

Ordinance #24-0203
2024 Ordinance Book, Page 47

**A TECHNICAL CORRECTIONS ORDINANCE AMENDING CHAPTERS 2, 10, 38, 42,
46, 70 and 74 OF THE CITY CODE**

BE IT ORDAINED, by the Mayor and Winston-Salem City Council as follows:

Revisions to Chapter 2

Section 1: Chapter 2. Administration. Section 2-2. Purchasing and contracts generally. is hereby amended to read as follows:

“Sec. 2-2. Purchasing, and contracts, surplus property, acquisitions, and settlement authority generally.

- (a) It shall be unlawful for any employee of the city, ~~except the authorized purchasing agent,~~ to purchase supplies for or make any contracts of any nature in the name of the city, unless the employee or the employee’s designee is authorized by city council to do so. upon the resolution of the city council. ~~The purchasing agent shall purchase all supplies and materials of any kind required by the city.~~
- (b) ~~The city manager is authorized to take any action, including any action the city council is required or authorized to take under G.S. 143-128 et seq., to make, approve, award or execute contracts for construction or repair work not to exceed \$100,000.00, or for services or the purchase or apparatus, supplies, materials or equipment not to exceed \$100,000.00 for any such contract. For contracts previously approved by the city council or city manager, the city manager may also execute change orders and contract amendments, deemed by the city manager and city attorney to be necessary, in an amount not to exceed \$100,000 for the term of the contract. The city manager may exercise the authority granted herein only when there are funds in the city's adopted budget sufficient for such contract. Prior to execution, the chief financial officer shall preaudit and the city attorney shall approve such contract as to form and legality. City contracts for: (1) construction or repair work not subject to formal bidding requirements under G.S. 143-128 et seq., and (2) services or purchases of equipment, supplies, materials, or apparatuses in the amount of five hundred thousand dollars (\$500,000.00) or less may be awarded by the city manager, and city council hereby delegates to the city manager such authority to contract on behalf of the city. Unless state law provides otherwise, the city manager, for any contract, change order(s) or amendment(s) approved within the city manager’s original contract authority, may approve an additional change order(s) or amendment(s) in an amount not to exceed \$100,000.00. For any contract approved by city council, the city manager shall have the authority to~~

approve a change order(s) or amendment(s) in an amount not exceed \$500,000.00. Prior to execution, the chief financial officer shall preaudit and the city attorney shall approve such contract as to form and legality.

- (c) The city manager may declare as surplus personal property of the city valued at less than \$30,000 for any one item or group of items.
- (d) Except as noted below, the city manager may approve the settlement of claims, lawsuits or other legal actions against the city and/or its officers and employees for auto, general liability, property damage or workers' compensation in an amount of five hundred thousand dollars (\$500,000) or less.
- (e) The city manager may acquire by purchase an interest in real property on behalf of the city for the highest appraised value based upon an appraisal report prepared for the city or tax value, provided the same does not exceed \$100,000. The city manager shall submit, annually, to the city council a written report setting forth the names of the persons from whom such property or property interest is purchased, a general description of the property or interest in property acquired, the purchase price paid therefor, and the intended use of the property or interest in property. Additionally, the city manager may approve the settlement of contested acquisitions or condemnation actions in an amount not to exceed ten (10) percent of: (1) the highest appraised value of the property to be acquired or condemned based upon an appraisal report prepared for and at the city's request, or (2) tax value in the event said value is used to determine the value of the property to be acquired or condemned, provided the city manager's settlement authority shall not exceed \$100,000 per transaction or case. In the event ten (10) percent of the aforementioned appraised value or tax value is minimal given the nature of the property to be acquired or condemned, the city manager or his designee shall have the authority to settle such contested acquisitions or condemnation actions for an amount not to exceed \$1,000 if ten (10) percent of the aforementioned appraised value or tax value is less than \$1,000, given that the cost of litigation may equal if not exceed that amount.
- (f) Any authority granted by city council to the city manager in Section 2-2 herein may be delegated by the city manager. Additionally, the language in subsections (c) through and including (e) herein regarding the settlement of claims, lawsuits and other legal actions, the settlement of contested acquisitions and condemnation actions and the designation of surplus property hereby replaces the current language found in separate resolutions adopted by city council on or about September 19, 2022 regarding settlements, on or about July 15, 2008 regarding settlement of acquisitions, and on or about September 19, 2005 regarding surplus property. However, any procedures developed and implemented pursuant to said resolutions shall not be nullified by this action.
- ~~(e)-(g)~~ Effective July 1, 2018, contracts funded with federal grant or loan funds shall be procured in a manner that conforms with all applicable Federal laws, policies, and standards, including those under the Uniform Guidance (2 C.F.R. Part 200).
- ~~(d)~~ (h) A violation of subsection (a) or (b) of this section, or any part thereof, shall constitute a misdemeanor and shall subject the offender to a fine of not more than \$500.00 or imprisonment for not more than 30 days."

