

## Chapter 2

### ADMINISTRATION\*

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- \* **Cross References:** Animals, Ch. 3; elections, Ch. 5; health, Ch. 7; license and regulations of occupations and businesses, Ch. 9; personnel, pensions and retirement, Ch. 11; solid waste, Ch. 12; utilities, Ch. 16.
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## ARTICLE I. IN GENERAL ([CHAPTER 2 INDEX](#))

### **Sec. 2-1. City seal.**

The seal of the City shall be circular in form.  
(Code 1977, § 5:101)

### **Sec. 2-2. Exclusive use of property.**

No personal property or equipment of any nature or description, owned by the City or any of the departments thereof, shall be loaned for work not strictly carried on by the City or its departments; provided, however, that the City Council may vote, in its discretion, to loan equipment belonging to the City.  
(Code 1977, § 5:501)

### **Sec. 2-3. Conflict of Interest and Incompatibility of Office.**

#### **(a) Definitions.**

(i) A “conflict of interest” exists when a person takes an action or makes a decision that would affect his or her financial interest, the financial interests of the person’s immediate family member, or the interests of any entity or organization in which the person is a member.

(ii) An “immediate family member” is a person who is related to a City Official or Employee in one of the following ways: spouse, mother, father, stepmother, stepfather, foster mother, foster father, father-in-law, mother-in-law, grandmother, grandfather, grandchild, sister, brother, child, stepchild, foster child, or any other person living in the same household as the City Official or Employee.

(iii) “Board” shall mean the Board of Assessors, City Council, Planning Board, Zoning Board of Adjustment or any other board or commission of the City of Berlin.

(iv) “Official” shall mean any elected or appointed member of a Board.

(v) “Employee” shall mean any employee of a Department of the City of Berlin at the level of Assistant (reporting directly to a Director/Department Head or Assistant Director) or higher.

(b) Conflict. No Official of a Board shall vote, participate in deciding, or sit upon the hearing of any question which the Board is to decide if that Official has a direct personal and pecuniary interest in the outcome which differs from the interest of other citizens.

(c) Process for Uncertainty of Conflict. When uncertainty arises as to the application of subsection (a) of this section to an Official in particular circumstances, the Board shall, upon request of that Official or another member of the Board, vote on the question of whether that Official should be disqualified. Doubt concerning the existence of a conflict of interest shall be resolved in a determination that a conflict exists. Such a vote the Board shall be binding upon the Official, who shall recuse themselves in the event of a vote finding that a conflict exists.

(d) Duty to Disclose and Recusal. No Official or Employee shall participate in the decision-making process of any matter in which the Official or Employee or a member of the Official or Employee’s immediate family has a direct personal or financial interest, aside from his/her salary or benefits as such Official or Employee. Any Official or Employee who believes such an interest exists shall disclose such interest and shall not participate in the matter further, meaning they should immediately remove themselves from discussion and voting, physically vacate his/her seat, and physically leave the room until consideration of the matter is completed. Whenever a matter comes before any Board, no Official or Employee shall introduce, ask questions, speak on or vote on any motion, ordinance, resolution or issue in which he/she has a conflict of interest; and the Official or Employee shall disclose the reason for the

conflict of interest prior to the Board's discussion on the matter, or if discussion has occurred, then as soon as the conflict becomes known to the Official or Employee. Notwithstanding anything to the contrary stated herein, an Official or Employee who is the Applicant before a Board may present such Application to the Board as any other citizen.

(e) Conflict of Interest: Board of Assessors. In the event any Official of the Board of Assessors is the applicant for a tax abatement, the Abatement Application of that Official shall be decided by the City Council as a whole at a duly called and noticed public hearing; and the City Council, in making its determination on that Abatement Application shall rely upon the advice and analysis of the City's Contract Assessor.

(f) Incompatibility of Offices. In addition to the provisions of RSA 669:7 and 669:8, which are hereby incorporated herein, no Official shall at the same time hold any two of the following offices: Board of Assessors, City Council, Planning Board, Zoning Board of Adjustment, Police Commission and School Board. Also, no immediate family member of a standing Official shall hold any of the following offices: Board of Assessors, City Council, Planning Board, Zoning Board of Adjustment, Police Commission and School Board. However, a City Council member may serve on the City's Planning Board, Zoning Board of Adjustment, Berlin Airport Authority, BIDPA and/or Berlin Water Commission as an Ex Officio member, and a City Councilor may serve on BIDPA as a Regular Member and a BIDPA member may serve on the Berlin Water Commission as a Regular Member; and it is not a violation of this Ordinance for the City Council as a whole to act as the Board of Assessors. Furthermore, and notwithstanding the prior provisions of this paragraph, two immediate family members can be elected by the Voters of the City to serve on the City Council and/or the School Board without violating this provision.

(g) Gifts and Favors. No Official, Employee, or Agent of the City shall solicit or accept any gratuity, favor, or anything of monetary value from any contractor or potential contractor with the City relative to the procurement of any supplies, equipment, construction, and/or other services with municipal, state and/or federal grant funds; and the offering and/or giving of any such matter of monetary value by such a contractor or their agents to any Official, Employee, or Agent of the City is hereby prohibited. In addition to any penalties which may be provided by law, any municipal Official, Employee, or agent who violates any provision of this section shall be subject to appropriate disciplinary action; including, in the case of an Official, removal from office; in the case of an Employee, suspension or discharge from employment; and, in the case of an Agent, termination of such agency.

**Cross References:** City Council, § 2-21 et seq.; boards, committees and commissions, § 2-41 et seq.; departments, § 2-216 et seq.

#### **Sec. 2-4. Indemnification for Damages**

A city, town, county, village district or precinct, school district, charter school, school administrative unit or any other municipal corporation or political subdivision may by a vote of the governing body indemnify and save harmless for loss or damage occurring after said vote any person employed by it and any member or officer of its governing board, administrative staff or agencies including but not limited to selectmen, school board members, charter school trustees, city councilors and aldermen, town and city managers, regional planning commissioners, and superintendents of schools from personal financial loss and expense including reasonable legal fees and costs, if any, arising out of any claim, demand, suit, or judgment by reason of negligence or other act resulting in accidental injury to a person or accidental damage or destruction of property if the indemnified person at the time of the accident resulting in the injury, damage, or destruction was acting in the scope of employment or office.

(Ord. of 03/15/04)

**Secs. 2-5--2-20. Reserved.**

## ARTICLE II. CITY COUNCIL\* [\(CHAPTER 2 INDEX\)](#)

### **Sec. 2-21. Meetings, salaries of council persons, mayor.**

(a) The City Council shall meet in regular session on the first and third Mondays of each month unless a majority of the City Council votes to do otherwise. The mayor or a majority of the City Council may call for special meetings in addition to the regular meetings when needed.

(b) Members of the City Council shall receive a maximum annual salary of seven hundred dollars (\$700.00) based upon their attendance at the regular and duly called special meetings of the City Council, unless the Charter shall be amended to provide otherwise. Members of the City Council shall be paid monthly, receiving thirty-five dollars (\$35.00) for attendance at each regular and duly called special meeting up to the maximum annual salary of seven hundred dollars (\$700.00).

(c) The mayor shall receive a monthly salary of two hundred fifty dollars (\$250.00); that is, three thousand dollars (\$3,000.00) annually, unless the charter shall be amended to provide otherwise, and such salary shall be in full for services of every kind rendered. (Code 1977, § 2:117; Ord. of 10-5-87)

### **Secs. 2-22--2-40. Reserved.**

\* **Charter References:** Governing body, §§ 3, 4; elections, §§ 8, 11--13; compensation, § 14; powers and duties of mayor, § 14a.

**Cross References:** Conflict of interest, § 2-3; ordinance adoption procedure, § 2-146 et seq.; standing committee on accounts and claims created, § 2-167; elections, Ch. 5; personnel, pensions and retirement, Ch. 11.

## ARTICLE III. BOARDS, COMMITTEES AND COMMISSIONS\* [\(CHAPTER 2 INDEX\)](#) DIVISION 1. GENERALLY

### **Sec. 2-41. Establishment.**

There shall be established the following boards and commissions in the City as required by the laws of the state, the Charter, and by City Ordinances. Appointments to these boards and commissions shall be made by the mayor and approved by the City Council.

- (1) Board of Assessors
  - (2) Board of Health
  - (3) Cemetery Trustees
  - (4) Housing Authority
  - (5) Industrial Development and Park Authority
  - (6) Library Trustees
  - (7) Police Commission
  - (8) Recreation and Parks Commission
  - (9) Trustees of Trust Funds
- (Ord of 01-19-09)

**Cross References:** Health, Ch. 7; housing, Ch. 8; streets, sidewalks and other public places, Ch. 13; parks and recreation, § 13-81 et seq.

### **Sec. 2-42. Advisory bodies; annual meetings; chairman.**

All boards and commissions shall serve in an advisory capacity only unless otherwise empowered by state statute, Charter or City Ordinance. Each board and commission shall meet annually when new appointments are made and elect a chairman. (Code 1977, § 3:301.2)

**Sec. 2-43. Appointment, term of members.**

All appointments to boards and commissions shall serve for the term appointed and until a successor shall have been appointed and qualified. Appointments for unexpired terms shall be for the remainder of that term and until a successor has been appointed and qualified. Conditions for removal of any board or commission member shall be as defined by statute, ordinance or the administrative code. (Code 1977, § 3:301.3)

**Sec. 2-44. Qualification of appointees.**

All appointees shall be residents of the City unless otherwise stated.  
(Code 1977, § 3:301.4; Ord. of 3-16-98(1))

**Sec. 2-45. Meeting Schedules.**

Members of boards, committees and commissions shall meet after 5:30 p.m. unless there is unanimous agreement among the members to meet between the hours of 7:00 a.m. to 5:00 p.m. (Ord of 8-15-11)

**Secs. 2-46--2-55. Reserved.**

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\* **Charter References:** Members of commissions and boards shall be appointed by the mayor and approved, § 14a.

**Cross References:** Conflict of interest, § 2-3; housing board of appeals, § 8-36 et seq.; planning board, § 17-46 et seq.; board of adjustment, § 17-71 et seq.

