

City of St. Helens  
**ORDINANCE NO. 3276**

AN ORDINANCE AMENDING ST. HELENS MUNICIPAL CODE  
TITLE 2 RELATING TO ADMINISTRATION AND PERSONNEL

**WHEREAS**, St. Helens Municipal Code Title 2 regarding administration and personnel requires periodic updating to current standards; and

**WHEREAS**, the City Council has determined that updates are needed to Title 2 of the Municipal Code to reflect current and best practices.

**NOW, THEREFORE, THE CITY OF ST. HELENS, OREGON ORDAINS AS FOLLOWS:**

**Section 1.** The above recitations are true and correct and are incorporated herein by reference.

**Section 2.** The City of St. Helens Municipal Code is hereby amended, attached hereto as **Attachment "A"**, and made part of this reference.

**Section 3.** The effective date of this Ordinance shall be 30 days after approval, in accordance with the City Charter and other applicable laws.

Read the first time:	December 1, 2021
Read the second time:	December 15, 2021

**APPROVED AND ADOPTED** by the City Council this 15<sup>th</sup> day of December 2021, by the following vote:

Ayes:

Nays:

\_\_\_\_\_  
Rick Scholl, Mayor

ATTEST:

\_\_\_\_\_  
Kathy Payne, City Recorder

## **2.04 PUBLIC CONTRACTING CODE**

### **2.04.010 Short title.**

The provisions of this chapter and all rules adopted under this chapter may be cited as the St. Helens public contracting code. (Ord. 2942 § 3, 2005)

### **2.04.020 Purpose.**

The purpose of the St. Helens public contracting code is to utilize public contracting practices and methods that maximize the efficient use of public resources and the purchasing power of public funds by:

- (1) Promoting impartial and open competition;
- (2) Using solicitation materials that are complete and contain a clear statement of contract specifications and requirements; and
- (3) ~~Taking full advantage of evolving~~ Utilizing current procurement methods that suit the contracting needs of the city as they emerge within various industries. (Ord. 2942 § 4, 2005)

### **2.04.030 St. Helens public contracting code.**

The following rules are adopted as the city's public contracting rules. As provided by ORS [279A.065](#) ~~(65)~~(a), the Model Rules adopted by the Attorney General under ORS Chapters [279A](#), [279B](#), and [279C](#) ("the Model Rules") do not apply, unless otherwise provided for herein or as adopted by ordinance or resolution by the city of St. Helens local contract review board. (Ord. 2942 § 5, 2005)

### **2.04.040 Interpretation of public contracting code.**

In furtherance of the purpose of the objectives set forth herein, it is the intent of the city of St. Helens that the St. Helens public contracting code be interpreted to authorize the full use of all contracting powers and authorities described in ORS Chapters [279A](#), [279B](#) and [279C](#). (Ord. 2942 § 6, 2005)

### **2.04.050 Code not applicable to the following public contracts.**

In accordance with ORS [279A.025](#), the St. Helens public contracting code and the Oregon Public Contracting Code do not apply to the following classes of contracts:

- (1) Agreements between Governments. Intergovernmental agreements and contracts between the city of St. Helens and a public body or agency of the state of Oregon or its political subdivisions, or between the city of St. Helens and an agency of the federal government.
- (2) Grants. Except as provided below for public improvements and public works, a grant contract is an agreement under which the city of St. Helens is either a grantee or a grantor of moneys, property or other assistance, including loans, loan guarantees, credit enhancements, gifts, bequests,

commodities or other assets, for the purpose of supporting or stimulating a program or activity of the grantee and in which no substantial involvement by the grantor is anticipated in the program or activity other than involvement associated with monitoring compliance with the grant conditions. While the making or receiving of a grant is not a public contract subject to the Oregon Public Contracting Code, any grant made by the city of St. Helens for the purpose of constructing a public improvement or public works project shall impose conditions on the grantee that ensure that expenditures of the grant to design or construct the public improvement or public works project are made in accordance with the Oregon Public Contracting Code and this code.

(3) Legal Witnesses and Consultants. Contracts for professional or expert witnesses or consultants to provide services or testimony relating to existing or potential litigation or legal matters in which the city of St. Helens is or may become interested.

(4) Real Property. Acquisitions or disposals of real property or interests in real property.

(5) Textbooks. Contracts for the procurement or distribution of textbooks.

(6) Oregon Corrections Enterprises. Procurements from an Oregon corrections enterprises program.