Section 2: Chapter 2. Administration., subsection 2-6. Procedures, criteria, and terms for reimbursement agreements is hereby amended to read as follows:

“Sec. 2-6. Procedures, criteria, and terms for reimbursement agreements—G.S. 160A-499.

(a) The city council will evaluate requests from private developers and property owners for financial assistance with the design and construction of municipal infrastructure, which includes but is not limited to water mains, sanitary sewer, lift stations, stormwater lines, streets, curb and gutter, sidewalks, traffic control devices and other associated facilities, based on the following procedures, criteria and terms:

(1) Requests for reimbursement agreements with private developers or property owners for the design and construction of municipal infrastructure should be communicated to the city manager or his designee, who will present the matter to the city council for its consideration provided the requests meets the basic criteria set forth herein.

(2) The site of the proposed infrastructure should be located in an industrial or commercial (non-residential and non-retail) area that, in the end, will serve multiple properties.

(3) The proposed infrastructure should aid and encourage the creation of industrial, manufacturing, and commercial development in the area.

(4) The proposed infrastructure should result in development in the area that will increase the tax base.

(5) The city must have sufficient funds available to assist with the requested infrastructure design and construction project.

(b) Per G. S. 160A-499, the developer or property owner that is party to a reimbursement agreement authorized under said statute shall solicit bids in accordance with G.S. Article 8 of Chapter 143 when awarding contracts for work that would have required competitive bidding if the contract had been awarded by the city. The developer or property owner may also agree to allow the city to handle the competitive bidding process.

(c) Any project carried out pursuant to this section shall become a part of the city's capital improvement plan. The project shall be made part of the city's capital improvement plan before the reimbursement agreement is executed.

Section 3. Chapter 2. Administration., Section 2-11. Reserved. is hereby created to read as follows:

“Sec. 2-11. Public Records, Removal from City Hall.

It shall be unlawful for any person to remove any books, vouchers, checks, warrants, or any other financial records of the city from the city hall, except that the records shall be removed through or in response to order of court as provided by law for the production of such books, papers or vouchers in a trial or proceeding; or, except at the specific request of the State local government commission; or, except, as the same may be needed and used by the city attorney in connection with litigation or proving claims or controversies affecting the city; or, upon the authority of city council given, in which event the same shall be removed only after written request shall have been given to city council stating the purpose for the removal, the place that the books are to be removed to and the period of time that they shall remain out of the city hall, and in this event permission to remove the books shall be granted only after a majority vote of the city council. A violation of this section shall constitute a class 3 misdemeanor as provided by G.S. 14-4 and shall subject the offender to a fine of not more than \$500.00.”

Section 4. Chapter 2. Administration, section 2-12 Reserved is hereby created to read as follows:

“2-12 Signs, Seating and Fire Code Requirements.

Signs, leaflets, posters, flyers, pamphlets, brochures, and written, or graphic material of any kind, structures, banners, and any other objects shall not be posted on or affixed to city property. Visitors may carry into any city building hand-held placards, signs, flags, or similar items (collectively called “signs”) not exceeding eighteen by eighteen inches (18” x 18”) in size. All signs shall be made of cloth, paper, cardboard, or plastic, shall not exceed one-eighth (1/8) of an inch in thickness, shall not have sharp edges or corners and shall not include a handstick. Visitors with signs shall not interfere with others’ ability to see and hear and the visitor’s use of the sign (without regard to the sign’s content) must not otherwise disrupt business proceedings. The permission granted herein to carry such signs into a city building does not create a public forum of any type or manner.

The city will make every reasonable effort to provide seating, including overflow seating, if necessary, for public meetings. Fire Code requirements limit the number of occupants in particular spaces. Visitors may not bring personal chairs or personal tables into a city building. Visitors must not obstruct paths of ingress and egress. Blocking entrances, exits, fire exits, handicap access areas, public walkways, or obstructing pedestrian traffic or otherwise interfering with the provision of services or the use of city property is prohibited. A violation of this section shall constitute a class 3 misdemeanor as provided by G.S. 14-4 and shall subject the offender to a fine of not more than \$500.00.”

