourth Appellate District, whichever is appropriate. All of such agency or judicial review shall be limited to the record developed at the bid protest committee protest hearing. (Ord. No. 1411, § 1(1-10(i)), 8-27-86; Ord. No. 1870, § 1, 8-26-92)

Subdivision C.

Procurement Appeals

Sec. 2-245. Applicability.

This subdivision C shall apply to "solicitation protests," "nonsolicitation protests," or "award protests," as such terms are defined in section 2-237 of this Code of Ordinances, when such protests are regarding of, relating, or pertaining to, the solicitation or pending award of any contract with an estimated value greater than fifteen thousand dollars (\$15,000.00) and equal to or less than one hundred fifty thousand dollars (\$150,000.00) The word "contract" as used in this subdivision has the same meaning as it has in section 2-236 of this Code. These protests shall be called "procurement appeals." The rules of construction for computing time set forth in section 1-2 of this Code shall apply to this subdivision, notwithstanding that many time periods set forth herein are described in calendar days. (Ord. No. 1870, § 2, 8-26-92; Ord. No. 2155, § 7, 3-25-98; Ord. No. 2355, § 9, 10-5-2005)

Sec. 2-246. Procurement appeal committee--Created.

There is hereby created a procurement appeal committee to hear, consider, and decide procurement appeals. This committee shall consist of the director of finance, the department head of the department which is principally involved in supervising or benefiting from the proposed contract's performance (i.e., the city engineer if the contract is for paving, the utilities director if the contract is for purchase of utilities equipment, etc.) and one (1) other person appointed by the mayor.

(Ord. No. 1870, § 2, 8-26-92; Ord. No. 2355, § 10, 10-5-2005)

Sec. 2-247. Same--Consultants.

The procurement appeal committee shall have the benefit of any requested advice from the city attorney or his assistants, and also of the consulting engineer or architect, or other professional (if any) which may have prepared the bid specifications or contract.

(Ord. No. 1870, § 2, 8-26-92; Ord. No. 2355, § 11, 10-5-2005)

Sec. 2-248. Review of procurement appeals.

The procurement appeal committee shall review any timely filed bid appeal, and such review shall be informal. When the contract has a value in excess of fifty thousand dollars (\$50,000.00), a hearing shall be held. Any procurement appellant may seek a review of the entire procurement appeal to the governing body of the city by filing a written request for city council review with the city clerk within five (5) city working days after the procurement appeal committee decision.

(Ord. No. 1870, § 2, 8-26-92; Ord. No. 2355, § 12, 10-5-2005)

Sec. 2-249. Filing deadline for protests.

The deadlines for filing solicitation protests, nonsolicitation protests, and award protests for procurement appeals, the manner in which such procurement appeals are made, and the deadlines for seeking judicial review of a decision of the governing body of the city on any procurement appeal shall be the same as the similar deadlines applicable to bid protests under subdivision B; if such deadlines are not met, the procurement appeal will be waived or the decision will become final, as the case may be.

(Ord. No. 1870, § 2, 8-26-92; Ord. No. 2355, § 13, 10-5-2005)

Sec. 2-250. Pendency of procurement appeals.

During the pendency of any procurement appeal, the city shall not award the contract absent a finding by the city that such award is necessary to satisfy the public interest.

(Ord. No. 1870, § 2, 8-26-92; Ord. No. 2355, § 14, 10-5-2005)

Secs. 2-251--2-265. Reserved.

ARTICLE X.

FINANCE*

* **Cross References:** Building permit fees, § 5-21 et seq.; licenses and business regulations, Ch. 14; engineering and administrative fees, platting, § 20-111 et seq.; impact fees, § 20-126 et seq.; taxation, Ch. 24; utility rates and charges, § 26-171 et seq.; zoning fees, § 27-56 et seq.; audit of wrecker company records by the finance department or the police department, § 12-56; law enforcement trust fund, § 21-4, lottery fees and fines, § 23-156; taxation, Ch. 24; scheduled fines for parking violations, § 25-39.

DIVISION 1.

GENERALLY

Sec. 2-266. Borrowing money.

The city shall have the power to borrow money for the erection, purchase, construction, leasing, furnishing, rehabilitation, repairing, improving of public buildings, golf courses, waterworks systems, water softening plants, water distribution lines, boardwalks, sewerage systems and lines and plants, fishing piers, casinos, streets and parkways, parks, seawalls, public utilities, swimming pools, aviation fields, community and recreation centers, playgrounds, baseball fields and sports stadiums, or for any other purpose incident to the carrying out of any power given the city by its Charter, or by state or federal law. To secure any such loans, the city shall have full power and lawful authority to execute its notes and other evidences of indebtedness and to secure the same by a mortgage upon such improvements and the lands upon which the same shall be constructed. The city shall have full power and lawful authority to pledge and hypothecate the net revenues from such improvements and lands upon which they stand for the purpose of securing any and all moneys so borrowed. The city shall have full power and lawful authority to issue certificates of indebtedness and promissory notes for the moneys so borrowed secured by an assignment of all net rentals and all net revenues from the projects so constructed.

(Ord. No. 1038, § 5(47), 2-10-82)

Sec. 2-267. Anticipation time warrants.

The city shall have the power to issue and sell anticipation time warrants of the city in an amount not exceeding fifty (50) percent of the amount estimated to be realized in a given fiscal year as proceeds of departmental revenues and ad valorem taxes, but such anticipation time warrants shall be payable within the current fiscal year and payable from the proceeds of departmental revenues and ad valorem taxes for the year. Such anticipation time warrants may bear interest at a rate not exceeding the then median municipal bond interest rate on revenue bonds being sold and delivered with a Standard and Poor's revenue bond rating equal to that on the city's most recent utility revenue bond issue. The proceeds realized from the sale of such anticipation time warrants shall be deposited in the city depository to the credit of specified funds and used to pay appropriated items in the annual budget and appropriation, and such anticipation time warrants shall be paid and discharged within the fiscal year from moneys collected for the benefit of a particular fund in an amount equal to the proportionate part of such borrowed moneys deposited to the credit of such fund, together with interest. Uncollected revenues and taxes already levied, assessed and provided for may be pledged to secure such anticipation time warrants.