(7) Finance. Contracts, agreements or other documents entered into, issued or established in connection with:

(a) The incurring of debt by the city of St. Helens, including any associated contracts, agreements or other documents, regardless of whether the obligations that the contracts, agreements or other documents establish are general, special or limited;

(b) The making of program loans and similar extensions or advances of funds, aid or assistance by the city of St. Helens to a public or private person for the purpose of carrying out, promoting or sustaining activities or programs authorized by law, other than for the construction of public works or public improvements;

(c) The investment of funds by the city of St. Helens as authorized by law; or

(d) Banking, money management or other predominantly financial transactions of the city of St. Helens that, by their character, cannot practically be established under the competitive contractor selection procedures, based upon the findings of the finance director.

(8) Employee Benefits. Contracts for employee benefit plans as provided in ORS [243.105](#)(1), [243.125](#)(4), [243.221](#), [243.275](#), [243.291](#), [243.303](#) and [243.565](#).

(9) Exempt Under State Laws. Any other public contracting specifically exempted from the Oregon Public Contracting Code by another provision of law.

(10) Federal Law. Except as otherwise expressly provided in ORS [279C.800](#) through [279C.870](#), applicable federal statutes and regulations govern when federal funds are involved and the federal statutes or regulations conflict with any provision of the Oregon Public Contracting Code or this code, or require additional conditions in public contracts not authorized by the Oregon Public Contracting Code or this code. (Ord. 2942 § 7, 2005)

## **2.04.060 Model Rules.**

Except as specifically provided herein, or by subsequent ordinance or resolution, the Model Rules, Divisions 46, 47, and 49, adopted by the Attorney General under ORS Chapters [279A](#), [279B](#), and [279C](#), as they now exist, and as they may be amended in the future, and in the adopted ordinances of the city of St. Helens, are hereby adopted as the city of St. Helens public contracting rules. Words and phrases used in these rules that are defined in ORS Chapter [279A](#), [279B](#) or [279C](#) and in the Model Rules shall have the same meaning as in those statutes and rules. In the event that the rules adopted by the local contract review board do not address a particular situation, the Model Rules apply. (Ord. 2942 § 8, 2005)

## **2.04.070 Local contract review board.**

The city council of the city of St. Helens is designated as the local contract review board under the state of Oregon Public Contracting Code and this code. No special procedure shall be necessary for the city council, otherwise meeting properly at any regular or special meeting for the transaction of city business, to exercise the powers of the local contract review board. Except as expressly delegated under these regulations, the city council of the city of St. Helens reserves to itself the exercise of all of the duties and authority of a local contract review board under state and local law, including, but not limited to, the power and authority to:

- (1) Solicitation Methods Applicable to Contracts. Approve the use of contracting methods and exemptions from contracting methods for a specific contract or certain classes of contracts.
- (2) Brand Name Specifications. Exempt the use of brand name specifications for public improvement contracts.
- (3) Waiver of Performance and Payment Bonds. Approve the partial or complete waiver of the requirement for the delivery of a performance or payment bond for construction of a public improvement, other than in cases of emergencies.
- (4) Electronic Advertisement of Public Improvement Contracts. Authorize the use of electronic advertisements for public improvement contracts in lieu of publication in a newspaper of general circulation.
- (5) Appeals of Debarment and Prequalification Decisions. Hear properly filed appeals of the city administrator's determination of debarment or concerning prequalification.
- (6) Rulemaking. Adopt contracting rules under ORS [279A.065](#) and [279A.070](#) including, without limitation, rules for the procurement, management, disposal and control of goods, services, personal services, and public improvements.
- (7) Award. Award all contracts.
- (8) Delegation. Delegate to any employee or agent of the city of St. Helens any of the duties or authority of a contracting agency. (Ord. 2942 § 9, 2005)

## **2.04.080 Contracting agency.**

The city council of the city of St. Helens is designated as the contracting agency under the state of Oregon Public Contracting Code and this code. Except as expressly delegated under these regulations, the city council of the city of St. Helens reserves to itself the exercise of all of the duties

and authority of a contracting agency under state and local law. The contracting agency may, from time to time, delegate its powers and responsibilities by board order, resolution or ordinance consistent with the Oregon Public Contracting Code, the Model Rules, and ordinances of the city of St. Helens. (Ord. 2942 § 10, 2005)

## **2.04.090 Delegation of authority to city administrator.**

(1) General Authority. The city administrator shall be the purchasing manager for the city of St. Helens and is hereby authorized to issue all solicitations and to award all city of St. Helens contracts for which the contract price does not exceed ~~\$75,000~~\$100,000. Subject to the provisions of this chapter, the city administrator may adopt and amend all solicitation materials, contracts and forms required or permitted to be adopted by contracting agencies under the Oregon Public Contracting Code, this code or otherwise convenient for the city of St. Helens's contracting needs. The city administrator shall hear all solicitation and award protests.