Section 5. Chapter 2. Administration., Section 2-40. Ordinances, resolutions and motions, subsection (f) Required Vote for approval of ordinance., is hereby amended to read as follows:

“Sec. 2-40. - Ordinances, resolutions, and motions.

(f) Required vote for approval of ordinance.

(1) If the question before the council is the adoption of an ordinance on its first introduction, a favorable vote of two-thirds or more of all the members of the council shall constitute approval of the ordinance; a favorable vote of a majority of the members present, but less than two-thirds of all the members, shall constitute automatic continuance of the ordinance to the next regular or special meeting of the council, unless the council directs a different time; and a favorable vote of less than a majority shall constitute defeat of the ordinance. Before being acted upon, any ordinance so continued may be discussed at the next meeting scheduled, in accordance with this subsection, provided a majority of the council consents to said discussion. Otherwise, the item will be considered without further discussion.

(2) If the council is passing on the question of the adoption of an ordinance, and the ordinance has been considered at a prior meeting, the affirmative vote of the majority of the members of the council present and voting shall constitute adoption of the ordinance if the ordinance received an affirmative vote by a majority of all the members of the council upon first reading. If the ordinance on first reading received a favorable vote of a majority of the members present and voting, but not a majority of all of the members of the council, the ordinance shall be deemed to have failed unless it receives on second reading an affirmative vote of a majority of all the members of the council.

(3) With regard to: (a) the annual budget appropriation and tax levy ordinance, ~~(b) a special-use permit~~, and ~~(c)~~(b) an ordinance on which a public hearing must be held pursuant to G.S. 160D-601, a majority of those present and voting shall be sufficient on first consideration to adopt the ordinance. With regard to voting on quasi-judicial matters by council, a majority of the members of council shall be required for approval, pursuant to 160D-406.

Section 6. Chapter 2. Administration., Section 2-63 public bodies designated is hereby amended by removing from the list the stormwater appeals board as indicated below:

“Sec. 2-63. Public bodies designated; meetings.

- (a) *Public bodies designated.* The city council, adopting the following to comply with G.S. 143-318.9 et seq., determines that the following authorities, boards, commissions, committees, councils or other bodies, or any of their committees or subcommittees under its authority, constitute public bodies within the meaning of G.S. 143-318.9 et seq.:

~~(31) Stormwater appeals board.~~ Reserved.”

Section 7. Chapter 2. Administration. is hereby amended to create a new section entitled **“2-67. Attendance policy for city boards, committees, and commissions.”**

“Sec. 2-67. Attendance policy for city boards, committees, and commissions.

In order for a board, committee, or commission to be effective and efficient, and to accomplish its purpose, its membership must be actively involved and attendant to the business of the body. Therefore, all city appointed members are required to attend at least 65% of the regular and special meetings of the body held in any one calendar year. Excused absences shall not count toward the 65% attendance requirement. Members shall be permitted up to three excused absences per calendar year in the following circumstances:

- Illness or medical-related absences,
- Funerals and/or bereavement,
- The birth or adoption of the board member's child, for 90 days after the birth or adoption, or
- Military service.

Excused absence requests should be formally made in writing via email to the mayor's office, city clerk, and the board's staff advisor within one week of the date of the missed meeting. Any absence that does not meet the above criteria shall be considered unexcused.

On January 1 of each year, a member of any board, commission, or committee appointed by the mayor, council or city manager shall be automatically removed from said body for failure to attend at least 65% of all regular and special meetings of the body held during the immediately preceding calendar year. For persons not serving for an entire calendar year, the 65% attendance requirement shall apply to meetings held during the portion of the year during which the person served. In order to be eligible for reappointment to a board, committee, or commission, a city appointed member must have attended at least 75% of the regular and special meetings of the body during the concluding term, or portion of the term during which the member served.

In addition, any city appointed member of a board, commission or committee shall be automatically removed from said body for failure to attend any THREE CONSECUTIVE REGULAR MEETINGS of the body, unless an absence is deemed excused under the above criteria. A city appointed member must attend 50% of a meeting in order to be considered in attendance for the purposes of this policy. Members appointed in the fourth quarter of the year shall be exempt from the 65% attendance rule for that calendar year only but are still subject to the three consecutive meeting policy. For purposes of the attendance policy, a member's remote participation shall count toward the attendance requirements.