(Ord. No. 1038, § 5(58), 2-10-82)

Sec. 2-268. Payment of money.

- (a) Money shall be paid out of the city treasury only on warrants signed by the city treasurer and

countersigned by the city clerk.

(b) For the purpose of signing warrants, checks, notes, drafts or bills of exchange, a facsimile signature of the city treasurer and the city clerk may be used. The facsimile signature shall have the same legal effect as their manual signatures.

(c) The term "facsimile signature" as used in this section shall mean a reproduction by engraving, imprinting, stamping or other means of the manual signature of the city treasurer and city clerk.
(Ord. No. 1038, § 31, 2-10-82)

Sec. 2-269. Audit of books.

At the end of each fiscal year the books and records of the city shall be audited, and the mayor and each member of the city council shall be furnished with a copy of the audit.
(Ord. No. 1038, § 32, 2-10-82)

State Law References: Audits mandated, F.S. 166.241(1), 218.33.

Sec. 2-270. Application of deposits.

Any deposit placed with the city for any purpose may be applied at any time, in whole or in part, to any outstanding sums due and owing by the depositor to the city for any purpose. If any deposit is so applied and exhausted, the depositor may be required to replace same by written advance notice within fourteen (14) days or be subject to services provided by the city being refused or discontinued. Nothing in this section shall be construed to authorize the city to use or apply any funds deposited in connection with revenue bonds or certificates for any purpose other than the purposes for which the revenue bonds or certificates were intended.
(Ord. No. 1957, § 1, 9-8-93)

Sec. 2-271. Imposition, collection, or remittance of fees, surcharges, or other monies authorized by mandatory, preemptive provisions of federal, state, county, or other governmental law or regulation.

Whenever pursuant to mandatory, preemptive provisions of any federal, state, county or other governmental law or regulation (regardless of whether such law is in existence at the time the ordinance creating this section was enacted), the City of Plantation is authorized to impose, collect, or remit fees, surcharges, or other monies, the city shall impose, collect, or remit said authorized fees, surcharges or other monies as provided in such mandatory, preemptive law.
(Ord. No. 1972, § 1, 4-13-94)

Sec. 2-272. Interest on sums due and owing the city.

(a) Unless a different rate is provided otherwise by a specific contract or instrument (e.g., a default provision pursuant to a vendor or construction contract), by a topic-specific resolution of the city council which implements an interest rate authorized by statute or the City Charter (e.g., a special assessment resolution promulgated pursuant to Chapter 170, Florida Statutes, or the City Charter), by a different specific Code section, by other specific uncodified ordinance (e.g., an ordinance approving a franchise agreement), or by provisions of law that may apply to a specific matter so as to preempt this general Code provision, interest shall accrue on sums due and owing to the city at a rate of one (1) percent per month on the unpaid balance.

(b) No interest shall be charge on delinquent water and sewer bills as, in addition to other remedies the city may exercise for delinquencies, the city shall assess and impose a delinquent penalty on all water and sewer bills which are not paid within twenty-one (21) days from the billing date (which date shall be the day such bills are placed in the United States mail for delivery to the responsible customer). The delinquent penalty shall be automatically imposed upon the account of such delinquent customer in the amount of 2.5 of the total water and sewer bill or a minimum charge of one dollar (\$1.00), whichever is greater. [In addition to being confirmed by this subsection (b), the delinquent penalty was first implemented on April 5, 1989 by City Resolution No. 5117 and was (and remains) authorized by § 159.18, Florida Statutes.]

(c) The finance department shall establish a billing policy concerning when interest shall commence to accrue and be charged. Unless and until a different billing policy is implemented by the finance department, interest shall not be charged and collected if the sum due and owing is paid within one (1) monthly billing cycle, and once charged, it shall accrue as of the due date of the amount.

(d) For the purpose of calculating interest pursuant to subsection (a), any overdue period of less than one (1) month shall be considered as one (1) month. Unpaid interest is compounded monthly. For the purpose of this subsection, the term "one (1) month" means a period beginning on any day of one (1) month and ending on the same day of the following month.

(e) To facilitate the calculation of interest only, interest shall be charged for code enforcement and like accruing fines only after the violation comes into compliance or only for that portion of the fine that the special master, board, or court adjudicate as being a lump sum. For example, a continuing fine of fifty dollars (\$50.00) per day shall not bear interest; however when the board, special master, or court determine any portion of the amount of the fine in a lump sum fashion [i.e., the amount of the fine is three thousand dollars (\$3,000.00) computed on the basis of fifty dollars (\$50.00) per day for sixty (60) days], interest will then accrue in accordance with subsection (a) on such determined lump sum portion [i.e., on such three thousand dollar (\$3,000.00) portion but not on the portion continuously increasing at the rate of fifty dollars (\$50.00) per day].

(f) Notwithstanding any provision in this section, or in this Code, any resolution, any uncodified ordinance, or in any instrument or contract before, now, or hereafter made, the total liability for payments in the nature of interest shall not exceed the following rate (the "maximum rate"):

- (1) The maximum rate permitted under the laws of the State of Florida or of the United States applicable to national banks, whichever shall be the lower; or,
- (2) The maximum rate permitted by the laws of the State of Florida expressly providing for maximum interest which can be charged by Florida municipalities on the specific type of financial obligation [e.g., § 170.09, Fla. Stat. (2002)].

Any amounts paid in excess of the maximum rate shall be refunded to the payor, together with interest thereon as may be required by law, provided the city is able to locate such payor and make such refund after reasonable efforts.