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**DIVISION 2A. BOARD OF HEALTH\* ([CHAPTER 2 INDEX](#))****Sec. 2-56. Composition.**

The board of health shall consist of three (3) members, one of which shall be a physician, appointed by the mayor and approved by the City Council.  
(Code 1977, § 3:305.1)

**Sec. 2-57. Term, compensation.**

Appointments to the board of health shall be made for a term of three (3) years and each member shall receive for compensation the sum of fifty dollars (\$50.00) per year.  
(Code 1977, § 3:305.2)

**Sec. 2-58. Powers, duties.**

The board of health shall perform the following functions, assisted by its executive secretary the Community Services Director:

- (1) The board of health may make such rules and regulations as authorized by the laws of the state, the Charter, City Ordinances and the administrative code, for the prevention and removal of nuisances, for the control and restriction of infectious and contagious diseases, and such other regulations relating to the public health, as, in its judgment, the health and safety of the people may require, which shall take effect when approved by the City Council.
- (2) The board of health shall meet at such times and places as it may deem necessary, for consideration of matters relating to the public health. They shall investigate, inquire into and advise in all cases referred to them for such purpose by the Community Services Director.
- (3) A record shall also be kept by the Community Services Director of all complaints made to him/her or to the board, of all orders issued, notices served, and nuisances abated. All the records shall be kept on file in the health division office.

(Code 1977, § 3:305.3; Ord. of 5-6-96(1))

**DIVISION 2B. HOME HEALTH PROFESSIONAL ADVISORY BOARD [\(CHAPTER 2 INDEX\)](#)**

**Sec. 2-59. Composition.**

The Home Health Professional Advisory Board shall consist of nine (9) members. The membership will include the following;

Three (3) members of the Board of Health,  
One registered nurse (preferably a public health nurse, but not a City employee),  
A consumer or family member of a consumer  
A representative from AV Home Care  
A representative from various therapy providers - OT, PT, Speech  
Appropriate representation from other professional disciplines to provide expert information as needed

The Community Services Director shall serve as staff liaison.

**Sec. 2-60. Term, compensation.**

Appointments to the Home Health Professional Advisory Board shall be for a term of three (3) years, and shall serve without compensation.

**Sec. 2-61. Powers, duties.**

The Home Health Professional Advisory Board shall perform the following functions, assisted by the Community Services Director:

(1) Professional Advisory Board: The Home Health Professional Advisory Board (herein referred to as the PAB) shall advise the Community Services Director with respect to the safety and quality of care, treatment and/or services provided to the clients.

(2) This PAB shall advise the Community Services Director in the establishment and annually review the agency's policies, governing scope of services offered, admission and discharge policies, medical supervision and plans of care, emergency care, clinical records, personnel qualifications, referral sources and program evaluation. The PAB will advise the Health Division on professional issues, assist in total program evaluation annually, assist the Health Division to maintain a liaison with other healthcare providers in the community, participate in the Health Division quality assessment and performance improvement, reviewing and advising in the development of the agency's annual budget and capital improvement planning.

(3) At a minimum the PAB will meet to assist in the following activities;

Annual review and advising on policies, procedures and clinical matters,  
Annual review and advising in preparing the annual budget and annual capital improvement plan.

The PAB will meet at other times as needed.

(4) The Community Services Director shall keep a record of all meeting agendas and minutes (Ord 9/15/2008)

**Secs. 2-62--2-70. Reserved.**

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\* **Cross References:** Health, Ch. 7.

### **DIVISION 3. CEMETERY TRUSTEES\* [\(CHAPTER 2 INDEX\)](#)**

#### **Sec. 2-71. Composition.**

The cemetery trustees shall consist of three (3) members appointed by the mayor and approved by the City Council.

(Code 1977, § 3:303.1)

#### **Sec. 2-72. Term, compensation.**

Appointments to the cemetery trustees shall be made for a term of three (3) years and each member shall receive for compensation the sum of fifty dollars (\$50.00) per year.

(Code 1977, § 3:303.2; Ord. of 8-3-98(1))

#### **Sec. 2-73. Function.**

The function of the cemetery trustees shall be as defined in state law and as may be directed by City Ordinances.

(Code 1977, § 3:303.3; Ord. of 8-3-98(1))

#### **Secs. 2-74--2-85. Reserved.**

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\* **Cross References:** Streets, sidewalks and other public places, Ch. 13.  
**State Law References:** Board of trustees, RSA 31:22; cemeteries, RSA 289:1 et seq.

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### **DIVISION 4. HOUSING AUTHORITY\* [\(CHAPTER 2 INDEX\)](#)**

#### **Sec. 2-86. Composition.**

The housing authority shall consist of five (5) members appointed by the mayor and approved by the City Council and is created by RSA 203:1 et seq., qualifying as a supplementary public corporation.

Residency within the City of Berlin shall not be a requirement for appointment. (Ord. 8/18/2008)  
(Code 1977, § 3:302.1)

#### **Sec. 2-87. Terms, compensation.**

Members appointed to the housing authority shall be appointed for terms of five (5) years and shall serve without compensation.

(Code 1977, § 3:302.3)

#### **Sec. 2-88. Functions, duties.**

The functions and duties of the housing authority shall be as provided in RSA 203:1 et seq.

(Code 1977, § 3:302.2)

#### **Secs. 2-89--2-100. Reserved.**

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\* **Cross References:** Housing, Ch. 8.  
**State Law References:** Housing authorities' law, RSA 203:1 et seq.

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### **DIVISION 5. INDUSTRIAL DEVELOPMENT AND PARK AUTHORITY\* [\(CHAPTER 2 INDEX\)](#)**

#### **Sec. 2-101. Acquisition, development and disposal of industrial land and facilities--Declaration of need and purpose.**

It is hereby declared that there is a need for the development of industrial, manufacturing and warehouse facilities within the City in order to alleviate and prevent unemployment; to insure the continued growth and prosperity of the City; and, to promote the general welfare of all its citizens. It is the purpose of this article to foster and encourage the development of industrial facilities within the City by adopting the provisions of RSA 162-G, and by re-establishing the Berlin Industrial Development and Park Authority,

hereinafter called the authority, under RSA 162-G and empowering the authority with all of the powers authorized by RSA 162-G. It is the further purpose of this article to encourage industrial development by transferring title to certain industrial facilities owned by the City to the authority as authorized by RSA 162-G. It is hereby declared and determined that it is more appropriate for the City to proceed with industrial development under RSA 162-G than under either RSA 162-A or RSA 162-E.  
(Code 1977, § 5:901)

**Sec. 2-102. Same--Adopting provisions of RSA 162-G: 4.**

As authorized by RSA 162-G: 1, the City does hereby adopt the provisions of RSA 162-G: 4 which empowers the municipalities of New Hampshire to:

- (1) Engage in projects and acquire, own and dispose of industrial facilities;
- (2) Issue bonds to pay project costs or to reimburse a tenant for payments for project costs made before or after the bonds are issued or to refund bonds previously issued;
- (3) Lease industrial facilities as owner or lessor;
- (4) Mortgage, pledge or assign as security for bonds through use of a trust indenture or otherwise any interest which the municipality may have in an industrial facility as owner and lessor;
- (5) Lease or sell an industrial facility to another person in whole or in part in the event of a default by a tenant;
- (6) Make contracts or take other action which is necessary or desirable in connection with the exercise of the above powers. (Code 1977, § 5:902.6)

**Sec. 2-103. Re-establishment of authority.**

RSA 162-G:15-a authorizes cities to establish industrial development authorities that may exercise the powers and duties related to findings and approvals of the governing body and the obligations of the governmental unit; therefore the Berlin Industrial Development and Park Authority is hereby re-established under the provisions of RSA 162-G and granted all industrial development powers, duties and responsibilities set forth in RSA 162-G in accordance with the provisions of RSA 162-G and the other sections of this division.

(Code 1977, § 5:903)

**Sec. 2-104. Composition.**

The authority shall consist of a board of directors of not less than nine (9) nor more than fifteen (15) members appointed for three-year terms. A majority of the members shall reside within the boundaries of the City.

(Code 1977, § 5:903.1; Ord. No. 9, § 300:1, 6-19-78; Ord. of 10-20-97(1); Ord. of 8-3-98(2); Ord. of 6-21-99)

**Sec. 2-105. Alternate membership.**

The authority shall include three (3) alternate members of the board of directors, appointed for three (3) years. Alternate members shall not have official voting status unless designated by the chairman of the authority to replace an absent member. When an alternate member is so designated, he/she shall have full voting power for the duration of the meeting or until the absent member appears at the meeting. If any of the twelve (12) members are absent, the chairman shall be obligated to designate present alternate members as replacements. Alternate members shall reside within the boundaries of the City. (Ord. No. 9, 6-19-78)

**Sec. 2-106. Appointment.**

The board of directors' members of the authority shall be appointed by the mayor, subject to the confirmation of the City Council. The terms of the initial members of the board so established shall be staggered so that one-third of the members shall be appointed each year. (Code 1977, § 5:903.2)



**Sec. 2-107. Ex-officio members.**

The City Council may appoint any City officers that it so designates as ex-officio members of the authority.

(Code 1977, § 5:903.3)

**Sec. 2-108. Quorum for action.**

All actions of the authority shall be authorized by resolutions of the board passed on the affirmative vote of at least a majority of the board of directors' members present and voting. (Code 1977, § 5:903.4)

**Sec. 2-109. Bylaws.**

The authority shall enact bylaws to govern all other aspects of its operation and actions.

(Code 1977, § 5:903.5)

**Sec. 2-110. Receipts.**

Receipts from all lease agreements with the City existent at the time of deed transfer and any future receipts from the lease or any future leases or sales shall become income of the authority, effective upon the date of each transfer. (Code 1977, § 5:904.2)

**Sec. 2-111. Disposition of industrial facilities.**

No industrial facility owned by the industrial development and park authority shall be disposed of without the approval of the City Council as expressed by the vote of the majority of its duly-elected members at a regular or special meeting. (Code 1977, § 5:904.3)

**Sec. 2-112. Liabilities.**

The authority shall assume all liabilities of the transferred properties at and after the time of transfer including, but not limited to, maintenance, insurance, bonds or notes, etc. (Code 1977, § 5:904.4)

**Secs. 2-113--2-125. Reserved.**

\* **Related law reference**--Bonded industrial parks and industrial facilities, Part I, Subpart B, division 6.

**State Law References:** Acquisition, development and disposal of industrial land and facilities, RSA 162-G.

**DIVISION 6. RECREATION AND PARKS COMMISSION\* ([CHAPTER 2 INDEX](#))****Sec. 2-126. Composition.**

The recreation and parks commission shall consist of three (3) members appointed by the mayor and approved by the City Council. (Code 1977, § 3:306.1)

**Sec. 2-127. Term, compensation.**

Appointments to the recreation and parks commission shall be made for a term of three (3) years and each member shall serve with compensation in the amount of one hundred dollars (\$100.00) per year except that the commission chairman shall receive one hundred fifty dollars (\$150.00) per year.

(Code 1977, § 3:306.2)

**Sec. 2-128. Powers, functions generally.**

The recreation and parks commission shall have all the powers and functions in accordance with the Charter, City Ordinances and all other laws pertaining thereto of the state which has established the commission.