(2) Solicitation Preferences. When possible, the city administrator shall use solicitation documents and evaluation criteria that:

(a) Give preference to goods that are fabricated or processed, or services that are performed entirely within the state of Oregon if the cost of the goods or services does not exceed 110 percent of the cost of the goods or services not fabricated or processed or performed entirely within the state of Oregon and, if more than one bidder or proposer qualifies for this preference, the city may give an additional five percent preference to a qualifying bidder or proposer that resides in or is headquartered in the state of Oregon; and

(b) Give preference to goods that are certified to be made from recycled products when such goods are available, can be substituted for nonrecycled products without a loss in quality, and the cost of goods made from recycled products is not significantly more than the cost of goods made from nonrecycled products.

(3) Delegation of City Administrator's Authority. The following delegations are authorized and approved by the contracting agency:

(a) Any of the responsibilities or authorities of the city administrator under this chapter may be delegated and subdelegated by written directive or order.

(b) Without such order, the city finance director, in the absence of the city administrator, shall serve as purchasing manager with all the powers, responsibilities and authorities of the administrator.

~~(c) Without such order, the city engineering manager, in the absence of the city administrator, shall serve as purchasing manager with all the powers, responsibilities and authorities of the administrator, as regards public improvements and public works contracts.~~

~~(d) Without such order, the following city department heads are delegated contract and purchasing authority, up to \$5,000: city attorney, finance director, engineering administrator, chief of police, planning administrator, building official, library director, and wastewater treatment superintendent. Amounts between \$5,000 and \$25,000 require approval of the designated department councilor.~~

~~(e) Without such order, each city department head is authorized to delegate contract and purchasing authority to another employee serving as "acting" in capacity in the department head's absence.~~

(fc) Without such order, city department heads may enter into contracts authorized under the city ordinances or by the appropriate approval authority ~~(e.g., planning commission)~~ when such contracts do not expend city funds, on behalf of their respective departments and the city, provided the contract contains the concurrence and signatures of the city administrator ~~and city attorney~~ and provided the department head provides notice of such contract by placing it on the council's agenda for acceptance at the next available city council meeting.

~~(g) Without such order, the city attorney together with any applicable city department head may enter into compliance agreements and/or settlement agreements (e.g., nuisance abatement compliance agreements) in avoidance of administrative proceedings or litigation, when such agreements do not exceed \$25,000, on behalf of their respective departments and the city, provided the agreement contains the concurrence and signatures of the department head, city administrator and city attorney and provided the department head provides notice of such agreement by placing it on the council's agenda for acceptance at the next available city council meeting.~~

~~(h) Without such order the city finance director or his/her designee, with the concurrence of the city administrator and the applicable department head, are authorized to pay any bills not to exceed \$10,000 without action of the full city council provided the finance director provides notice of all such bills by placing them on the council's agenda for acceptance at the next available city council meeting.~~

(di) The following safeguards and requirements set forth below for contracts, purchases, payments, and approval of exemptions shall be observed by the city purchasing manager and all department heads:

(i) Whenever a contract officer is authorized to contract or purchase, the contract officer's authority is expressly contingent on documented compliance with public contracting regulations adopted by the city. Every contract officer is specifically authorized and required to take such actions and grant such orders and exemptions, with supporting documentation, as are necessary to achieve strict compliance with city contracting laws and procedures.

~~(ii) With approval of the designated department councilor, department heads are authorized to enter into contracts and make purchases and approve contract exemptions between \$5,000 and not to exceed \$25,000 in public funds, provided the contract or purchase is authorized in the current city budget, and available funds are verified by the signature of either the finance director or city administrator on the contract/purchase order and the exemption order. Said contract or purchase must be made on contract forms and exemption forms approved and executed by the city attorney.~~

~~(iii) Contracts and purchases not to exceed \$5,000 may be executed or made by the city department head, and no exemption record is required to be made; provided, however, the department head shall verify available budgeted funds. The city attorney's signature is not required if standard contract forms are used. The city administrator or city finance director's signatures are not required to verify budgeted funds. Department heads are~~

~~solely responsible to keep track of such purchases and contracts and are encouraged to make a record of such purchases consistent with city policy for larger contracts.~~

~~(iv) Notwithstanding the delegation in this chapter, department heads are encouraged to keep their city council liaison informally advised of the substance of any contract or purchase. The city council, acting at a regular or special meeting, reserves to itself the power and authority to approve any contract, purchase, exemption order or authorize payment.~~

(4) Mandatory Review of Rules. Whenever the Oregon State Legislative Assembly enacts laws that cause the Attorney General to modify its Model Rules, the city administrator shall review the public contracting regulations, other than the Model Rules, and recommend to the city council of the city of St. Helens any modifications required to ensure compliance with statutory changes. (Ord. 3158 § 1, 2012; Ord. 3066 §§ 1, 2, 2007; Ord. 2942 § 11, 2005)

## **2.04.100 Public contracts – Additional definitions.**

The following terms used in these regulations shall have the meanings set forth below:

“Award” means the selection of a person to provide goods, services or public improvements under a public contract. The award of a contract is not binding on the city of St. Helens until the contract is executed and delivered by city of St. Helens.