(g) The finance department may authorize the forgiveness of interest in instances where prompt payment appears to have been an oversight, in order to induce collection of aged accounts, in order to settle disputes, to promote good will, and for other good cause. The finance department is also authorized to

implement policies concerning how interest is to be charged and collected which promote an efficient administration of the city's finances.
(Ord. No. 2306, § 1, 8-27-2003)

Secs. 2-273--2-280. Reserved.

DIVISION 2.

REVENUE BONDS AND CERTIFICATES*

* **State Law References:** Full borrowing and bonding authority, F.S. § 166.101 et seq.

Sec. 2-281. How issued.

The city council shall have the power to provide by resolution for the issuance and sale of revenue bonds and/or certificates to provide money to finance, acquire, construct, improve and operate any utility, facility, enterprise, work, undertaking or project which the city is authorized by law to acquire, construct, improve and operate, and to provide that such revenue bonds and/or certificates and interest thereon shall be payable from the revenue to be derived by the city from the operation of same, or a combination of any or all such utilities, facilities, enterprises, works, undertakings or projects. Such resolution may be adopted at a regular or special meeting by a majority vote of the city council and at the same meeting at which it is introduced, to take effect immediately upon its passage. It is determined and declared as a matter of legislative intent that no election to authorize the issuance of revenue bonds or certificates shall be necessary. No other proceedings or procedures of any character whatever shall be necessary or required for the issuance of such revenue bonds or certificates by the city; but such revenue bonds or certificates may be validated by circuit court decree, if desired, in the same manner as general obligation bonds are validated. The words "revenue bonds" and "revenue certificates" are used interchangeably, and the provisions applicable to one are applicable to the other.
(Ord. No. 1038, § 5(56.A), 2-10-82)

Sec. 2-282. Sale of revenue bonds or certificates.

Revenue bonds or certificates may be sold in installments at different times, or an entire issue or series may be sold at one (1) time. Such revenue bonds or certificates shall be sold or exchanged for construction work, or as payment of the purchase price or rental of any utility, facility, enterprise, work, undertaking or project, or a combination of any of the same, not less than ninety-five (95) percent of par and accrued interest, at either a public sale after competitive conditions have been maintained and competitive bids sought from at least three (3) different sources (with the city to accept the lowest responsible bid); or, alternatively on a negotiated sale or placement basis.
(Ord. No. 1038, § 5(56.B), 2-10-82)

Sec. 2-283. Security of revenue bonds or certificates.

Revenue bonds or certificates shall be special obligations of the municipality and shall be payable from and secured by a lien upon the revenue of the enterprise as more fully described in the resolution adopted, having due regard to the cost of operation and maintenance of the enterprise, and the amount or proportion, if

any, of the revenue of the enterprise previously pledged. The city may by resolution pledge for the security of the revenue bonds or certificates a fixed amount, without regard to any fixed proportion of the gross revenue of the enterprise.

(Ord. No. 1038, § 5(56.C), 2-10-82)

Sec. 2-284. Not general obligations.

No recourse shall be had for the payment of revenue bonds or certificates, or any interest thereon, or any part thereof, against the general funds of the city, nor shall the credit or taxing power of the city be deemed to be pledged thereto. The revenue bonds or certificates, and interest thereon, shall not be a debt of the city, nor a charge, lien or encumbrance, legal or equitable, upon the property of the city, or upon an income, receipts or revenues of the city other than such of the revenues of the enterprise as shall have been pledged to the payment thereof; and every revenue bond or certificate shall recite in substance that the bond or certificate, including interest thereon, is payable solely from the revenue pledged to the payment thereof and that the city is under no obligation to pay the same, except from such revenue.

(Ord. No. 1038, § 5(56.D), 2-10-82)

Sec. 2-285. Fiscal agent.

The city shall have the power, in connection with the issuance of revenue bonds or certificates, to appoint a fiscal agent and/or consultant and provide the powers, duties, functions and compensation of such fiscal agent and/or consultant; and to provide a method for the resignation, removal, merger or consolidation, and the appointment of a successor, and the transfer of rights and properties to the successor fiscal agent and/or consultant.

(Ord. No. 1038, § 5(56.E), 2-10-82)

Sec. 2-286. Duties of the city and officers.

In order that the payment of revenue bonds or certificates, and interest thereon, shall be adequately secured, the city and its proper officers, agents and employees are directed, and it shall be the mandatory duty of the city and its officers, agents and employees, and it shall be the essence of the contract of the city with the bondholders, at all times:

- (1) To pay or cause to be paid punctually the principal of every revenue bond or certificate, and the interest thereon, on the date, at the place, in the manner, and out of the funds mentioned in such revenue bonds or certificates and in the coupons thereto appertaining, and in accordance with the resolution authorizing their issuance;
- (2) To operate or cause to be operated the enterprise or enterprises in an efficient and economical manner, and to establish, levy, maintain and collect such fees, tolls, rentals, rates and other charges in connection therewith as may be necessary or proper; which said fees, tolls, rates, rentals and other charges shall be at least sufficient, after making due and reasonable allowances for contingencies and for a margin of error in the estimates, to pay all current expenses of operation and maintenance of such enterprise, to pay the interest on and principal of the revenue bonds or certificates as the same shall become due and payable, to comply in all respects with the terms of the resolution authorizing the issuance of revenue bonds or certificates or any other

contract or agreement with the holders of the revenue bonds or certificates, and to meet any other obligations of the municipality which are charges, liens or encumbrances upon the revenues of such enterprise;