(Code 1977, § 3:306.3)

**Sec. 2-129. Related functions; advisory authority.**

The board shall perform other related functions as required by the City Manager and shall serve as an advisory board to the Community Services Director and shall aid and assist in the formulation of present and future plans and programs for the improvement of an approved recreational program and its related

facilities to include the expansion and improvements of the present City lands used for recreational purposes.  
(Code 1977, § 3:306.4)

**Secs. 2-130--2-135. Reserved.**

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\* **Related law reference**--Recreation areas in Milan, Part I, Subpart B, division 7.  
**Cross References:** Parks and recreation, § 13-81 et seq.  
**State Law References:** Recreation areas in Milan, Laws of 1937, Ch. 261.

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**DIVISION 7. BOARD OF ASSESSORS\* ([CHAPTER 2 INDEX](#))**

**Sec. 2-136. Composition.**

The board of assessors shall consist of three (3) members appointed by the mayor and approved by the City Council.

**Sec. 2-137. Terms. Compensation.**

Appointments to the board of assessors shall be made for a term of three (3) years and each member shall receive for compensation the sum of fifty dollars (\$50.00) per year.

**Sec. 2-138. Functions.**

The functions and duties of the board of assessors shall be as provided in RSA 48:12 et seq.  
(Code 1977, § 3:202.1; Ord. of 01-16-06)

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**State Law References:** Board of assessors, RSA 48:12 et seq.

**DIVISION 8. TRUSTEES OF TRUST FUNDS ([CHAPTER 2 INDEX](#))**

**Sec. 2-139. Composition.**

The Trustees of Trust Funds, pursuant to RSA 31:22, shall consist of three (3) members appointed by the Mayor and approved by the Council.

**Sec. 2-140. Term, compensation.**

Appointments to the Trustees of Trust Funds shall be made for terms of three (3) years except that the term of one of the original appointees will be for a term of one (1) year and the term of another of the original appointees will be for a term of two (2) years.

**Sec. 2-141. Functions.**

The functions and duties of the Trustees of Trust Funds shall be as provided in RSA 31:19 et seq. Trust funds currently held by the City of Berlin are the Public School Scholarship Trust Fund and the Berlin Trust Fund as well as Cemetery Perpetual Care Trust Funds. The Trustees of Trust Funds have custodial and administrative responsibility for these Trust Funds and any other Trust Funds of the City existing now or in the future.  
(Ord of 01-19-09)

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\* **State Law References:** Trustees of Trust Funds, RSA 31:19 et seq.

**DIVISION 9. LIBRARY TRUSTEES ([CHAPTER 2 INDEX](#))**

**Sec. 2-142. Generally**

The Library Trustees composition and powers and duties shall be as provided in RSA 202-A, Public Libraries. (Ord of 01-19-09)

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\* State Law References: Library Trustees, RSA 202-A et seq.

## **DIVISION 10. POLICE COMMISSION ([CHAPTER 2 INDEX](#))**

### **Sec. 2-143. Generally.**

The Police Commission composition, powers and duties and compensation shall be as provided in the City Charter and Related Laws. (Ord of 01-19-09)

### **Secs. 2-144-145. Reserved.**

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**Editors Note:** An ordinance adopted November 17, 1997, repealed an ordinance adopted January 20, 1997 which added §§ 2-136--2-140. Formerly, such sections pertained to water works commission.

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## **ARTICLE IV. ORDINANCES\* ([CHAPTER 2 INDEX](#))**

### **Sec. 2-146. Enacting style.**

The enacting style which shall be but once recited in each ordinance shall be: "Be it ordained by the City Council of the City of Berlin as follows:"

(Code 1977, § 1:101)

### **Sec. 2-147. Ordinance book.**

All ordinances which shall be passed by the City Council shall be endorsed and recorded by the City Clerk in the order in which they shall be passed in a book to be kept for that purpose, entitled Record of Ordinances of the City of Berlin, which book shall be preserved in the office of the City Clerk, subject to the inspection of the citizens of the City.

(Code 1977, § 1:102)

### **Sec. 2-148. Publication.**

All ordinances of the City Council shall be published in one (1) or more newspapers printed and published in the City as the City Council shall from time to time designate.

(Code 1977, § 1:103)

### **Sec. 2-149. Copies.**

It shall be the duty of the City Clerk to provide copies of the ordinances adopted by the City Council for the mayor, the City Manager and the City attorney.

(Code 1977, § 1:104)

### **Secs. 2-150--2-165. Reserved.**

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\* **Cross References:** City Council, § 2-21 et seq.

**State Law References:** Authority to enact ordinances, RSA 47:17; publication, RSA 47:18 and RSA 49:18; penalties, RSA 47:19; enactment procedure, RSA 49-A:21, 49-A:53, 49-A:90; ordinance power limited, RSA 49-B:8.

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## **ARTICLE V. FINANCE\* ([CHAPTER 2 INDEX](#))**

### **DIVISION 1. GENERALLY**

### **Sec. 2-166. Fiscal year.**

The fiscal, budget and accounting year of the municipality shall begin on July first of each year and end on June thirtieth of the following year.

(Code 1977, § 5:201)

**State Law References:** Fiscal year may be fixed by ordinance, RSA 49-A:27.

**Sec. 2-167. Committee on accounts and claims of the City Council.**

There shall be appointed by the mayor during January, subsequent to each election, a standing committee on accounts and claims to consist of four (4) members of the City Council (one (1) from each ward) in addition to the mayor who shall act as chairman. This committee shall meet at least once each month and carefully examine and audit all claims and accounts against the City which shall be laid before them, approve them as provided in the following sections and shall allow and pass them if found to be correct and justly due. The committee may designate one (1) member to make an examination and audit and report to the committee the findings and recommendations for the appropriate action.

(Code 1977, § 1:201; Ord. of 3-5-9(1))

**Cross References:** City Council, § 2-21 et seq.

**Sec. 2-168. Vouchers.**

All vouchers shall be received, pre-audited and summarized by the Finance Director.

(Code 1977, § 1:203)

**Sec. 2-169. Record of expenditures.**

A record of all expenditures shall be presented to the standing committee on accounts and claims for approval showing amount paid, to whom paid, and fund or appropriation charged.

(Code 1977, § 1:204)

**Sec. 2-170. Approval of accounts.**

All accounts shall be vouchered and approved by the department/division head where appropriate two (2) members of the board or commissions, committee on accounts and claims or authorized agent.

(Code 1977, § 1:202)

**Sec. 2-171. Approval of expenditures.**

No money shall be drawn out of the City treasury except upon the written order of the City Clerk as approved by the mayor and City Council addressed to the City treasurer. Expenditures may be approved by the City Manager and/or City Comptroller in cases of emergency or necessary expenditures where early releases are needed which shall be approved at the next City Council meeting. (Code 1977, § 1:205)

**Sec. 2-172. Payment of appropriated items--Prior action not required.**

Any sum of money appropriated for the payment of principal or interest due on any note or other security of the City, or for federal, state, or county taxes may be drawn from the treasury for the purpose for which it was appropriated, without any action on the part of the committee on accounts and claims. (Code 1977, § 1:206)

**Sec. 2-173. Same--Report to committee.**

Whenever any money shall be drawn from the City treasury for the purpose specified in the preceding section it shall be reported to the committee on accounts and claims at their next meeting.

(Code 1977, § 1:207)

**Sec. 2-174. Turning over City funds to treasurer.**

All City officers who shall in their official capacity receive any money on behalf of the City shall pay the comptroller/collector the amount in hand weekly or more often if required by the comptroller/collector. All other persons who shall at any time have money in their hands belonging to the City shall forthwith pay the same to the Finance Director. All funds paid to the comptroller/collector shall be deposited into the City's general operating bank account. (Code 1977, § 1:208; Ord. of 3-5-90(1); Ord. of 01-16-06)

**Sec. 2-175. Account, register of receipts and payments.**

(a) The City treasurer shall have custody of all moneys belonging to the City. He/she shall not pay any money except as prescribed in sections 2-171 and 2-172.

(b) The accounting and recordkeeping of the City's finance records shall be administered by the Finance Director. He/she shall when required, but at least quarterly, present to the City Manager and the mayor and City Council a statement of the condition of the treasury and of all moneys received and paid on City accounts.

(c) Whenever the City Council authorizes the borrowing of money on the credit of the City, the Finance Director, after consultation with the City treasurer, shall process the application for borrowing of money, and all notes, bonds or certificates of indebtedness given therefore shall be countersigned by the City Clerk. All such notes, bonds or certificates shall be kept on file in the office of the Finance Director. Such registers shall describe the notes, bonds or certificates by numbers, dates and amounts, the name of the payee, where payable, and the rate of interest.

(Code 1977, § 1:209; Ord. of 3-5-90(1); Ord. of 01-16-06)

#### **Sec. 2-176. Transfer of funds.**

The City Council, upon recommendation of the City Manager, is hereby authorized to transfer from any unexpended balance of appropriation so much thereof as shall be required to supply such deficiencies as have been created by the necessary overdrawing of the other appropriations of the same financial year. (Code 1977, § 1:210)

#### **Secs. 2-177--2-180. Reserved.**

\* **Cross References:** Finance department created, § 2-291 et seq.; tax collection department, § 2-376 et seq.; treasury department, § 2-386 et seq.; purchasing procedure, § 2-426 et seq.; personnel, pensions and retirement, Ch. 11.

**State Law References:** Municipal budget law, RSA 32; municipal finance act, RSA 33; revenue administration, RSA 21-J; home rule, municipal charter, RSA 49-B; fines, costs and discharges, RSA 618.

### **DIVISION 2. PUBLIC SCHOOL SCHOLARSHIP TRUST FUND ([CHAPTER 2 INDEX](#))**

#### **Sec. 2-181. Established; purpose; donations; trustees.**

(a) The City of Berlin Public School Scholarship Trust Fund is hereby established.

(b) This expendable trust fund is established in accordance with RSA 31:19a and will be used for the purposes of promoting and supporting the granting of scholarships to seniors who have demonstrated talent and interest in music and who meet the Terrance Sullivan Award criteria.

(c) The City Council hereby accepts the full bequeath of the late Norman H. Miles to the Berlin Public Schools and authorizes the entire sum bequeathed, twenty thousand dollars (\$20,000.00), be deposited in the City of Berlin Public School Scholarship Trust Fund. This trust may also accept future donations.

(d) In accordance with state law, the following people shall be appointed as trustees to the City of Berlin Public School Scholarship Trust Fund and shall serve until replaced by the nomination and approval of the board of education of the City public school SAU except the member of council who shall serve for his/her regular term of office:

- (1) Superintendent of schools.
- (2) High school guidance counselor.
- (3) City treasurer.
- (4) High school principal.
- (5) Senior class advisor.
- (6) One (1) member of the City Council as approved by the council.