“Bid” means a binding, sealed, written offer to provide goods, services or public improvements for a specified price or prices.

“Concession agreement” means a contract that authorizes and requires a private entity or individual to promote or sell, for its own business purposes, specified types of goods or services from real property owned or managed by the city of St. Helens, and under which the concessionaire makes payments to the city of St. Helens based, at least in part, on the concessionaire’s revenues or sales. The term “concession agreement” does not include a mere rental agreement, license or lease for the use of premises.

“Contract price” means the total amount paid or to be paid under a contract, including any approved alternates, and any fully executed change orders or amendments.

~~“Contract review board” or~~ “local contract review board” or “LCRB” means the city council of the city of St. Helens.

“Cooperative procurement” means a procurement conducted by or on behalf of one or more contracting agencies.

“Debarment” means a declaration by the city council or city administrator under ORS [279B.130](#) or [279C.440](#) that prohibits a potential contractor from competing for the city of St. Helens public contracts for a prescribed period of time.

“Disposal” means any arrangement for the transfer of property by the city of St. Helens under which the city of St. Helens relinquishes ownership.



“Emergency” means circumstances that create a substantial risk of loss, damage or interruption of services or a substantial threat to property, public health, welfare or safety; and require prompt execution of a contract to remedy the condition.

“Energy savings performance contract” means a contract with a qualified energy service company for the identification, evaluation, recommendation, design and construction of energy conservation measures that guarantee energy savings or performance.

“Findings” are the statements of fact that provide justification for a determination. Findings may include, but are not limited to, information regarding operation, budget and financial data; public benefits; cost savings; competition in public contracts; quality and aesthetic considerations; value engineering; specialized expertise needed; public safety; market conditions; technical complexity; availability; performance and funding sources.

“Goods” means any item or combination of supplies, equipment, materials or other personal property, including any tangible, intangible and intellectual property and rights and licenses in relation thereto.

“Informal solicitation” means a solicitation made in accordance with the city of St. Helens public contracting code to a limited number of potential contractors, in which the solicitation agent attempts to obtain at least three written quotes or proposals.

“Invitation to bid” means a publicly advertised request for competitive sealed bids.

“Model Rules” means the public contracting rules adopted by the Attorney General under ORS [279A.065](#).

“Offeror” means a person who submits a bid, quote or proposal to enter into a public contract with the city of St. Helens.

“Oregon Public Contracting Code” means ORS Chapters [279A](#), [279B](#) and [279C](#).

“Person” means a natural person or any other private or city of St. Helens entity having the legal capacity to enter into a binding contract.

“Personal services contract” means a contract with an independent contractor predominantly for services that require special training or certification, skill, technical, creative, professional or communication skills or talents, unique and specialized knowledge, or the exercise of judgment skills, and for which the quality of the service depends on attributes that are unique to the service provider. Such services include, but are not limited to, the services of architects, engineers, land surveyors, photogrammetrists, transportation planners, attorneys, auditors and other licensed professionals, artists, designers, computer programmers, performers, consultants and property managers. The city administrator shall have discretion to determine whether additional types of services not specifically mentioned in this paragraph fit within the definition of personal services.

“Proposal” means a binding offer to provide goods, services or public improvements with the understanding that acceptance will depend on the evaluation of factors other than, or in addition to, price. A proposal may be made in response to a request for proposals or under an informal solicitation.



“Public contract” means a sale or other disposal, or a purchase, lease, rental or other acquisition, by the city of St. Helens of personal property, services, including personal services, public improvements, public works, minor alterations, or ordinary repair or maintenance necessary to preserve a public improvement.

“Public improvement” means a project for construction, reconstruction or major renovation on real property by or for the city of St. Helens. “Public improvement” does not include:

(1) Projects for which no funds of the city of St. Helens are directly or indirectly used, except for participation that is incidental or related primarily to project design or inspection; or

(2) Emergency work, minor alteration, ordinary repair or maintenance necessary to preserve a public improvement.

“Purchasing manager” means the city administrator or designee.

“Qualified pool” means a pool of vendors who are prequalified to compete for the award of contracts for certain types of contracts or to provide certain types of services.

“Quote” means a price offer made in response to an informal or qualified pool solicitation to provide goods, services or public improvements.

“Request for proposals” means a publicly advertised request for sealed competitive proposals.

“Services” means and includes all types of services (including construction labor) other than personal services.