- (3) To operate, maintain, preserve and keep, or cause to be operated, maintained, preserved and kept, the enterprise, and every part and parcel thereof, in good repair, working order and condition;
- (4) To preserve and protect the security of the revenue bonds or certificates and the rights of the holders thereof, and to warrant and defend such rights against all claims and demands of all persons whomsoever;
- (5) To pay and discharge, or cause to be paid and discharged, any and all lawful claims for labor, materials and supplies, which, if unpaid, might by law become a lien or charge upon the revenues or any part thereof, prior or superior to the lien of the revenue bonds or certificates, or which might impair the security of the revenue bonds or certificates, to the end that the priority and security of the revenue bonds or certificates shall be fully preserved and protected;
- (6) To hold in trust the revenues pledged to the payment of the revenue bonds or certificates for the benefit of the holders of the revenue bonds or certificates, and to apply such revenues only as provided by the resolution authorizing the issuance of the revenue bonds or certificates, or, if such resolution shall thereafter be modified, only as provided in such resolution as modified;
- (7) To keep proper books of record and accounts of the enterprise in which complete and correct entries shall be made of all transactions relating to the enterprise or any part thereof, and which, together with all other books and papers of the municipality, shall at all times be subject to the inspection of the holders of not less than ten (10) percent of the revenue bonds or certificates then outstanding or their representatives duly authorized in writing.

None of the foregoing duties shall be construed to require the expenditure in any manner or for any purpose by the city of any funds other than revenues received or receivable from the enterprise.

(Ord. No. 1038, § 5(56.F), 2-10-82)

Sec. 2-287. Additional powers and duties.

The city may, in addition to the other powers conferred in this division, insert provisions in any resolution authorizing the issuance of revenue bonds or certificates, which shall be a part of the contract with the holders of the revenue bonds or certificates, as to:

- (1) Limitations on the purpose to which the proceeds of sale of any issue of revenue bonds may be applied;
- (2) Limitations on the issuance and on the lien of additional revenue bonds, or additional notes, bonds or other obligations to finance the improving of the enterprise which are secured by or payable from the revenue of such enterprise;
- (3) Limitations on the right of the city or its council to restrict and regulate the use of the enterprise;

- (4) Pledging all or any part of the revenues of the enterprise to which its right then exists or the right to which any thereafter come into existence;
- (5) The vesting in a trustee of the right to enforce any covenants made to secure, to pay, or in relation to the revenue bonds, as to the powers and duties of such trustee and the limitation of liabilities thereof, and as to the terms and conditions upon which the holders of the revenue bonds, or any proportion or percentage of them, may enforce any covenants made under this division or duties imposed hereby;
- (6) The execution of all instruments necessary or convenient in the exercise of the powers granted by this section or in the performance of the duties of the city and the officers, agents and employees thereof;
- (7) The purchase out of any funds available therefor, including but not limited to the proceeds of revenue bonds, of any outstanding notes, bonds or obligations, including but not limited to revenue bonds, and the price at which and the manner in which such purchases may be made;
- (8) Any other acts and things as may be necessary or convenient or desirable in order to secure the revenue bonds, or as may tend to make the revenue bonds more marketable;
- (9) The manner of collecting the fees, tolls, rates, rentals or other charges for the services, facilities or commodities of the enterprise, and the combining in one (1) bill of the fees, tolls, rates, rentals or other charges for the services, facilities or commodities of the enterprise with the fees, tolls, rates, rentals or charges for other services, facilities or commodities afforded by the city;
- (10) The discontinuance of the services, facilities or commodities of the enterprise as well as any other services, facilities or commodities afforded by the city, in the event that the fees, tolls, rates, rentals or other charges for the services, facilities or commodities of the enterprise are not paid.

Nothing in this section shall be construed to authorize the city to make any covenants, to perform any act, or to do anything which shall require the expenditure in any manner or for any purposes by the city of any funds other than revenues received or receivable from the enterprise.

(Ord. No. 1038, § 5(56.G), 2-10-82)

Sec. 2-288. Right to receivership upon default.

In the event the city shall default in the payment of the principal or interest on any of the revenue bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty (30) days, or in the event the city or the governing body or officers, agents or employees thereof, shall fail or refuse to comply with the provisions of this section or shall default in any agreement made with the holders of the revenue bonds, any holder of revenue bonds or trustee therefor shall have the right to apply in an appropriate judicial proceeding to the circuit court in Broward County, for the appointment of a receiver of the enterprise, whether or not all revenue bonds have been declared due and payable and whether or not such holder, or trustee therefor, is seeking or has sought to enforce any other right,

or exercise any remedy in connection with such revenue bonds. Upon such application, the court may appoint a receiver of the enterprise with the following powers:

- (1) The receiver so appointed shall forthwith, directly or by his agents and attorneys, enter into and upon and take possession of the enterprise and each and every part thereof; may exclude the city, its council officers, agents and employees and all persons claiming under them wholly therefrom; shall have, hold, use, operate, manage and control the same and each and every part thereof; in the name of the city or otherwise, as the receiver may deem best; and shall exercise all the rights and powers of the city with respect to the enterprise as the city itself might do. Such receiver shall maintain, restore, insure and keep insured, the enterprise, and from time to time shall make all such necessary or proper repairs as to such receiver may seem expedient; shall establish, levy, maintain and collect such fees, tolls, rentals and other charges in connection with the enterprise as such receiver may deem necessary or proper and reasonable; and shall collect and receive all revenues, deposit the same in separate account, and apply such revenue so collected and received in such manner as the court shall direct.
- (2) Whenever all that is due upon the revenue bonds, and interest thereon, and upon any other notes, bonds or other obligations, and interest thereon, having a charge, lien or encumbrance on the revenues of the enterprise and under any of the terms of any covenants or agreements with bondholders, shall be paid or deposited as provided therein, and all defaults shall have been cured and made good, the court may in its discretion, and after such notice and hearings as it deems reasonable and proper, direct the receiver to surrender possession of the enterprise to the city, with the same right of the holders of the revenue bonds to secure the appointment of a receiver upon any subsequent default, as hereinabove provided.
- (3) Such receiver shall, in the performance of the power hereinabove conferred upon him, act under the direction and supervision of the court making such appointment, and shall at all times be subject to the orders and decrees of such court, and may be removed thereby. Nothing herein contained shall limit or restrict the jurisdiction of such court to enter such other and further orders and decrees as such court may deem necessary or appropriate for the exercise by the receiver of any functions specifically set forth herein.
- (4) Notwithstanding anything in this section to the contrary, the receiver shall have no power to sell, assign, mortgage or otherwise dispose of any assets of whatever kind or character belonging to the city and useful for the enterprise, but the authority of any such receiver shall be limited to the operation and maintenance of the enterprise; and no court shall have jurisdiction to enter any order or decree requiring or permitting said receiver to sell, mortgage or otherwise dispose of any such assets.