(e) The trustees shall have the full authority to expend the funds of the trust (Ord. 1-19-2009)

## **DIVISION 2a. ELAINE HARDIE SCHOLARSHIP FUND ([CHAPTER 2 INDEX](#))**

### **Sec. 2-182. Established; purpose; donations; trustees.**

- (a) The Elaine Hardie Scholarship Fund is hereby established.
- (b) This expendable trust fund is established in accordance with RSA 31:19a and will be used for the purposes of promoting and supporting the granting of scholarships to one senior boy or girl who is
  - 1. On the Honor roll or in the top 25% of the class;
  - 2. Has studied a western language in high school, preferably French, up to at least the third year level;
  - 3. Plans to study a western language in college, preferably French.
- (c) The City Council hereby accepts the full bequeath of Elaine Hardie, class of 1938 to the Berlin Public Schools and authorizes the entire sum donated, ten thousand dollars (\$10,000.00), be deposited in the Elaine Hardie Scholarship Trust Fund. This trust may also accept future donations.
- (d) In accordance with state law, the following people shall be appointed as trustees to the City of Berlin Public School Scholarship Trust Fund and shall serve until replaced by the nomination and approval of the Board of Education of the City Public School SAU except the member of council who shall serve for his/her regular term of office:
  - (1) Superintendent of Schools.
  - (2) High School guidance counselor.
  - (3) City treasurer.
  - (4) High school principal.
  - (5) Senior class advisor.
  - (6) One (1) member of the City Council as approved by the council.
- (e) The trustees shall have the full authority to expend the funds of the trust

### **Secs. 2-183--2-185. Reserved.**

## **DIVISION 3. BERLIN TRUST FUND ([CHAPTER 2 INDEX](#))**

### **Sec. 2-186. Established; purpose; donation; trustees.**

- (a) The Berlin Trust Fund is hereby established.
- (b) This expendable trust fund is established in accordance with RSA 31:19a and will be used for the purposes of encouraging the ongoing investment in the employees of the City's government and to nurture those ideas that will help to improve both the structure that delivers those services and the services that local government is committed to.
- (c) The City Council hereby accepts the full donation of Mitchell A. Berkowitz and Isaacson Structural Steel Inc. and authorizes the entire sum donated, two thousand dollars (\$2,000.00) be deposited in the Berlin Trust Fund. This trust may also accept future donations.
- (d) In accordance with state law, the following positions shall be appointed as trustees to the Berlin Trust Fund and shall serve until replaced by the nomination of the mayor with approval of said City Council:
  - Community Services Director
  - Assessing office supervisor
  - Finance Director
  - City treasurer
  - Administrative assistant to the City Manager
  - Two employees chosen by the employees, regardless of union affiliation
- (e) The trustees shall have the full authority to expend the funds  
(Ord. of 4-20-98; Ord. of 01-16-06; Ord of 01-19-09)

**Secs. 2-187--2-195. Reserved.**

**ARTICLE VI. ADMINISTRATIVE CODE\* ([CHAPTER 2 INDEX](#))**  
**DIVISION 1. GENERALLY**

**Secs. 2-196--2-215. Reserved.**

\* **Charter References:** Administrative code, §§ 14i, 14j.

**Cross References:** Purchasing procedures and policies, § 2-426 et seq.; personnel, pensions and retirement, Ch. 11.

**DIVISION 2.**

**DEPARTMENTS AND DIVISIONS\* ([CHAPTER 2 INDEX](#))**

**Subdivision A. Generally**

**Sec. 2-216. Established, scope.**

The administrative code in this article is established in accordance with the provisions of section 14i of the Charter and covers all departments, divisions, boards and commissions under the jurisdiction of the City Manager.

(Code 1977, § 3:101.1; Ord. of 5-6-96(1); Ord of 01-16-06)

**Sec. 2-217. Composition, department heads.**

The administrative service of the City shall consist of the following departments and divisions and the department/division heads shall be known by the titles as shown below.

	Department/Division	Department/Division Heads
(1)	City Manager's Office	City Manager
(2)	Administrative Department	City Manager
(3)	Assessing Department	City Manager
(4)	Code Enforcement Division	City Manager
(5)	Legal Division	City Manager
(6)	Treasurer	City Manager
(7)	City Clerk and Records Department	City Clerk
(8)	Finance Department	Finance Director
(9)	Tax Collection Division	Finance Director
(10)	Fire Department	Fire Chief
(11)	Planning Department	City Planner
(12)	Community Services Department	Community Services Director
(13)	Emergency Management Division	Community Services Director
(14)	Health Division	Community Services Director
(15)	Library Division	Head Librarian
(16)	Recreation and Parks Division	Community Services Director
(17)	Welfare Division	Welfare Administrator
(18)	Pollution Control Department	Chief Operator & Superintendent

(19)	Public Works Department	Public Works Director/City Engineer
(20)	Engineering Division	Public Works Director/City Engineer
(21)	Highways and Bridges Division	Public Works Director/City Engineer
(22)	Refuse and Disposal Division	Public Works Director/City Engineer
(23)	Cemeteries Division	Public Works Director/City Engineer
(24)	Central Garage and Stores Division	Public Works Director/City Engineer
(25)	Sewer Collection Division	Public Works Director/City Engineer

(Code 1977, § 3:101.2; Ord. of 5-6-96(1); Ord. of 01-16-06)

**Sec. 2-218. Selection, qualifications, and terms of employees.**

All employees shall be appointed, as provided by section 14f and 14h of the Charter, for indefinite terms, on the basis of merit and fitness to perform their duties, and may be removed by the City Manager for misconduct or inefficiency.

(Code 1977, § 3:102.1; Ord. of 5-6-96(1); Ord. of 01-16-06)

**Sec. 2-219. Compensation of full time and part time employees.**

The compensation of all full-time and part time employees shall be fixed by the City Council upon recommendation of the City Manager. (Code 1977, § 3:102.2; Ord. of 5-6-96(1); Ord. of 01-16-06)

**Sec. 2-220. General powers and duties of department heads and division managers.**

Each department head and division manager shall be responsible for the efficient operation of the department and/or division(s) under their jurisdiction. They shall perform all the duties and exercise all the powers conferred upon his/her office by applicable laws, ordinances and resolutions. They shall maintain and care for all City property assigned to his/her department or any of its divisions. They shall be responsible to prepare, maintain, and preserve all necessary public records under his/her jurisdiction and provide a system for filing and indexing same. They shall perform all related functions of his/her department and division in addition to those herein specified. (Code 1977, § 3:103.1; Ord. of 5-6-96(1); Ord. of 01-16-06)

**Sec. 2-221. Cooperation with other departments.**

(a) It shall be the duty of every department head and division manager, subject to the approval of the City Manager, to furnish any other department head such service, labor, and materials as may be requisitioned by the head of such department as his/her own facilities permit, through the same procedure and subject to the same audit and control as other expenditures incurred.

(b) Each department head shall be responsible for maintaining the operation of his/her department on a close and friendly basis of cooperation with all other departments.

(Code 1977, §§ 3:103.2, 3:103.5; Ord. of 5-6-96(1); Ord. of 01-16-06)

**Sec. 2-222. Departmental rules, regulations.**

Department heads shall prescribe departmental rules and regulations not inconsistent with the general laws, the Charter, this administrative code, and the then current labor agreements, for the administration of their various departments, conduct of their employees, and the proper performance of the departments' business.

(Code 1977, § 3:103.3; Ord. of 5-6-96(1); Ord. of 01-16-06)

**Sec. 2-223. Division, delegation of departmental responsibility.**

Department heads and division managers may, with the approval of the City Manager, establish such departmental divisions and sub-units as may be deemed desirable in the interest of economy and efficiency, and in accordance with sound administrative principles and practices.

(Code 1977, § 3:103.4; Ord. of 5-6-96(1); Ord. of 01-16-06)



**Sec. 2-224. Maintenance of departmental property.**

Each department head shall be responsible for satisfactory maintenance and care of all City property and buildings assigned to his/her department. (Code 1977, § 3:104.6; Ord. of 5-6-96(1); Ord. of 01-16-06)

**Sec. 2-225. Operation reports.**

Each Department head shall be responsible for preparing and submitting both routine and special reports on the operation of his/her department to the City Manager, or to any state or federal agency as required. (Code 1977, § 3:103.7; Ord. of 5-6-96(1); Ord. of 01-16-06)

**Sec. 2-226. Budget estimates.**

At such time as may be requested by the City Manager each department head shall submit an itemized estimate of the expenditures for the next fiscal year for his/her department for use in preparation of the proposed budget for such year. (Code 1977, § 3:103.8; Ord. of 5-6-96(1); Ord. of 01-16-06)

**Sec. 2-227. Compliance with administrative code.**

Each department head shall be responsible for following the provisions of this administrative code, all general laws, the Charter and all ordinances or other directives of the City. (Code 1977, § 3:103.9; Ord. of 5-6-96(1); Ord. of 01-16-06)

**Sec. 2-228. Departmental staff--Authorized.**

Department heads may establish subordinate positions and make appointments and removals as may be necessary, within the limitations of the appropriations provided, and subject to the provisions of the Charter and the approval of the City Manager. (Code 1977, § 3:104.1; Ord. of 5-6-96(1); Ord. of 01-16-06)

**Sec. 2-229. Same--Supervision of employees.**

All employees shall be under the immediate supervision of their respective departments. (Code 1977, § 3:104.2; Ord. of 5-6-96(1); Ord. of 01-16-06)

**Sec. 2-230. Office hours.**

All offices of the various departments and divisions of the City government shall be open from 8:30 a.m. to 12:00 noon and 1:00 p.m. to 4:30 p.m. Tax Collection Division, however, shall be open from 8:30 a.m. to 4:30 p.m. All offices shall be open daily except Saturdays, Sundays and legal holidays. (Code 1977, § 5:301)

**Secs. 2-231--2-235. Reserved.**

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\* **Charter References:** Departments, § 14i.