“Solicitation” means an invitation to one or more potential contractors to submit a bid, proposal, quote, statement of qualifications or letter of interest to the city of St. Helens with respect to a proposed project, procurement or other contracting opportunity. The word “solicitation” also refers to the process by which the city of St. Helens requests, receives and evaluates potential contractors and awards public contracts.

“Solicitation agent” means, with respect to a particular solicitation, the department head or person designated by the department head to conduct the solicitation and make an award.

“Solicitation documents” means all informational materials issued by the city of St. Helens for a solicitation, including, but not limited to, advertisements, instructions, submission requirements and schedules, award criteria, contract terms and specifications, and all laws, regulations and documents incorporated by reference.

“Standards of responsibility” means the qualifications of eligibility for award of a public contract. An offeror meets the standards of responsibility if the offeror has:

(1) Available the appropriate financial, material, equipment, facility and personnel resources and expertise, or ability to obtain the resources and expertise, necessary to indicate the capability of the offeror to meet all contractual responsibilities;

(2) A satisfactory record of performance. The solicitation agent shall document the record of performance of an offeror if the solicitation agent finds the offeror to be not responsible under this definition;

(3) A satisfactory record of integrity. The solicitation agent shall document the record of integrity of an offeror if the solicitation agent finds the offeror to be not responsible under this definition;

(4) Qualified legally to contract with the city of St. Helens;

(5) Supplied all necessary information in connection with the inquiry concerning responsibility. If an offeror fails to promptly supply information requested by the solicitation agent concerning responsibility, the solicitation agent shall base the determination of responsibility upon any available information or may find the offeror nonresponsible; and

(6) Not been debarred by the city of St. Helens, and, in the case of public improvement contracts, has not been listed by the Construction Contractors Board as a contractor who is not qualified to hold a public improvement contract.

“Surplus property” means personal property owned by the city of St. Helens which is no longer needed for use by the department to which such property has been assigned. (Ord. 3158 § 2, 2012; Ord. 2942 § 12, 2005)

## 2.04.110 Public contracts – Process for approval of special solicitation methods and exemptions.

(1) Authority of City of St. Helens City Council. In its capacity as local contract review board for the city of St. Helens, the city council, upon its own initiative or upon request of the city administrator, may create special ~~selectionsolicitationsolicitation~~, evaluation and award procedures for, or may exempt from competition, the award of a specific contract or class of contracts as provided in this section.

(2) Basis for Approval. The approval of a special solicitation method or exemption from competition must be based upon a record before the local contract review board, ~~that contains the following:~~

~~(a) The nature of the contract or class of contracts for which the special solicitation or exemption is requested;~~

~~(b) The estimated contract price or cost of the project, if relevant;~~

~~(c) Findings to support the substantial cost savings, enhancement in quality or performance or other public benefit anticipated by the proposed selection method or exemption from competitive solicitation;~~

~~(d) Findings to support the reason that approval of the request would be unlikely to encourage favoritism or diminish competition for the public contract or class of public contracts, or would otherwise substantially promote the public interest in a manner that could not practicably be realized by complying with the solicitation requirements that would otherwise be applicable under these regulations; and~~

~~(e) A description of the proposed alternative contracting methods to be employed.~~

~~(3)(a)~~ In making a determination regarding a special selection method, the local contract review board may consider the type, cost, amount of the contract or class of contracts, number of persons available to make offers, and such other factors as it may deem appropriate.

~~(4)(3)(a)~~ The local contract review board may approve the special solicitation or exemption after having received a written request that describes the contracting procedure, the goods or services or the class of goods or services that are the subject of the special procurement and the circumstances that justify the use of a special procurement under the standards set forth in subsection (2) of this section.

~~(5)(b)~~ The local contract review board may approve a special procurement if the local contract review board finds that the request submitted under subsection (2) of this section demonstrates that the use of a special procurement as described in the request:

(i) Is unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts; and

(ii) Is reasonably expected to result in substantial cost savings to the city or the public or otherwise substantially promotes the public interest in a manner that could not be practicably realized by complying with the requirements of the local contract review board rules without using an exemption.

(4) Notification of the approval of an exemption to the local contract review board rules shall be published at least once in at least one newspaper of general circulation in the St. Helens area and in as many additional issues and publications as the city may determine.

(5) Any affected person may protest the approval of a special exemption in accordance with ORS [279B.400](#) and OAR [137-047-0700](#), by filing such protest within seven days from the date of publication of notice of the approval.