(Ord. No. 1038, § 5(56.H), 2-10-82)

Sec. 2-289. Construction of division.

This division constitutes full and complete authority for the issuance of revenue bonds. No procedures or proceedings, publications, notices, consents, approval, orders, acts or things by the city council, or any board, officers, commission, department, agency or instrumentality of the city, other than those required by this division, shall be required to issue any revenue bonds or to do any act or perform anything under this division,

except as may be prescribed herein. The powers conferred by this division shall be in addition and supplemental to, and not in substitution for, the power conferred by any other law. This division is remedial in nature and shall be liberally construed.

(Ord. No. 1038, § 5(56.1), 2-10-82)

Sec. 2-290. Debt limit.

In arriving at the amount of negotiable bonds outstanding and authorized to be issued under this division, revenue bonds and certificates which are payable solely from the revenues of any utility or facility or public work of the city, and that do not pledge or authorize the city to make any tax levy for the payment of such revenue bonds or certificates or the interest thereon, shall not be considered.

(Ord. No. 1038, § 5(56. J), 2-10-82)

Sec. 2-291. Service fee for dishonored check.

Upon presentation of a check, draft, or other order for payment, the payment of which is refused by the drawee because of lack of funds, credit, or an account, and where the maker or drawer fails to pay the amount owing in cash to the city, then the city shall charge a service fee in the following amount. The amount of the fee for each check shall not exceed:

- (a) Twenty-five dollars (\$25.00), if the face value does not exceed fifty dollars (\$50.00).
- (b) Thirty dollars (\$30.00), if the face value is more than fifty dollars (\$50.00), but does not exceed three hundred dollars (\$300.00).
- (c) Forty dollars (\$40.00), if the face value is more than three hundred dollars (\$300.00).

(Ord. No. 2170, § 1, 1-6-99)

Secs. 2-292--2-325. Reserved.

ARTICLE XI.

ANCILLARY PUBLIC SERVICES

DIVISION 1.

GENERALLY

Secs. 2-326--2-335. Reserved.

DIVISION 2.

RESERVED*

* **Editors Note:** Ord. No. 2276, § 1, adopted June 19, 2002, repealed § 2-336, Fees and charges, being the sole substantive section of Div. 2, Emergency medical services. Such section derived from Ord. No. 2099, § 1, adopted Aug. 28, 1996.

Secs. 2-336--2-350. Reserved.

DIVISION 3.

LIBRARY

Sec. 2-351. Library fees and fines.

(a) The following schedule of fees and fines is hereby adopted, as follows:

(1) *Fees for use of library by nonresidents:*

Adult cards: \$20.00/annually

Child's cards: \$10.00

(2) *Fees for reserve postcards:*

Postcards mailed: \$0.20 per card

(3) *Fines for overdue materials:*

Periodicals and pamphlets: \$0.02 per day

Seven-day books/reserve books, pictures, sculptures, interlibrary loans: \$0.25 per day

Video/audio-visual: \$1.00 per day

New and specially marked books: \$0.10 per day

Art work: \$0.25 per day

All other library materials: \$0.05 per day

Limit--Maximum fine, \$5.00 for returned books and \$20.00 for returned videos.

Fine for lost or damaged library material not to exceed the cost of that item.

(b) The police department shall not make any enforcement efforts as to the fines provided for herein.
(Code 1964, § 2-2; Ord. No. 1747, § 1, 10-24-90; Ord. No. 2104, § 3, 9-18-96)

Cross References: Finance, § 2-266 et seq.

Secs. 2-352--2-370. Reserved.

DIVISION 4.

PARKS AND PLAYGROUNDS*

* **Editors Note:** Formerly codified as Div. 3, parks and playgrounds, § 23-171 has been transferred into Ch. 2 at the request of the city and designated as Div. 4, § 2-371 by the editor. Additionally, Ord. No. 2097, § 1, adopted Aug. 14, 1996, enacted provisions, pertaining to reservations for certain uses of parks and playgrounds, designated as § 23-172. Those provisions were redesignated as § 2-372 with the city's concurrence for purposes of classification.

Cross References: Buildings and building regulations, Ch. 5; marine structures and activities, Ch. 15; planning and development, Ch. 19; platting, Ch. 20; traffic and vehicles, Ch. 25; zoning, Ch. 27; recreation and open space element of comprehensive plan, § 19-56; park and recreation facilities in developments review, § 20-73; city park impact fees, § 20-126; parking of boats, boat trailers, airboats, golf carts, horse trailers, swamp buggies and utility trailers prohibited in certain areas, § 25-45.

Sec. 2-371. Authority of city to manage.

(a) The city shall have the power to use parks and playgrounds in which to give outdoor exhibitions, games and contests, with power and authority to charge and collect a reasonable admission fee for each person entering such park or playground during the time when the same shall be used or employed for such purpose.