**State Law References:** Public officers and employees, RSA Title VI; City officers, RSA 48:1 et seq.

**Cross References:** Conflict of interest, § 2-3.

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**Subdivision B. City Manager and Administrative Department\* ([CHAPTER 2 INDEX](#))****Sec. 2-236. Head designated.**

The City Manager shall be the administrative head of the City, and shall perform all the duties and have all the responsibilities prescribed by the Charter, ordinance or resolution. (Code 1977, § 3:201.1)

**Sec. 2-237. Term, compensation, appointment.**

The City Manager shall be appointed by the City Council for an indefinite term and his/her salary shall be set by the City Council. Appointment shall be in accordance with section 14b of the Charter, as amended. (Code 1977, § 3:201.2)

**Sec. 2-238. Supervision of all divisions and departments.**

1. The City Manager shall supervise the heads of all divisions and departments established by this administrative code, and shall have the power to appoint, suspend and discipline, and to perform or delegate the duties and responsibilities of such division managers and department heads.
2. Supervise and participate in the investigation of complaints or reported violations to the housing code, building code, zoning code, plumbing code and ordinances related to same and enforce all provisions thereof as to any violations thereto.
3. Direct and assist in the enforcement of building, housing and codes and ordinances (Code 1977, § 3:201.3; Ord. of 5-6-96(1); Ord. of 01-16-06)

**Sec. 2-239. Rules, regulations.**

The City Manager may prescribe such rules and regulations not inconsistent with the Charter and City Ordinances as he/she may deem necessary for the conduct of the various departments, and may investigate and inquire into the affairs of any department at any time. (Code 1977, § 3:201.4; Ord. of 5-6-96(1))

**Sec. 2-240. Reports.**

The City Manager may require of department heads periodic reports and an annual report of the departmental activities. The City Manager shall prepare, annually, a report on the operation of the City government. (Code 1977, § 3:201.5; Ord. of 5-6-96(1))

**Sec. 2-241. Committees.**

The City Manager may establish such administrative or inter-departmental committees as he/she may deem necessary and require such department heads as he/she may designate to serve on such committees. (Code 1977, § 3:201.6)

**Sec. 2-242. Administrative regulations.**

The City Manager is authorized to prepare such administrative regulations, in addition to those embodied in the Charter and this Code, as are necessary to provide for the adequate functioning of all departments. (Code 1977, § 3:201.7)

**Sec. 2-243. Preparation of budget.**

The City Manager shall prepare and submit to the City Council annually a fiscal year budget for the operation of the City in accordance with the applicable provisions of the Charter. (Code 1977, § 3:201.8)

**Charter References:** Budget, § 19 et seq.

**Sec. 2-244. Purchasing agent.**

The City Manager shall be the purchasing agent for the City and shall be responsible for conducting all purchasing procedures in accordance with section 2-426 et seq. (Code 1977, § 3:201.9)

**Sec. 2-245. Bond.**

The City Manager shall be required to post a bond with the City in the amount of ten thousand dollars (\$10,000.00). (Code 1977, § 3:201.10)

**Sec. 2-246. Ex-officio member of boards, committees, commissions.**

The City Manager may attend all meetings of boards, committees and commissions and, when so doing, shall act as ex-officio, except he/she shall be excluded from meetings of the school board, the police commission, the water works commission and the zoning board of adjustment, and where otherwise excluded by charter or ordinance. (Code 1977, § 3:201.11) **Editors Note:** See § 7 of the ordinance adopting this Code.

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\* **Charter References:** City Manager, § 14b et seq.

**Cross References:** Elections, Ch. 5; personnel, pensions and retirement, Ch. 11; Buildings and building regulations, Ch. 4; Housing Codes, Ch 8; Code Enforcement, Ch 18.

## **Assessing Division\***

### **Sec. 2-247. Assessing Division**

The Assessing Department shall be overseen by the City Manager.

(Code 1977, § 3:202.1; Ord. of 01-16-06)

**State Law References:** Board of assessors, RSA 48:12 et seq.

### **Sec. 2-248. Same--Composition.**

The Assessing Department, under the supervision of the City Manager shall consist of an office supervisor, appointed as specified by section 14h of the Charter. The City Manager may employ an assessing consultant to perform the actual professional assessing function. (Ord. of 01-16-06)

### **Sec. 2-249. Same--Functions.**

The Assessing Division shall perform the following functions:

- (1) Carry out all the duties relative to taking the inventory and the appraisal of property for taxation and in regard to the assessment and abatement of taxes and issuing warrants for the collection of taxes, as are now or hereafter be required by law of assessors of cities.
  - (2) Prepare all assessment and tax rolls and tax notices as required by law.
  - (3) Check all property transfer and maintain all property records.
  - (4) Prepare and maintain all tax maps, assessment record cards, filing systems, and all other records of the department.
  - (5) Make regular checks of the City to assure all taxable property is being accurately reported and properly appraised.
  - (6) Serve the Board of Assessors as required.
  - (7) Perform other related functions as required.
- (Code 1977, § 3:202.2; Prev. § 2-248; Ord. of 01-16-06)

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\* **State Law References:** Duties of assessors, RSA 48:13.

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## **Code Enforcement Division\***

### **Sec. 2-250. Code Enforcement Division--Composition.**

The Code Enforcement Division, under the supervision of the City Manager and appointed as specified by section 14h of the Charter by the City Manager, shall consist of inspector(s) who shall be employed under the direction and supervision of the City Manager.

The inspector(s) shall perform the following duties:

- (1) Enforcement of the building, housing and zoning codes of the City, under the direction of the City Manager;
- (2) Enforcement of all statutes and ordinances, except as otherwise provided, relating to the construction, equipment, alteration, and condition of buildings within the City;
- (3) Inspection of plans and specifications of proposed buildings and issuance of building permits therefor; maintenance of a file of all applications for permits;

- (4) Visiting and inspecting every structure upon which work is being done, where a permit is required, as often as necessary;
- (5) Providing the Assessing Department with copies of all building permits issued;
- (6) Inspect for the development or continuation of substandard and dangerous housing conditions within the City;
- (7) Inspect for violations of the housing code and for violations of all state statutes and ordinances pertaining to housing, maintain a file of all discovered violations and the present status of any correctional efforts;
- (8) Report all violations to the City Manager;
- (9) Appear at all hearings of the housing board of appeals dealing with violations of the building and housing codes;
- (10) Reinspect dwellings to determine compliance with lawful orders of the housing board of appeals, health officer, fire chief or the courts;
- (11) Pursue cases with the court and testify as necessary before the courts or other bodies such as the ZBA or other boards in connection with code enforcement appeals.
- (12) Coordinate and support the meetings of the ZBA and other Boards to which code enforcement decisions may be appealed.
- (13) Perform the duties required by all City Ordinances with respect to serving as advisor and secretary to the zoning board, zoning board of adjustments.
- (14) Perform other related functions as required.  
(Code 1977, § 3:203.1; Prev. § 2-313; Ord. of 01-16-06)

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\* **Charter References:** City Manager, § 14h et seq.

**Cross References:** Buildings and building regulations, Ch. 4; Housing Codes, Ch 8; Zoning and Land Use, Ch 17;  
Code Enforcement, Ch 18;

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## **Legal Division\***

### **Sec. 2-251. Legal Division.**

The Legal Division, under the supervision of the City Manager and appointed as specified by section 14h of the Charter by the City Manager, shall consist of a City Attorney or a legal firm designated as City Attorney.

(Code 1977, § 3:209.1; Prev. § 2-249; Ord of 01-16-06)

### **Sec. 2-252. Same--Duties of City attorney.**

The City attorney, which may be a City employee or a private firm, shall perform the following duties:

- (1) Represent the City in all matters in which the City has an interest coming before any court, tribunal quasi-judicial or legislative body, except in such cases as other arrangements may be specifically made by the City Council and/or City Manager.
- (2) Advise the mayor, City Council, City Manager, various boards, commissions and department heads in all cases when a legal opinion is required or requested, in writing, insofar as practical.

- (3) Draft all deeds, leases, contracts, ordinances, and such other legal instruments as required on behalf of the City.
- (4) Examine and approve all deeds, leases, and other legal instruments tendered to the City prior to their acceptance.
- (5) Call to the attention of the City Council or City Manager all matters of law affecting the City.
- (6) Render counsel and service in person, or by nominee, as may be related to his/her office, upon direction of the City Manager.
- (7) Perform all other related functions as required.  
(Code 1977, § 3:209.2; Prev. § 2-250)

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\* **Charter References:** City attorney appointed by the City Manager, § 14h.  
**Cross References:** Personnel, pensions and retirement, Ch. 11.

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## **Treasury Division**

### **Sec. 2-253. Treasury Division-- Composition.**

The Treasurer shall be appointed as specified by section 14h of the Charter by the City Manager and report to the City Manager.  
(Code 1977, § 3:214.1; Prev. § 2-386; Ord of 01-16-06)

### **Sec. 2-254. Same--Duties.**

The City Treasurer shall perform the following duties:

- (1) Maintain custody of all City funds, investments and securities, including the deposit, withdrawal and recording thereof.
- (2) Sign all checks, notes and bonds of the City.
- (3) Oversee the deposit of all public monies, as provided in the City's investment policy guidelines, as amended from time to time by the City Council, and in conformance with applicable state and federal banking regulations.
- (4) Oversee the maintenance of a register of all bonds and notes of the City as required by law.
- (5) Perform all other related functions as required.  
(Code 1977, § 3:214.2; Prev. § 2-387; Ord of 01-16-06)

### **Sec. 2-255. Treasurer's bond.**

The City Treasurer shall be required to post with the City a bond in the amount of thirty thousand dollars (\$30,000.00). (Code 1977, § 3:214.3; Prev. § 2-388; Ord of 01-16-06)

### **Secs. 2-256--2-265. Reserved.**

## **Subdivision C. City Clerk and Records Department\* ([CHAPTER 2 INDEX](#))**

### **Sec. 2-266. City Clerk and Records--Composition.**

The City Clerk and records department shall consist of a City Clerk, appointed as specified by section 14h of the Charter, a Deputy City Clerk and such staff as may be recommended by the City Clerk and approved by the City Manager. (Code 1977, § 3:212.1)

**Sec. 2-267. Same--Functions.**

The City Clerk and records department shall perform the following functions:

- (1) Serve as clerk of the City Council and prepare, maintain, publish and index all proceedings of the City Council as required.
- (2) Arrange for all elections and maintain all election records, and have custody of all property used in connection therewith.
- (3) Obtain and maintain all statistics on births, marriages and deaths as required by law.
- (4) Notify the mayor and City Manager, at least thirty (30) days prior thereto of the expiration of terms of all members of boards, committees and commissions.
- (5) File and preserve, as required, all contracts, bonds, oaths of office and other documents.
- (6) Issue all licenses and permits and collect all fees, as required by statute and ordinance unless otherwise provided, and deposit these collections with the City treasurer.
- (7) Be custodian of the official City seal.
- (8) Notify promptly the City Manager, department heads and board, commission, or committee chairmen of City Council actions of concern to the department and/or employees under their jurisdiction.
- (9) Keep the ordinances of the City up to date, and maintain a record of all amendments thereto.
- (10) Perform all duties and exercise all powers incumbent upon or vested in City Clerks, by the laws of the state.
- (11) Schedule the use of special rooms, council chambers, and auditorium or halls as required, notifying the building custodian of such scheduling.
- (12) Assist, through the use of the staff assigned to the City Clerk, the City collector in conducting the duties of his/her office.
- (13) Perform all other related functions as required.  
(Code 1977, § 3:212.2)

**Sec. 2-268. City Clerk's Bond.**

The City Clerk shall be required to post a bond with the City in the amount of ten thousand dollars (\$10,000.00). The deputy City Clerk shall also be required to post a bond with the City in a similar amount.