(6) Commencement of Solicitation Prior to Approval. A solicitation may be issued prior to the approval of a special exemption under this section; provided, that the closing of the solicitation may not be earlier than five days after the date of the hearing at which the LCRB approves the exemption. If the LCRB fails to approve a requested exemption or requires the use of a solicitation procedure other than the procedures described in the issued solicitation documents, the issued solicitation may either be modified by addendum, or cancelled. (Ord. 3201 § 1, 2015; Ord. 2942 § 13, 2005)

## **2.04.120 Approved solicitation methods for classes of contracts.**

Having performed a public hearing in accordance with Oregon law, the following classes of public contracts and the method(s) that are approved for the award of each of the classes are hereby established by the city of St. Helens.

(1) Purchases from Nonprofit Agencies for Disabled Individuals. The city of St. Helens shall give a preference to goods, services and public improvements available from qualified nonprofit agencies for disabled individuals in accordance with the provisions of ORS [279.835](#) through [279.850](#).

## (2) Public Improvement Contracts.

(a) Any Public Improvement. Unless otherwise provided in the code, or state law, or approved for a special exemption, public improvement contracts in any amount may be issued only under an invitation to bid.

(b) Nontransportation Public Improvements Up to \$100,000. Public improvement contracts other than contracts for a highway, bridge or other transportation project for which the estimated contract price does not exceed \$100,000 may be awarded using an informal solicitation for quotes.

(c) Transportation Public Improvements Up to \$50,000. Contracts for which the estimated contract price does not exceed \$50,000 for highways, bridges or other transportation projects may be awarded using an informal solicitation for quotes.

(d) Privately Constructed Public Improvements. The city of St. Helens may contribute funding to a privately constructed public improvement project without subjecting the project to competitive solicitation requirements if all of the following conditions are met with respect to the entire public improvement project:

~~(i) The city of St. Helens's contribution to the project may not exceed 25 percent of the total cost of the project;~~

(ii) The city of St. Helens must comply with all applicable laws concerning the reporting of the project to the Bureau of Labor and Industries ~~as a public works project;~~

(iii) The general contractor for the project must agree in writing to comply with all applicable laws concerning reporting and payment of prevailing wages for the project;

~~(iiiiv)~~ The funds contributed to the project may not provide a pecuniary benefit to the owner of the development for which the project is being constructed, other than benefits that are shared by all members of the community;

(iv) The performance of the general contractor and the payment of labor for the project must be secured by performance and payment bonds or other cash-equivalent security that is acceptable to the city administrator to protect the city of St. Helens against defective performance and claims for payment; and

(vi) The contract for construction of the project must be amended, as necessary, to require the general contractor to maintain adequate workers' compensation and liability insurance and to protect and provide indemnification to the city of St. Helens for all claims for payment, injury or property damage arising from or related to the construction of the project.

## (3) Personal Services Contracts.

(a) Contracts for Architects, Engineers, Land Surveyors, Photogrammetrists, Transportation Planners, ~~financing~~ and Related Services.

(i) Personal services contracts with the above-enumerated professionals where the estimated cost of the contract does not exceed \$100,000, or in the case of an emergency, may be awarded in any manner which the solicitation agent deems appropriate to the city of St. Helens' needs, including by direct appointment or purchase.

(ii) Personal services contracts with the above-enumerated professionals where the estimated cost of the contract is greater than \$100,000 but does not exceed \$250,000 shall be awarded following a qualifications based selection procedure outlined in subsection (3)(a)(iii) of this section, except that the city may adjust the procedure to accommodate the city's scope, schedule or objectives for the particular project.

(iii) Personal services contracts with the above-enumerated professionals where the estimated cost of the contract is greater than \$250,000 shall be awarded following a qualifications based selection procedure focusing on the consultant's qualifications for the type of professional service required, taking into account the candidate's specialized experience, capabilities and technical competence; resources; record of past performance, including but not limited to price and cost data from previous projects, quality of work, ability to meet schedules, cost control and contract administration; ownership status and employment practices regarding minority, women and emerging small businesses or historically under utilized businesses; availability to the project locale; familiarity with the project locale; and proposed project management techniques. The city may not solicit or use pricing policies and proposals or other pricing information, including the number of hours proposed for the service required, expenses, hourly rates and overhead, to determine consultant compensation until after the city has selected a qualified professional. If the city and the professional are unable to negotiate a reasonable and fair amount of compensation, as determined solely by the city, the city shall, either orally or in writing, formally terminate negotiations with the selected candidate and may then negotiate with the next most qualified candidate. The negotiation process may continue in this manner through successive candidates until an agreement is reached or the contracting agency terminates the consultant contracting process.

(b) Contracts for Services Other than Those with Architects, Engineers, Land Surveyors, Photogrammetrists, Transportation Planners, ~~financing~~ and Related Services. Personal services contracts for services other than those with architects, engineers, land surveyors, photogrammetrists, transportation planners, ~~financing~~ and related professionals in any amount may be awarded under a publicly advertised request for competitive sealed proposals.