(b) The city shall have the power to regulate the use of all recreational facilities; to charge, establish and collect reasonable fees, admissions, tolls, permit fees, charges, rental or monies to be paid for the use of such facilities; to assist and apportion different recreational facilities or different portions of the same facility to be used by citizens and residents living in different areas in the city in order to avoid and lessen congestion in the use of such facilities, and to alleviate heavy traffic congestion; to deny the use of such recreational facilities to transients or persons living in Florida but not residing in the City of Plantation; and to make any and all rules and regulations governing the use of such recreational facilities or the prices to be charged for the use of such recreational facilities.

(c) The city shall have the power to lease and concession any of such recreational facilities, or parts thereof, at any time, to private persons for public purposes, and to grant and license concessions therein for the sale of goods, wares and merchandise, commodities and services, and to sell and dispense commodities or services by the city as part of such operation; to lease from others or to others, including public bodies, any and all recreational facilities, and to enter into contracts with others for the joint operation of recreational facilities. (Ord. No. 1038, § 5(44), 2-10-82)

Sec. 2-372. Reservations for use of city parks and park facilities.

(a) *Intent and purpose.* The city council wishes to continue its efforts to protect and preserve its parks and park facilities as areas devoted to rest, relaxation, recreational sports, family outings, special events and other activities which serve to enhance the enjoyment of life, for the use of its present and future citizens. The city council is aware, however, that the personal liberties guaranteed under the First Amendment of the United States Constitution allow persons the right to express their fundamental freedoms of speech, assembly and religion in public areas such as the city parks, since parks have been consistently regarded and treated by the courts as traditional public forums for such expressions.

It is, therefore, the purpose and intent of the city council to try to strike a reasonable balance and achieve a reconciliation of such uses, which occasionally compete with each other, by the enactment of regulations which are content neutral as to the subject matter of expressions of opinions or of the viewpoints of a person or a group. Furthermore, the city council wishes to ensure that such regulations are tailored to avoid undue

restrictions upon or intrusions into personal freedoms of expression and to further ensure that reasonable alternative modes of communications are available. In addition, the city council neither intends nor desires to impose conditions, restrictions or the like upon persons or groups who or which sponsor events in city parks which relate to qualifications, or the suitability or compatibility of event participants or others invited or authorized by a sponsor to participate in or attend an event.

(b) [*Reservation required, when.*] Any person, organization, entity or group of persons who wishes to temporarily and exclusively use any city park area, park facility, or both, to sponsor, conduct or stage any function, activity or event to be conducted or held with the park area, facility or both, must obtain a reservation in advance of the event from the city parks and recreation department on a form promulgated by that department for such purpose.

(1) *Reserved.*

(2) *Reservation procedure.* Upon application, a reservation for any such use shall be issued to the applicant in writing, specifying:

- a. The date and time it was issued;
- b. The name, address and telephone number of the applicant or designated agent;
- c. The name or other identification of the proposed event or use, including a brief description of it;
- d. The requested hours and days of use; and
- e. The boundaries, location or identity of the park area, facility, or all of the foregoing sought to be used.

(c) All such reservations shall be processed free of charge on an annual "first-come, first-served" basis, commencing at the beginning of each calendar year. However, reservations of certain park services, park areas, park facilities or any of the foregoing shall be subject to payment to the city of user fees as established from time to time by the city council. In addition, if a reservation is sought for a function, activity or event by any person, organization, entity or group which has periodically sponsored or conducted a particular function, activity or event of a similar nature at a particular time of year, or at a particular location, or both, for a minimum period of three (3) years (including but not limited to those occurring within three (3) years preceding the date of adoption of this section), and the reservation sought does not exceed a maximum period of four (4) days in any calendar year, then such sponsor shall be afforded a right of first refusal for the particular location and particular dates desired.

(d) Each reservation shall be issued promptly by the department as soon as a determination has been made that:

(1) There will be no overlapping, conflicting or concurrent use of an area, facility or both;

(2) The area, facility or both are otherwise reasonably available for use (for example, a soccer field

cannot be continuously used without damage; instead, such fields must "rest and recover" from use to regenerate grass, and be maintained so as to keep the field in "playing shape");

- (3) City equipment or personnel which must reasonably be available to service the reservation are so available (e.g., stages or special duty police or recreation personnel); and
- (4) All other requirements of this section are satisfied or the city has received reasonable assurances that same will be satisfied.

(e) If the proposed function, activity, or event is, or may be, in the reasonable estimation of both the police chief and the parks and recreation director, likely to be attended by a large number of patrons, attendees or invitees, they shall, after consultation with the fire department, and the applicant, outline reasonable conditions governing vehicular parking locations and traffic control, points of access for pedestrians, movement of pedestrian traffic within the park area, the facility or both, and provisions to ensure that the grounds are protected from undue wear and tear, damage or destruction. For all purposes of this section, the term "director" shall include the superintendent of parks or the superintendent of recreation, as applicable, as authorized designees of the director. Further, the director shall ensure that suitable arrangements are made in consultation with the applicant for sanitation and hygiene, such that a reasonable number of restroom facilities are accessible (or, if necessary, additional temporary facilities are procured by the applicant), and that trash collection and disposal arrangements are sufficient to accommodate the event. The "reasonable estimation" by the director and police chief of the anticipated number of patrons shall be based upon consideration of the following factors:

- (1) Prior experiences with activities conducted by the particular applicant for the function, activity or event requested, or prior experience with similar functions, events or comparable activities;
- (2) The size of the entire park, including pedestrian and vehicular access in relation to the area, facility or both sought to be used; and
- (3) The anticipated size or intensity and characteristics of the proposed use.

(f) If the application involves allocation of limited space for exhibitors, concessionaires and other event participants, and there are corresponding limitations on the areas remaining for pedestrian traffic, then any and all persons who wish to exhibit, sell or distribute any items of any kind may be required by the sponsor of the event to do so within the confines of designated booths or areas, to ensure orderly movement and maintenance of crowd control.

(g) Deposits; insurance.