The city clerk or mayor's office shall send a letter to anyone who is removed from a board, committee, or commission for failure to meet the attendance policy. Vacancies resulting from the removal of a member shall be filled by the same method as provided for initial appointments. The city clerk or mayor's office shall send a letter to any city appointed member who is in danger of violation of the attendance requirement, asking them to be mindful of said requirement. Staff advisors shall file attendance reports with the city clerk and mayor's office pursuant to the schedule established by the city clerk and mayor's office. This attendance policy shall apply to every city appointed member of a board, committee, or commission that is part of the city, regardless of who appoints the member. In addition, this attendance policy shall apply to

all appointees by the city council to a board, committee, or commission that is not part of the city. This ordinance sets forth the minimum standard for attendance; however, city boards, committees, and commissions are allowed to have more stringent attendance policies for city appointed members.”

Section 8: Chapter 2 Administration, Division 14. Urban Food Policy Council, Section 2-299. Staff support. is hereby amended to read as follows:

“Sec. 2-299. Staff support.

Staff from the office of ~~business inclusion and advancement~~ Sustainability will provide primary staff support to the council. In addition, the office of ~~business inclusion and advancement~~ Sustainability may collaborate with the Forsyth Community Food Consortium to provide additional support and expertise pursuant to the council's purpose and duties as set forth in sections 2-294 and 2-295, respectively.”

Section 9. Chapter 2 Administration, Division 15 Stormwater Appeals Board is hereby repealed and Division 15., Section 2-300 through and including 2-305 is hereby reserved.

~~“DIVISION 15. STORMWATER APPEALS BOARD~~ Sec. 2-300. Creation; purpose.

~~There is hereby created a board, to be known as the stormwater appeals board, whose purpose it shall be to hear and to decide appeals related to articles I and IV of chapter 75 of the City's Code of Ordinances.~~

~~Sec. 2-301. Duties.~~

~~The duties and responsibilities of the stormwater appeals board shall be to hear and decide appeals from and review any order, requirement, decision, or determination made by the city's stormwater director pursuant to articles I and IV of chapter 75 of the City's Code of Ordinances.~~

~~Sec. 2-302. Membership.~~

~~The stormwater appeals board shall be composed of five members, who shall be residents of the city. Such members shall be appointed by the city council upon recommendation by the mayor. Members shall be composed of one neighborhood association representative, one developer representative, and three professionals. The professionals cannot be representatives of the development community or of neighborhood associations.~~

~~Sec. 2-303. Term of members; vacancies; compensation of members.~~

~~Initially the members of the stormwater appeals board shall be appointed for staggered terms. All subsequent appointments shall be for three year terms. Initial appointees may serve for their initial term plus one additional three year term. Members shall hold office until their successors are appointed. Any vacancy resulting from a cause other than the expiration of a term shall be filled only for the unexpired portion of the term. Appointees are eligible to serve conservative terms in accordance with section 2-62 of the City Code.~~

Sec. 2-304. Officers.

~~The mayor shall designate the initial chairperson of the stormwater appeals board, who shall serve one year. Thereafter, the board shall elect its own chairperson, each to serve one year. The board shall also elect from its number a vice chairperson, who shall serve as chairperson in the chairperson's absence. The vice chairperson shall serve for one year. The stormwater director shall serve as secretary to the council."~~

Sec. 2-305. Meetings.

~~The stormwater appeals board shall meet as needed to carry out the duties set out above. These meetings shall be held on such days and at such hours as may be fixed by the board, so long as appeals to the board are heard and decided within a reasonable time of the appeal having been filed."~~

Section 10: Changing of terminology found in Chapters 2,10, 42, 46, and 74. The phrase "Community Development Department" in City Code Section 2-9 shall be deleted and the phrase "Housing Development Department" shall be inserted in lieu thereof. The phrases "Community Development Department" and "Community and Business Development Department" where they appear in City Code Sections 10-193, 10-195, 10-199, 10-215, 10-220, 42-173, 74-57 and 58 shall be deleted and the phrase "Neighborhood Services Department" shall be inserted in lieu thereof in the city code sections referenced in this sentence. Additionally, the phrase "Community Development Department" where it appears in City Code Section 46-33, 74-276 and 74-400 shall be deleted and the phrase "department of Business Inclusion and Advancement" shall be inserted in lieu thereof in the city code sections referenced in this sentence.