(c) Personal Service Contracts for Other Services Not Exceeding ~~\$450~~100,000. Contracts for personal services other than those with architects, engineers, land surveyors, photogrammetrists, transportation planners, ~~financing~~ and related professionals for which the estimated contract price does not exceed ~~\$450~~100,000 may be awarded using an informal solicitation for proposals.

(d) Seventy-Five-Thousand-Dollar Award from Qualified Pool. Contracts for personal services other than those with architects, engineers, land surveyors, photogrammetrists, transportation planners, ~~financing~~ and related professionals for which the estimated contract price does not exceed \$75,000 may be awarded by direct appointment without competition from a qualified pool.

(e) Personal Service Contracts Not Exceeding ~~\$2050~~2050,000 per Year. Contracts other than those with architects, engineers, land surveyors, photogrammetrists, transportation planners, ~~financing~~ and related professionals for which the solicitation agent estimates that payments will

not exceed \$2050,000 in any fiscal year or \$150,000 over the full term, including optional renewals, may be awarded under any method deemed in the city of St. Helens' best interest by the solicitation agent, including by direct appointment.

(f) Personal Service Contracts for Continuation of Work. Contracts other than those with architects, engineers, land surveyors, photogrammetrists, transportation planners, financing and related professionals of not more than \$150,000 for the continuation of work by a contractor who performed preliminary studies, analysis or planning for the work under a prior contract may be awarded without competition if the prior contract was awarded under a competitive process and the solicitation agent determines that use of the original contractor will significantly reduce the costs of, or risks associated with, the work.

(4) Hybrid Contracts. The following classes of contracts include elements of construction of public improvements as well as personal services and may be awarded under a request for proposals, unless exempt from competitive solicitation.

(a) Design/Build and CM/GC Contracts. Contracts for the construction of public improvements using a design/build or construction manager/general contractor construction method shall be awarded under a request for proposals. The determination to construct a project using a design/build or construction manager/general contractor construction method must be approved by the city council or designee, upon application of the solicitation agent, in which the solicitation agent submits facts that support a finding that the construction of the improvement under the proposed method is likely to result in cost savings, higher quality, reduced errors, or other benefits to the city of St. Helens.

(b) Energy Savings Performance Contracts. Unless the contract qualifies for award under another classification in this section, contractors for energy savings performance contracts shall be selected under a request for proposals in accordance with the city of St. Helens's public contracting regulations.

(5) Contracts for Goods and Services.

(a) Any Procurement. The procurement of goods or services, or goods and services, in any amount may be made under either an invitation to bid or a request for proposals.

(b) Procurements Up to \$150,000. The procurement of goods or services, or goods and services, for which the estimated contract price does not exceed \$150,000 may be made under an informal solicitation for either quotes or proposals.

(6) Contracts Subject to Award at Solicitation Agent's Discretion. The following classes of contracts may be awarded in any manner which the solicitation agent deems appropriate to the city of St. Helens's needs, including by direct appointment or purchase. Except where otherwise provided, the solicitation agent shall make a record of the method of award.

(a) Advertising. Contracts for the placing of notice or advertisements in any medium.

(b) Amendments. Contract amendments shall not be considered to be separate contracts if made in accordance with the public contracting regulations.

(c) Animals. Contracts for the purchase of animals (e.g., specifically to include police dogs).

(d) Contracts Up to \$5,000. Contracts of any type for which the contract price does not exceed \$5,000 without a record of the method of award.

(e) Copyrighted Materials – Library Materials. Contracts for the acquisition of materials entitled to copyright, including, but not limited to, works of art and design, literature and music, or materials even if not entitled to copyright, purchased for use as library lending materials.

(f) Equipment Repair. Contracts for equipment repair or overhauling, provided the service or parts required are unknown and the cost cannot be determined without extensive preliminary dismantling or testing.

(g) Governmentally Regulated Items. Contracts for the purchase of items for which prices or selection of suppliers are regulated by a governmental authority.

(h) Insurance. Insurance and service contracts as provided for under ORS [414.115](#), [414.125](#), [414.135](#) and [414.145](#).

(i) Nonowned Property. Contracts or arrangements for the sale or other disposal of abandoned property or other personal property not owned by the city of St. Helens.

(j) Sole Source Contracts. Contracts for goods or services which are available from a single source may be awarded without competition.

(k) Specialty Goods for Resale. Contracts for the purchase of specialty goods by city of St. Helens for resale to consumers.

(l) Sponsor Agreements. Sponsorship agreements, under which the city of St. Helens receives a gift or donation in exchange for recognition of the donor.

(m) Structures. Contracts for the disposal of structures located on property owned by the city of St. Helens.