- (1) The director shall require the posting of a damage deposit in the minimum amount of five hundred dollars (\$500.00) if the expected number of patrons, attendees or invitees is reasonably expected to exceed five hundred (500) persons. The amount of such deposit may be increased by one hundred dollars (\$100.00) for each additional five hundred (500) persons anticipated to attend. Such deposit may be used by the city to defray the costs to repair any damages to park property or park facilities which directly arise as a result of the function, activity or event. Any balance remaining, or the entire deposit, if applicable, shall be returned to the applicant within ten (10) days after the function, activity or event has concluded. Any person who is dissatisfied

with the determination of the city to retain all or a portion of the deposit may appeal such determination to the city council for a hearing. Such appeal must be made within ten (10) days from the date the applicant is notified of the determination of the city.

- (2) If an event is authorized to provide for sales of beer, wine or both, as otherwise provided in this section, the applicable deposit shall be doubled.
- (3) Each applicant shall provide the city a certificate of insurance with such limits, coverages, and underwriters as the city risk insurance supervisor may require, given the size, nature, and scope of the activity contemplated by the reservation.

(h) No person or group of persons shall be prohibited from distributing noncommercial literature to any person willing to receive it in any area adjacent to or abutting the area or facility which is designated by the parks and recreation director as the subject of the reservation, provided such distribution does not impede, impair or adversely affect vehicular traffic associated with the event, or pedestrian access to and from the event, or both.

(i) On those occasions in which a park reservation is sought, an applicant whose purpose is primarily devoted to civic, charitable, religious, or fraternal purposes may be authorized by the department to provide for the sale and consumption of beer, wine, or both during the function, activity or event, provided, however, that if the city police department determines, at any time while the event is underway, that such activities should be terminated, such determination shall be immediately communicated to and observed by the applicant. Any applicant obtaining such authorization shall be solely responsible for securing all applicable state licenses relating to such sales and consumption.

(j) It shall be unlawful and a violation of this section for any person to exhibit, sell or offer for sale any item or thing, to distribute literature of any kind, or to convey any message, opinion or the like within the park area, facility or both which is the subject of a reservation unless such person has obtained authorization of the holder of the reservation.

(k) *Playgrounds group reservation and use.* The city has experienced a significant increase in the number of groups using the playground portions of parks and recreation facilities throughout the park system. The playgrounds serve an important role in the community as a provider of safe places to play, recreate, and enjoy leisurely pursuits for all age ranges. The unique nature of groups using playgrounds in the city require additional guidelines to protect and preserve playground areas and to ensure they remain devoted to rest, relaxation, and other activities which serve to enhance the enjoyment of life. The additional guidelines are supplemental to the regulations provided for in this division. In the event of conflict with other regulations in this division, the provisions of this subsection shall prevail. This subsection (k) shall apply to the playground portion of parks and recreation facilities defined below which shall be depicted on a map filed with the office of the city clerk.

- (1) Playgrounds. The following playground portions of parks and recreation facilities (not including any water play areas) are subject to this subsection:

- Camp Everglades at Volunteer Park, 12050 Sunrise Boulevard

- Deicke Auditorium, 5701 Cypress Road
- Jacaranda Lakes, 1200 NW 94th Avenue
- Jim Ward Community Center, 301 NW 46th Avenue
- Kennedy Community Center, 5555 Palm Tree Road
- Pine Island Park, 320 S. Pine Island Road
- Plantation Central Park, 9151 NW 2nd Street
- Pop Travers, 6250 SW 16th Street
- Seminole Park, 6600 SW 16th Street
- Sunset Park, 10600 Cleary Boulevard

(2) Definitions for this subsection (k) only.

- a. *Adult supervision* shall mean one (1) adult supervisor to every ten (10) children.
- b. *Family* shall mean an individual or two (2) or more persons related by blood, marriage, adoption or as licensed foster parents or court-appointed guardians and wards, or a group of not more than five (5) persons who need not be related by blood or marriage or law as aforesaid, which live together in a dwelling unit.
- c. *Informal groups* shall mean a group of two (2) or more persons which are affiliated with each other for the purpose of playground visit but are not affiliated with any non-profit organization, school, or business.
- d. *Insurance* shall mean a certificate of insurance with an insurance company licensed to do business in the State of Florida, with a Best's Guide rating of not less than A+. The certificate of insurance shall include comprehensive general liability including property damage, automobile liability and workers compensation if required under Florida Law. Minimum limits of total coverage shall be three hundred thousand dollars (\$300,000.00) per occurrence combined single limit for bodily injury liability and property damage liability. The City of Plantation is to be listed as additional insured with respect to each permit. The insurance certificate shall be received and approved by the city prior to the city issuing a permit. The city risk manager may specify reasonable additional or different limits, coverages, or underwriting requirements in consideration of the types of coverage offered in the risk markets and any recommendation made by the city's excess liability carrier. The certificate must be presented to the city risk manager ten (10) days in advance of the scheduled date of use.
- e. *Organized groups* shall mean a group of two (2) or more persons which are affiliated

with each other for the purpose of playground visit and affiliated with a non-profit organization, school, or businesses.

(3) Regulations.

a. Permits required. Organized groups and informal groups which are greater than fourteen (14) persons in number (including adult supervision) are required to obtain a permit for each use of the city's playgrounds to which this regulation applies. The number fourteen (14) in the preceding sentence shall be increased to be equal to the number of individuals in a group where all the group's members are members of a family. The city will allow one (1) permit to a group per calendar year at no cost. Each permit is for up to a two-hour period of time. Each permit shall cost fifty dollars (\$50.00) with the exception of the one (1) permit to a group per calendar year at no cost. Prior to the issuance of a permit to an organized group, proof of insurance is required. The permit is a non-exclusive use permit and other patrons may be using the playground at the same time. The city reserves the right to limit the time of day of use, the day of week of use, the right to issue permits not for the playground requested but for a different playground, and also reserves the right to deny a permit to those groups not following the rules, policies, and guidelines established by the parks and recreation department or posted in the playground. The city may also deny requested permits. The factors considered by the city when limiting a requested permit shall be the following:

1. Any prior playground permits that have been issued for the requested or alternate facility;
2. Any prior special use permits issued or events planned for the park facility in which the playgrounds are situated;
3. Playground maintenance schedules;
4. Landscape condition (specifically including recovery from prior use);
5. Staffing needs;
6. Type of activity proposed for the playground area; and,
7. Previous infractions of city ordinances, or policies, rules, and guidelines of the department.