(Code 1977, § 3:212.3)

**Secs. 2-269--2-270. Reserved.**

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- \* **Charter References:** City Clerk appointed by the City Manager, § 14h.  
**Cross References:** Elections, Ch. 5; personnel, pensions and retirement, Ch. 11.
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**Subdivision D. Finance Department\* ([CHAPTER 2 INDEX](#))****Sec. 2-271. Finance Department--Composition.**

The Finance Department shall consist of a Finance Director appointed as specified by section 14h of the Charter by the City Manager, and such staff as may be recommended by the Finance Director and approved by the City Manager.

(Code 1977, § 3:205.1; Code 1977, § 3:20.2; Prev. § 2-288; Ord of 01-16-06)

**Sec. 2-272. Same--Duties.**

The Finance Director shall perform the following duties:

- (1) Responsible for all aspects of the City's financial accounting and record-keeping operations.
- (2) Pre-audit all purchases and approve all authorized claims against the City before preparing vouchers and payment thereof.
- (3) Post-audit all receipts and disbursements.
- (4) Maintain the general financial accounts of the City and exercise accounting control over the same.
- (5) Prepare financial reports as required by the City Manager.
- (6) Administer all insurance and retirement programs and financial accounts of the City including but not limited to maintaining all City employees earnings records including records of all deductions from earnings for retirement, social security, savings bonds, employee insurance benefits and any other personnel related records; maintain City employee's personnel action forms, sick leave and vacation leave records.
- (7) Direct and train departmental employees and schedule work programs for each.
- (8) Prepare bid forms, quotation forms, contracts, and vouchers for expenditures for the finance department.
- (9) Prepare purchase orders and, by authorization of the City Manager, approve purchase orders.  
(Code 1977, § 3:205.3; Prev. § 2-289 & 290; Ord of 01-16-06)

**Sec. 2-273. Same--Bonds.**

The Finance Director shall be bonded with the City in the amount of twenty-five thousand dollars (\$25,000.00). Each account clerk employed in the finance department shall also be required to be bonded with the City in the amount of three thousand dollars (\$3,000.00). The bond of the supervisor of collections shall be five thousand dollars (\$5,000.00). If state law requires greater amounts, those amounts shall prevail.

(Code 1977, § 3:205.4; Prev. § 2-291; Ord of 01-16-06)

**Secs. 2-274--2-280. Reserved**

\* **Charter References:** Finance officer, City auditor, City collector and treasurer appointed by the City Manager, § 14h.

**Cross References:** Finance, § 2-166 et seq.; purchasing, § 2-426 et seq.; license and regulation of occupations and businesses, Ch. 9; personnel, pensions and retirement, Ch. 11; utilities, Ch. 16.

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**Tax Collection Division\***

**Sec. 2-281. Tax Collection Division --Composition.**

The Tax Collection Division shall be under the supervision of the Finance Director, appointed as specified by section 14h of the Charter, and shall be composed of such staff as may be recommended by the Finance Director and approved by the City Manager.

(Code 1977, § 3:213.1; Prev. § 2-371; Ord of 01-16-06)

**Sec. 2-282. Same--Duties.**

The Tax Collection Division shall perform the following duties:

- (1) Mail out all tax notices.
  - (2) Collect all accounts due the City, including all taxes, rentals, lease fees, licenses and fees unless otherwise provided herein.
  - (3) Maintain proper records pertaining to the collection function.
  - (4) Complete deposit of all collections made daily and deposit same into the City general operating bank account.
  - (5) Record and account for all monies on the date received.
  - (6) Collect permit fees for the registration of motor vehicles, required to be paid under the provisions of RSA 260:27, and amendments thereto.
  - (7) Perform all functions relating to tax sales/tax liens pursuant to state law.
  - (8) Perform all other related functions as required or directed by the City Manager.  
(Code 1977, § 3:213.1; Prev. § 2-372; Ord of 01-16-06)
- Secs. 2-283--2-300. Reserved.**

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\* **Charter References:** City collector appointed by the City Manager, § 14h.  
**Cross References:** Finance, § 2-166 et seq.; personnel, pensions and retirement, Ch. 11.

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#### **Subdivision E. Fire Department\*** [\(CHAPTER 2 INDEX\)](#)

##### **Sec. 2-301. Fire Department--Composition.**

The Fire Department shall consist of a Fire Chief, appointed as specified by section 14h of the Charter, who shall have all the powers conferred upon fire wardens by the laws of the state, and of such forces of permanent officers and call officers as may be recommended by the fire chief and approved by the City Manager.

(Code 1977, § 3:206.1; Ord of 01-16-06)

##### **Sec. 2-302. Same--Functions.**

The Fire Department shall perform the following functions:

- (1) Extinguish fires and protect life and property against fires.
- (2) Enforce all laws regarding the inspection for and removal of fire hazards and the prevention of fires.
- (3) Care for and maintain the signal alarm system.
- (4) Care for and maintain all property and equipment assigned to the fire department.
- (5) Prepare and maintain all fire department records as required.
- (6) Issue permits as required.
- (7) Plan and carry out a training program of instruction for all regular and call firemen.
- (8) Cooperate with surrounding communities and state agencies through mutual aid programs so that additional fire fighting forces and equipment may be made available when needed.



(9) Supervise and participate in the investigation of complaints or reported violations to the fire prevention code and ordinances related to same and enforce all provisions thereof as to any violations thereto.

(10) Assist in the enforcement of building, housing and zoning codes and ordinances.

(11) Perform any other related functions as required.  
(Code 1977, § 3:206.2; Ord of 01-16-06)

**Secs. 2-303--2-310. Reserved.**

\* **Charter References:** Fire chief appointed by the City Manager, § 14h.

**Cross References:** Buildings and building regulations, Ch. 4; fire prevention code adopted, § 4-2; personnel, pensions and retirement, Ch. 11.

**Subdivision F. Planning Department ([CHAPTER 2 INDEX](#))**

**Sec. 2-311. Planning Department--Composition.**

The Planning Department shall be under the general supervision of the City Planner, appointed by the City Manager as provided for in section 14h of the Charter. The City Planner shall work under the direct supervision of the City Manager.

(Prev. § 2-273; Ord of 01-16-06)

**Sec. 2-312. Same--Duties of City Planner.**

The City Planner shall perform the following duties:

- (1) Supervise and administer the ongoing community planning and development activities of the City in conjunction with the master plan;
  - (2) Provide coordination and staff support for all Planning Board activities;
  - (3) Seek state/federal grants to accomplish some of the City's master plan goals and objectives;
  - (4) Provide coordination and support for the Berlin Industrial Development and Park Authority;
  - (5) Perform the necessary work to accomplish an active and functional industrial development program and marketing effort;
  - (6) Maintain all necessary records, files and internal controls;
  - (7) Prepare reports as required by the City Manager;
  - (8) Perform other work as required or directed by the City Manager.
- (Prev. § 2-274; Ord of 01-16-06)

**Secs. 2-313--2-320. Reserved.**

**Subdivision G. Community Services Department ([CHAPTER 2 INDEX](#))**

**Sec. 2-321. Community Services Department--Composition.**

The Community Services Department shall consist of a Community Services Director, appointed as specified by section 14h of the Charter, and such staff as may be recommended by the Community Services Director and approved by the City Manager. The Community Services Department shall consist of the Recreation and Parks, Health, Library and Welfare Divisions who shall report to the Community Services Director.

(Ord. of 5-6-96(1); Prev. § 2-406; Ord of 01-16-06)

**Sec. 2-322. Same--Duties.**

The Community Services Director shall be responsible for:

- (1) The continued coordination of the staff, funds, departmental infrastructure, facilities and equipment, planning and community interaction for the recreation and parks, health, library and welfare divisions.
- (2) Coordinating of all emergency management functions.

(Ord. of 5-6-96(1); Prev. § 2-407; Ord of 01-16-06)

**Secs. 2-323--2-330. Reserved.**

**Emergency Management Division\***

**Sec. 2-331. Emergency Management Division—Composition.**

The Emergency Management Division shall consist of a Community Services Director who shall be known as the Emergency Management Coordinator.

(Code 1977, § 3:204.1; Ord. of 5-6-96(1); Prev. § 2-315; Ord of 01-16-06)

**Sec. 2-332. Same--Cooperation with state officials.**

The Emergency Management Coordinator shall work in close relationship with state emergency management officials and maintain close contact with its surplus property disposal officer.

(Code 1977, § 3:204.2; Prev. § 2-316)

**Sec. 2-333. Same--Surplus property.**

The Emergency Management Coordinator shall make application for any and all surplus property suitable for use in an emergency, or for daily use, by any and all other City departments.

(Code 1977, § 3:204.3; Prev. § 2-317)

**Sec. 2-334. Same--Procedure, disaster plan.**

The Emergency Management Coordinator shall establish a disaster alert procedure and disaster plan for the City and in so doing work closely with all other City departments and local agencies.

(Code 1977, § 3:204.4; Prev. § 2-318 )

**Sec. 2-335. Same--Other functions.**

The Emergency Management Coordinator shall perform other related functions as required or as directed by the City Manager.

(Code 1977, § 3:204.5; Prev. § 2-319)

**Secs. 2-336--2-340. Reserved.**

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\* **Charter References:** Emergency management coordinator appointed by the City Manager, § 14h.

**Cross References:** Personnel, pensions and retirement, Ch. 11.

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**Health Division\***

**Sec. 2-341. Health Division—Composition.**

The Health Division shall consist of a Community Services Director appointed as specified by section 14h of the Charter by the City Manager and of such staff as may be recommended by the Community Services Director and approved by the City Manager. (Code 1977, § 3:207.1; Ord. of 5-6-96(1); Prev. § 2-311; Ord of 01-16-06)

**Sec. 2-342. Same--Functions**

The Community Services Director shall perform the following duties:

- (1) Supervise, direct and participate in inspecting restaurants, and other food processing, servicing and handling enterprises for cleanliness and sanitary precautions.
- (2) Conduct and supervise inspections of nursing homes, foster homes, barbershops, motels, dwellings and all other buildings or establishments to insure compliance with sanitary and health codes and City Ordinances.