Revisions to Chapter 38

Section 11: Chapter 38. Miscellaneous Offenses and Provisions, Sec. 38-120.7. Exemptions and defenses. Subsections (c) (1) and (2) and (n) are hereby amended to read as follows:

"Sec. 38-120.7. Exemptions and Defenses.

(c) It is not prohibited or a violation of this article for:

- (1) An employer to utilize or assert the bona fide occupational qualification exception for employment practices when allowed by Title VII of the Civil Rights Act of 1964 as amended from time to time or any other applicable federal or state law. ~~engage in employment practices employ, admit, classify, or refer any individual on the basis of race, color, religion, national origin, ethnicity, color, creed, sex, sexual orientation, gender identity or gender expression, protected hairstyles, pregnancy, disability, age, veteran status, marital status, familial status, or political affiliation in such circumstances when race, color, religion, national origin, ethnicity, color, creed, sex, sexual orientation, gender identity or gender expression, protected hairstyles,~~

~~pregnancy, disability, age, veteran status, marital status, familial status, or political affiliation is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise.~~

- (2) An employer to print or publish, or caused to be printed or published, any notice or advertisement indicating any preference, or limitation when allowed by Title VII of the Civil Rights Act of 1964 as amended from time to time or any other applicable federal or state law. ~~specification, or discrimination, based on race, color, religion, national origin, ethnicity, color, creed, sex, sexual orientation, gender identity or gender expression, protected hairstyles, pregnancy, disability, age, veteran status, marital status, familial status, or political affiliation in such circumstances when race, color, religion, national origin, ethnicity, color, creed, sex, sexual orientation, gender identity or gender expression, protected hairstyles, pregnancy, disability, age, veteran status, marital status, familial status, or political affiliation is a bona fide occupation qualification for employment.~~
- (n) Nothing in this article shall ~~not~~ apply to the Forsyth County or any other city located therein, the state or the federal government.”

Revisions to Chapter 70

Section 12. Chapter 70. Signs, Sec. 70-14. Banners is hereby amended to read as follows:

“ Sec. 70-14. Banners.

~~No banner shall be erected across or along any street in the city; provided, however, that, upon request from a recognized charitable or civic organization or governmental agency, the assistant city manager/public works may issue a permit for the erection of such banner for a period of not more than 15 days and for a fee of \$ \$125.00 per banner. Any such banner shall be in accordance with the conditions of the permit. Except for banners that constitute government speech, no banner shall be erected across or along any street or sidewalk in the city. In endorsing and approving said words, pictures, or advertisements on the banners placed across or along any street or sidewalk of the city, the city is engaging in government speech, and not opening a public forum for free speech activity. The city manager or his designee shall have the authority to develop procedures, consistent herewith, for requesting and approving the placement of a banner across or along any street and sidewalk. No banner shall be suspended across the street from any utility pole supporting traffic signals or streetlights. No banner shall be displayed during the month of December in the central business district. This section and its prohibitions, however, shall not apply to any banner installed or erected pursuant to the provisions contained in section 25-12(E)(10) of the formerly codified zoning ordinance. A violation of section 70-14, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.~~

No banner shall be suspended across the street from any utility pole supporting traffic signals or streetlights. No banner shall be displayed during the month of December in the central business district. For purposes of this section, a banner is defined as a temporary sign made of flexible material such as canvas, sailcloth, plastic, or waterproof paper. A violation of section 70-14, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.”

Revisions to Chapter 74

Section 13. Chapter 74. Streets and Sidewalks, Article X. Sidewalk Cafes, Section 74-292 Sidewalk café; permit applications, subsection (j) Term, Transfer, Renewal etc. is hereby amended to read as follows:

“(j) *Term, transfer, renewal, etc.* Permits issued in accordance with the provisions of this article shall:

- (1) Be issued for the period beginning ~~July~~ January 1 or thereafter and expiring ~~June 30th~~ December 31st of the year of issuance ~~subsequent year~~.
- (2) Be in addition to the annual privilege license required pursuant to chapter 34 of the City Code.
- (3) Not be transferable or assignable.

Permits issued as of July 1, 2023 shall remain in effect and shall expire on December 31, 2024 subject to the same terms and conditions for maintaining the permit in accordance with the applicable code provisions.”

Section 14. This ordinance shall become effective upon adoption after two readings except Section 7 amending Chapter 2 to provide an attendance policy for city appointee to boards and commissions shall become effective July 1, 2024.