Permits must be paid at least ten (10) days in advance of the scheduled use. Non-payment of the permit by the required deadline date will void the permitted scheduled use. The permit fee set forth in this subsection shall be in addition to any other applicable fees and charges.

b. Adult supervision shall be required as a condition of permit issuance and shall be required at all times the permitted group is using the playground.

c. Rules of implementation.

1. An organized group or informal group may not be divided into smaller groups in order to evade an otherwise applicable part of this subsection.
2. If it cannot with reasonable certainty be concluded that one or more persons are not part of an organized group or informal group, they will be presumed to be a part of an organized group or informal group. The following factors will be used to determine whether individuals are part of an organized group or informal group (the material presence of three (3) or more of which shall be determinative):
 - (i) The individual's degree of interactive conversation with the other group members;
 - (ii) The degree to which the individual participates in sharing food and beverages with the other group members;
 - (iii) Whether the individual arrives at the playground area or leaves the playground area within a fifteen-minute period of any other member of the group's arrival or departure.
 - (iv) The extent to which the individual plays with or remains in close proximity [less than ten (10) feet] to some of the other group members; and,
 - (v) The extent to which the individual wears clothing that is very similar to the clothing of other group members (i.e., same or similar logos, labels, colors, or styles).

- (4) The provisions of this subsection (k) shall not apply to an organized group or informal group which has a permit or license to use a portion of the park or recreation facility wherein the playground is situate (i.e., a pavilion permit).

(Ord. No. 2097, § 1, 8-14-96; Ord. No. 2356, § 1, 12-14-2005)

Sec. 2-373. Parks and recreation fees.

The parks and recreation department fee schedules for the tennis division, the aquatics division, the parks/athletic division, the parks/aquatics/tennis membership combinations, the facilities fees, the parks miscellaneous fees, and the summer recreational camp fees--All as set forth in Composite Exhibit "A" of City Ordinance No. 2345 are hereby adopted and approved as if fully set forth this section.

(Ord. No. 2295, § 4, 3-12-2003; Ord. No. 2333, § 2, 10-6-2004; Ord. No. 2356, § 3, 12-14-2005; Ord. No. 2395, § 2, 9-19-2007)

Secs. 2-374--2-390. Reserved.

DIVISION 5.

RECORDS RESEARCH

Sec. 2-391. Lien search fee.

There shall be a fee of thirty-five dollars (\$35.00) for city response to a request for a lien search. (Ord. No. 2104, § 6, 9-18-96; Ord. No. 2295, § 3, 3-12-2003)

Editors Note: Ord. No. 2104, § 6, adopted Sept. 18, 1996, enacted a fee for city response to lien search request. Such provision has been codified as § 2-391 by the editor inasmuch as no specific designation was set out in the ordinance.

Secs. 2-392--2-420. Reserved.

DIVISION 6.

AUTHORIZED ADMINISTRATIVE ADJUSTMENTS TO CITY'S VARIOUS FEES AND CHARGES

Sec. 2-421. Authorized administrative adjustments to the city's various fees and charges.

- (a) The mayor may adjust the city's various codified fees and charges, subject to the following limitations:
- (1) An adjustment may be made only once a year and must apply for a fiscal year.
 - (2) An adjustment may not increase or decrease an existing fee by more than ten (10) percent, and the cumulative increase or decrease of all administrative adjustments for any particular fee as originally established by ordinance cannot exceed twenty (20) percent.
 - (3) The mayor may also establish a new fee for any fiscal year which shall not exceed one hundred dollars (\$100.00) and which may not thereafter be adjusted except by resolution or by ordinance.
 - (4) All adjustments shall be approved by mayoral executive order and shall be filed with the office of the city clerk. The city clerk shall mark the receipt date of the order and shall immediately place a copy of the executive order in the mail to each councilmember. The executive order shall become effective thirty (30) days after it is received by the city clerk unless the city governing body suspends the executive order by resolution, and any such suspension will become effective the date the resolution becomes effective.
- (b) The governing body of the city may adjust by resolution the city's various fees and charges, subject to the following limitations:
- (1) An adjustment may be made at any time but must apply prospectively only. The cumulative increase or decrease of all administrative adjustments by the mayor or by city resolution for any particular fee as originally established by ordinance cannot exceed fifty (50) percent.
 - (2) The governing body of the city may also establish a new fee for any fiscal year which shall not exceed two hundred fifty dollars (\$250.00) and which may not thereafter be adjusted except by ordinance.

(c) The following fees and charges may not be adjusted pursuant to the process set forth in this division:

- (1) Fees and charges of a franchisee of the city;
- (2) Fees imposed and collected pursuant to the city cost recovery program (except where specifically provided in section 27-64 of this Code);
- (3) Local business tax receipts; and

(4) Fees and charges set forth in chapter 26 of this Code entitled, "Utilities."
(Ord. No. 2295, § 5, 3-12-2003; Ord. No. 2379, § 1, 12-13-2006; Ord. No. 2395, § 1, 9-19-2007)

Editors Note: Ord. No. 2295, § 5, adopted Mar. 12, 2003, provided for the inclusion of provisions which pertained to adjustments and limitations concerning authorized administrative adjustments to the city's various fees and charges. Such section designated as § 2-600 has been redesignated by the editor as § 2-421.