- (3) Shall coordinate with all state and federal agencies regarding public health issues.
- (4) Investigate all complaints relating to nuisances that may be brought to his/her attention. He/She shall act as executive officer of the board of health shall serve all notices and orders issued by the board, and enforce all rules and regulations affecting the health and comfort of the public.
- (5) Procure, study and analyze data concerning public health.
- (6) Prepare and maintain all necessary records required by the state or the City Ordinances.
- (7) Issue licenses, and perform any other functions required by the City Ordinances or by state laws.
- (8) Direct the public health nurse programs, schedule and direct various clinics.
- (9) Direct and administer the Home Health Program in accordance with all Federal and State laws and regulations. The Community Services Director will participate in Home Health education programs to ensure qualifications to meet the Federal regulatory standards. Further, the Community Services Director will ensure the proper recording of all records required by law in the Home Health Program and will work with the Berlin Home Health Professional Advisory Board with respect to matters guiding the department related to federal and state compliance (Ord 9/15/2008)
- (10) Perform all other duties as required.  
(Code 1977, § 3:207.1; Ord. of 5-6-96(1); Prev. § 2-312; Ord of 01-16-06)

**Secs. 2-343--2-345. Reserved.**

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\* **Charter References:** Health officer appointed by the City Manager, § 14h.

**Cross References:** Health, Ch. 7; health officer to enforce the housing code, § 8-56 et seq.; restaurants, § 9-176 et seq.; personnel, pensions and retirement, Ch. 11.

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**Library Division**

**Sec. 2-346. Library Division--Composition.**

The Library Division shall consist of a Head Librarian, recommended by the Community Services Director and appointed as specified by section 14h of the Charter by the City Manager, and of such staff as may be recommended by the Community Services Director and approved by the City Manager.  
(Prev. § 2-342; Ord of 01-16-06)

**Sec. 2-347. Same-- Functions.**

The Library Division shall perform the following functions:

- (1) Make all information it has developed available to the North Country;
- (2) Establish a cultural focal point for the City;
- (3) Serve the educational needs of the community through the dispersal of literature, magazines, cassettes and recording devices and reference information and services; and
- (4) Serve certain recreational needs of the community through the dispersal of those items listed above as well as videocassettes and recordings.

**Editors Note:** See § 7 of the ordinance adopting this Code.

(Prev. § 2-341; Ord. of 01-16-06)

**Sec. 2-348. Head Librarian--Duties.**

The following are the powers and duties of the Head Librarian:

- (1) In charge of the selection and administration of personnel, assigning work, defining responsibility and lines of authority;
- (2) Responsible for giving instructions and supervision;
- (3) Responsible for scrutinizing and evaluating and measuring results, in terms of readers' satisfaction with attention to costs;
- (4) Responsible for the selection of books and materials for the library;
- (5) Required to attend staff meetings and monthly meetings with the trustees, keeping them informed about the progress in the library;
- (6) Perform all other related functions as required.  
(Prev. § 2-343; Ord of 01-16-06)

**Sec. 2-349. Library Fee for Non-Residents.**

Make all books, videos, and all information it has developed available to non-residents, for a yearly fee of \$20.00 per household for an annual library card, on the same basis it does for residents.  
(Ord. of 05-19-03: Prev. § 2-344)

**Secs. 2-350. Reserved.****Recreation and Parks Division\*****Sec. 2-351. Recreation and Parks Division--Composition.**

The Recreation and Parks Division shall consist of a Community Services Director, appointed as specified by section 14h of the Charter and such staff as may be recommended by the Community Services Director and approved by the City Manager.  
(Code 1977, § 3:210.1; Ord. of 5-6-96(1); Prev. § 2-361; Ord of 01-16-06)

**Sec. 2-352. Same--Duties.**

The Community Services Director shall perform the following functions:

- (1) Develop a general recreational program for the City.
- (2) Shall coordinate and support the meetings of the recreation and parks commission.
- (3) Operate the recreational activities on all City parks, playgrounds, ski area, tennis courts, play areas, and all other recreational facilities, including the recreation center, under the control of the City.
- (4) Develop, maintain, and care for all recreational buildings, parks, playgrounds, athletic fields and other recreational areas.
- (5) Maintain and care for all property assigned to the division.
- (6) Cooperate with private groups as well as with public officials, in the development and promotion of recreational activities in the City.
- (7) Cooperate with the department of public works and all other divisions and departments of the City.
- (8) Performs all other related functions as required.  
(Code 1977, § 3:210.3; Ord. of 5-6-96(1); Prev. § 2-362&363; Ord of 01-16-06)

**Secs. 2-353--2-360. Reserved.**

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\* **Charter References:** Recreation director appointed by the City Manager, § 14h.

**Cross References:** Personnel, pensions and retirement, Ch. 11; parks and recreation, § 13-81 et seq.

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**Welfare Division\***

**Sec. 2-361. Welfare Division--Composition.**

The Welfare Division shall consist of a Welfare Administrator, recommended by the Community Services Director and appointed as specified by section 14h of the Charter by the City Manager and composed of such clerical staff as may be recommended by the Community Services Director and approved by the City Manager.

(Code 1977, § 3:215.1; Prev. § 2-401; Ord of 01-16-06)

**Sec. 2-362. Same--Functions.**

The Welfare Administrator shall perform the following functions:

- (1) Plan, budget, report on and control the City welfare program.
- (2) Investigate all requests for relief and authorize such relief aid as may be deemed necessary.
- (3) Exercise all powers and perform all duties conferred or imposed by law upon overseers of public welfare.
- (4) Keep full and accurate records of the persons fully supported, the persons relieved and partially supported, and the travelers and vagrants lodged at the expense of the City, together with the amount paid by them for such support and relief, and make such reports to the state, and other agencies, as required by law.
- (5) Assist in the solution of personal, family, finance, health and other problems in cases under care, by providing guidance.
- (6) Computes budgets, determines family standards and needs for clothing, food, shelter, medical care, and other items; and issues relief in such form as necessary.
- (7) To participate in and assist in the eviction process related to property matters.
- (8) Performs all other related functions as required.

(Code 1977, § 3:215.2; Prev. § 2-402; Ord of 01-16-06)

**Secs. 2-363—2-365. Reserved.**

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\* **Charter References:** Administrator of public welfare appointed by the City Manager, § 14h.

**Cross references:** Personnel, pensions and retirement, Ch. 11.

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**Subdivision H. Pollution Control Department\* ([CHAPTER 2 INDEX](#))**

**Sec. 2-366. Pollution Control Department--Composition.**

The Pollution Control Department shall consist of a Chief Operator and Superintendent as specified in section 14h of the Charter. The department shall consist of such forces of permanent and part-time wastewater treatment plant supervisors, operators, technicians and custodial personnel, operators and laborers and related support staff as required and recommended by the Chief Operator and Superintendent and approved by the City Manager. (Prev. § 2-282; Ord. of 01-16-06)

**Sec. 2-367. Same--Duties.**

The Pollution Control Department shall have the following duties:

- (1) Operate and maintain the City's wastewater treatment plant, the sanitary sewerage collection system and its pumping stations and appurtenances;
- (2) Enforce all laws and ordinances regarding the operation and use of the treatment plant;
- (3) Prepare all required local, state and federal reports in conjunction with NPDES regulations or other related regulations;
- (4) Care for and maintain all property and equipment assigned to the department;
- (5) Perform all other related functions as required.  
(Prev. § 2-283; Ord. of 01-16-06)

**Secs. 2-368--2-370. Reserved.****Subdivision I. Public Works Department\* [\(CHAPTER 2 INDEX\)](#)****Sec. 2-371. Public Works Director – City Engineer-Composition.**

The Department of Public Works shall consist of a Public Works Director/City Engineer, appointed as specified by section 14h of the Charter. The department shall consist of the divisions of engineering, highways and bridges, sewers, refuse collection and disposal, cemeteries, a central garage and stores, and such public offices as are required. The department shall consist of such supervisory, technical, professional and sub-professional, clerical and labor staff as is required to complete the efficient operation of the various divisions recommended by the Public Works Director/City Engineer and approved by the City Manager.

(Code 1977, § 3:211.1; Prev. § 2-347; Ord of 01-16-06)

**Engineering Division****Sec. 2-372. City Engineer - Functions.**

The Engineering Division shall perform functions of general engineering and engineering inspection consisting of the following general categories:

- (1) Design, layout and map all municipal work projects as required.
- (2) Maintain all storm drainage and sanitary sewer systems, including the appurtenances thereof, locations for the City.
- (3) Prepare and maintain all records pertaining to the division as required.
- (4) Provide inspection services on various municipal projects.
- (5) Care for and maintain all property and equipment assigned to the division including office equipment.
- (6) Perform all other related functions as required including the issuance of permits as required by City Ordinances.  
(Code 1977, § 3:211.2; Prev. § 2-281; Ord of 01-16-06)

**Sec. 2-373. Division of highways and bridges.**

The Division of Highways and Bridges shall perform the following functions:

- (1) Construct, maintain and repair all City owned roads, streets, bridges, parking lots, sidewalks, and other City-owned rights-of-way, except where specific projects may be let to contractors.
- (2) Maintain and repair City owned buildings when so directed.
- (3) Plow and remove snow, distribute sand and/or salt, on all highways, roads, streets, bridges, and sidewalks and other public ways.
- (4) Plant, maintain and remove trees and brush on or affecting City property.
- (5) Construct, maintain and repair all curbs and guard rails.
- (6) Prepare and maintain all necessary records pertaining to the highways and bridges.
- (7) Perform all other related functions as required or directed.  
(Code 1977, § 3:211.3; Prev. § 2-348; Ord of 01-16-06)

**Sec. 2-374. Division of Refuse Collection and Disposal.**

The Division of Refuse Collection and Disposal shall perform the following functions:

- (1) Collect, remove and dispose of all organic and other refuse as required by City Ordinances.
- (2) Maintain and operate the City's sanitary landfill site and other disposal sites established for the disposal of non-compactable, industrial and noncombustible wastes.
- (3) Prepare and maintain all necessary records pertaining to the refuse collection and disposal division.
- (4) Perform all other related functions as required or directed.  
(Code 1977, § 3:211.5; Prev. § 2-349; Ord of 01-16-06)

**Sec. 2-375. Division of Cemeteries.**

The Division of Cemeteries shall perform the following functions:

- (1) Develop, maintain and operate all municipal cemeteries.
- (2) Maintain and care for all property and equipment assigned to the division.
- (3) Prepare and maintain all necessary records pertaining to the division.
- (4) Under the direction of the division director and with other divisional assistance, improve and expand as required additional cemetery areas.
- (5) Perform all other related functions as required or directed.  
(Code 1977, § 3:211.6; Prev. § 2-350; Ord of 01-16-06)

**Sec. 2-376. Central Garage and Stores Division.**

The Central Garage and Stores Division shall perform the following functions:

- (1) Repair and maintain all motorized and City-owned equipment as directed.
- (2) Purchase, stock, and charge to the using City department/division all parts, accessories, oils and fuels as required.

- (3) Maintain and care for all property and equipment assigned to the central garage and stores division.
- (4) Assist in the repair and maintenance of all equipment, stationary or otherwise, of all City departments/divisions.
- (5) Prepare and maintain all necessary records, pertaining to the central garage and stores division.
- (6) Perform general repair, welding, fabrication, carpentry, etc. and general maintenance functions on any and all other City equipment or properties as directed.
- (7) Perform any and all other related functions as required or directed.  
(Code 1977, § 3:211.7; Prev. § 2-351; Ord of 01-16-06)

**Sec. 2-377. Division of Sewer Collection.**

The Division of Sewer Collection shall perform the following functions:

- (1) Maintain the City's sanitary sewerage collection system;
- (2) Maintain the City's storm drainage system including all manholes, catch basins, piping, culverts and other related appurtenances;
- (3) Enforce all laws and ordinances regarding the sewer and drain systems;
- (4) Issue sewer connection permits
- (5) Perform any and all other related functions as required or directed.  
(Ord of 01-16-06)

**Secs. 2-378--2-425. Reserved.**

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\* **Charter References:** Director of public works appointed by the City Manager, § 14h.

**Cross References:** Personnel, pensions and retirement, Ch. 11; public works department retirement system, § 11-46; solid waste, Ch. 12; streets, sidewalks and other public places, Ch. 13; utilities, Ch. 16.

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**DIVISION 3. PROCUREMENT\* ([CHAPTER 2 INDEX](#))**

**Sec. 2-426. Administration.**

The City Manager, or his/her duly appointed representative, shall be the purchasing agent for every City department or agency of the City excluding the water works and school department. The City Manager shall sign all contracts for services which may be necessary for any of the City's departments or agencies which are required to purchase supplies, materials, or equipment through the City purchasing agent. No department of the City shall retain special counsel without explicit approval of the City Council. This section applies to all departments of the City, including the school department and the police department.  
(Ord. of 12-16-02)

**Sec. 2-427. Competitive purchasing.**

Except as hereinafter provided, every City purchase or contract greater than fifteen thousand dollars (\$15,000.00) in amount shall be made only after the receipt by City of publicly invited sealed competitive bids on uniform specifications. After recommendation from the department making the purchase, the City Manager shall award the contract to the lowest responsible bidder; quality, delivery, financial responsibility and guarantees of the bidders being equal. The City Manager may, in his/her discretion, reject any bid deemed insufficient or inadequate, or may reject all bids.

Except as hereinafter provided, every City purchase or contract of greater than five thousand dollars (\$5,000.00) but no more than fifteen thousand dollars (\$15,000.00) shall be made only after receipt by the City of three (3) or more (if reasonably obtainable) competitive informal written quotations or phone quotations which are adequately documented.



Every purchase of five thousand dollars (\$5,000.00) or less shall be handled by the City on as competitive a basis as is deemed reasonable and prudent.

Purchases made through existing State of New Hampshire or other state contracts or Coos County contracts shall be deemed to meet the requirements of the above paragraphs. Nothing herein shall be construed to prevent joint bidding and contracting by the City and other public jurisdictions, and in fact, such is encouraged.

(Ord. of 12-16-02)

**Sec. 2-428. Professional services.**

Professional services contracts (architecture, engineering, construction management, risk management, financial and auditing and other professional services or consulting work) of ten thousand dollars (\$10,000.00) or more may be entered into after receiving proposals from various interested firms, evaluating those proposals and anticipated quality of service to be rendered, and City Manager recommendation to and approval by the City Council. Such services of ten thousand dollars (\$10,000.00) or less may be procured in a manner deemed reasonable and prudent by the City Manager. (Ord. of 12-16-02)

**Sec. 2-429. Change orders.**

Contract change orders are hereby authorized to be made where necessary by the City Manager but shall not exceed ten (10) percent of the amount of the original contract unless specific City Council approval is obtained.

(Ord. of 12-16-02)

**Sec. 2-430. Exceptions, waivers, standardization and emergencies.**

Valid exceptions not subject to the above procurement requirements are utility purchases, legal services, medical, advertising, subscriptions and periodicals, postage, freight, health, travel and social services for City employees, the purchase of insurance, maintenance contracts with manufacturers of equipment purchased or with suppliers of data processing software or where the City decides to contract with non-profit organizations for the provision of health, welfare, social or recreational services for the City and/or to the general public or where the City decides to contract with governmental agencies for the provision of governmental services.

Sealed, publicly invited competitive bids will not be required for purchases in any situation where a contractor or supplier has defaulted upon his or her obligations to the City and there is present a security guaranteeing to the City the performance of said obligation at no additional cost to the City, over and above the original obligation. In such a case, the City Manager, with the approval of the City Council, may renegotiate and award the contract to whomsoever he/she sees fit providing that said renegotiation and award does not exceed the amount contracted for in the original obligation.

The City Council, on recommendation from the City Manager, may waive any of the above purchasing requirements in cases where it is deemed inadvisable to solicit bids because of a single source of supply or because of the need of standardization of the materials, supplies, equipment or services or for other stated reasons which the City Council deems to be in the interest of the City.

Where it is deemed appropriate to standardize on the procurement of materials, supplies, equipment or services, the City Council shall so indicate by resolution. The City finance department shall maintain an up-to-date listing of such standardized items or services. The procurement of such standardized items or services will be exempt from the foregoing bidding requirements. Nevertheless, City departments will, when reasonably possible, attempt to obtain competitive quotes from different suppliers, if any, for the standardized item or service.

In case of an accident or emergency, the City Manager may award contracts and make purchases for the purpose of repairing damages caused by the accident or meeting the public emergency without meeting the purchasing requirements of the above sections. In such cases the City Manager shall promptly file

with the City Council a report which certifies the emergency nature of the incident and itemizes the purchases and their costs.  
(Ord. of 12-16-02)

**Sec. 2-431. Sale of surplus material.**

The City Manager may authorize the sale of materials and equipment which he or she determines to be surplus to the needs of the City where a single item or lot does not exceed five thousand dollars (\$5,000.00) in book value. In cases where such item or lot exceeds five thousand dollars (\$5,000.00) in book value, the City Council shall approve the sale of such materials. All such surplus materials shall be disposed of by public auction or competitive bids or quotations.  
(Ord. of 12-16-02)

**Sec. 2-432. Sale of Land.**

Generally, land owned by the City, which is determined by the City Council to be surplus land, will be sold by public auction or sealed bid or by such other means as the City Council determines to be in the best interest of the City.

Property taken by the City by tax deed will be processed and disposed of or retained in accordance with state laws and the above paragraph. However, in cases where former non-commercial residential property owners who occupied the property as their primary residence at the time of tax-deeding and who seek to repurchase their tax deeded property by tendering payment for all outstanding taxes, interest, fees and costs, the 15% assessment penalty referred to in RSA 80:90, I(f), is hereby waived, if and only if, such property has not been tax deeded by the City from the same or related (husband, wife, son, daughter, mother, father, sister, brother, grandparent or grandchild) owner(s) before, and if and only if, such non-commercial residential property was not under a condemnation order, notice of zoning violation or notice of other property-related violation of the law. Non-commercial as used herein shall mean property of no more than two residential units that has been the primary residence of the former owner for at least three (3) years at the time of tax deeding.  
(Ord. of 5-17-04) (Ord of 10-1-07)

Property taken by the City by tax deed will be processed and disposed of or retained in accordance with the provisions of this Code, state laws and the above paragraph. However, in order to allow more time for a former non-commercial residential property owner of a tax deeded property to repurchase his or her property after having given notice to the City of intent to repurchase, the time for a former non-commercial residential property owner to tender payment of all back taxes, interest, costs and penalties provided by law, is hereby extended an additional fifteen (15) days from the date the former non-commercial residential property owner provides written notice of the intention to repurchase the property and to pay all back taxes, interest, cost and penalties as defined in RSA 80:90. This fifteen (15) day extension of the deadline coupled with the 15 days the former non-commercial residential property owner has pursuant to RSA 80:89, II, to tender the monies needed to repurchase the property provides the former property owner up to a potential period of sixty (60) days from the date the former non-commercial residential property receives his/her Opportunity to Repurchase Notice to both provide notice of intention to repurchase the Tax Deeded property and to tender payment therefore.

If a former non-commercial residential property owner, in response to the Opportunity to Repurchase Notice, does not give notice of intent to repurchase within the first thirty (30) days or does not tender full payment within thirty (30) days of giving notice of intent to repurchase, then the City will proceed to offer the property for sale, retain or otherwise dispose of the property without any interest by the former non-commercial residential property owner, as provided by RSA 80:89. All other former property owners of City tax deeded properties will be held strictly to the repurchase time restrictions cited in RSA 80:89, II.  
(Ord. of 9-06-05)

If the former owner of a non-commercial residential tax-deeded property repurchases the property from the City the City may, as in its sole discretion determines appropriate, enter into a written agreement with the former non-commercial residential property owner which provides that some or all of the 15% assessment fee may be returned to the former non-commercial residential property owner by the city if

such former owner in such written agreement is willing to see to the removal of the condition(s) which resulted in the 15% assessment fee not being waived as provided in the first paragraph above within the time frame and in complete accordance with the conditions stipulated in the agreement.  
(Ord. of 10-03-05)

If the former owner of a commercial residential tax-deeded property repurchases the property from the City, the City may, as in its sole discretion determines appropriate, enter into a written agreement with the former commercial residential property owner which provides that some or all of the 15% assessment fee may be returned to the former commercial residential property owner by the City if such former owner in such written agreement agrees to perform demolition and/or other work on the property which the City believes to be in the public interest to have accomplished and which the City believes has a value greater than the amount being returned to the former commercial residential property owner. To be eligible for any such reimbursement, the former commercial residential property owner must complete all such work to the satisfaction of the City within the time frame and in complete accordance with the conditions stipulated in the written agreement.  
(Ord. of 10-03-05)

**Sec. 2-433. Purchasing regulations.**

The City Manager is hereby authorized to issue additional rules and regulations with respect to procurement by the City of supplies, equipment or services as well as the sale of surplus material within the confines of this division.  
(Ord. of 12-16-02)

\* **Editors Note:** An ordinance adopted December 16, 2002 repealed division 3, §§ 2-426--2-454 in its entirety and added a new division 3, §§ 2-426--2-432. Formerly, such section pertained to purchasing and derived from §§ 5:401.1--5:401.22 of the 1977 Code.

**Charter References:** Purchasing and contract procedure, § 14j.

**Cross References:** Finance, § 2-166 et seq.; administrative code, § 2-196 et seq.; finance department created, § 2-291 et seq.

**State Law References:** Purchasing department, competitive bid requirements, RSA 48:17.