(n) Renewals. Contracts that are being renewed in accordance with their terms are not considered to be newly issued contracts and are not subject to competitive procurement procedures.

(o) Temporary Extensions or Renewals. Contracts for a single period of one year or less, for the temporary extension or renewal of an expiring and nonrenewable or recently expired contract, other than a contract for public improvements.

(p) Temporary Use of Property Owned by the City of St. Helens. The city of St. Helens may negotiate and enter into a license, permit or other contract for the temporary use of property owned by the city of St. Helens without using a competitive selection process if:

(i) The contract results from an unsolicited proposal to the city of St. Helens based on the unique attributes of the property or the unique needs of the proposer;

(ii) The proposed use of the property is consistent with the city of St. Helens's use of the property and the public interest; and



(iii) The city of St. Helens reserves the right to terminate the contract without penalty, in the event that the city of St. Helens determines that the contract is no longer consistent with the city of St. Helens's present or planned use of the property or the public interest.

(q) Used Property. A solicitation agent, for procurements up to \$2050,000, and the city administrator, for procurements in excess of \$2050,000, may contract for the purchase of used property by negotiation if such property is suitable for the city of St. Helens's needs and can be purchased for a lower cost than substantially similar new property. For this purpose the cost of used property shall be based upon the life-cycle cost of the property over the period for which the property will be used by the city of St. Helens. The city administrator shall record the findings that support the purchase over \$2050,000.

(r) Utilities. Contracts for the purchase of steam, power, heat, water, telecommunications services, and other utilities.

#### (7) Contracts Required by Emergency Circumstances.

(a) In General. When an official with authority to enter into a contract on behalf of the city of St. Helens determines that immediate execution of a contract within the official's authority is necessary to prevent substantial damage or injury to persons or property, the official may execute the contract without competitive selection and award or city council or city administrator approval, but, where time permits, the official shall attempt to use competitive price and quality evaluation before selecting an emergency contractor.

(b) Reporting. An official who enters into an emergency contract shall, as soon as possible, in light of the emergency circumstances, (i) document the nature of the emergency, the method used for selection of the particular contractor and the reason why the selection method was deemed in the best interest of the city of St. Helens and the public, and (ii) notify the city administrator and city council of the facts and circumstances surrounding the emergency execution of the contract.

(c) Emergency Public Improvement Contracts. A public improvement contract may only be awarded under emergency circumstances if the city, pursuant to city ordinance, has made a written declaration of emergency. Any public improvement contract awarded under emergency conditions must be awarded within 60 days following the declaration of an emergency unless the city council grants an extension of the emergency period. Where the time delay needed to obtain a payment or performance bond for the contract could result in injury or substantial property damage, the city administrator may waive the requirement for all or a portion of required performance and payment bonds.

#### (8) Federal Purchasing Programs. Goods and services may be purchased without competitive procedures under a local purchasing program administered by the United States General Services Administration ("GSA") as provided in this subsection.

(a) The procurement must be made in accordance with procedures established by GSA for procurements by local government, and under purchase orders or contracts submitted to and approved by the city administrator. The solicitation agent shall provide the city administrator with a copy of the letter, memorandum or other documentation from GSA establishing permission to the city of St. Helens to purchase under the federal program.

(b) The price of the goods or services must be established under price agreements between the federally approved vendor and GSA.

(c) The price of the goods or services must be less than the price at which such goods or services are available under state or local cooperative purchasing programs that are available to the city of St. Helens.

(d) If a single purchase of goods or services exceeds \$150,000, the solicitation agent must obtain informal written quotes or proposals from at least two additional vendors (if reasonably available) and find, in writing, that the goods or services offered by GSA represent the best value for the city of St. Helens. This subsection does not apply to the purchase of equipment manufactured or sold solely for military or law enforcement purposes.

(9) Cooperative Procurement Contracts. Cooperative procurements may be made without competitive solicitation as provided in the Oregon Public Contracting Code.

(10) Surplus Property.

(a) General Methods. Surplus property may be disposed of by any of the following methods upon a determination by the solicitation agent that the method of disposal is in the best interest of the city of St. Helens. Factors that may be considered by the solicitation agent include costs of sale, administrative costs, and public benefits to the city of St. Helens. The solicitation agent shall maintain a record of the reason for the disposal method selected and the manner of disposal, including the name of the person to whom the surplus property was transferred.

(i) Other Governments. Without competition, by transfer or sale to another governmental entity.

(ii) Auction. By publicly advertised auction to the highest bidder.

(iii) Bids. By publicly advertised invitation to bid.

(iv) Liquidation Sale. By liquidation sale using a commercially recognized third-party liquidator selected in accordance with rules for the award of personal services contracts.

(v) Fixed Price Sale. The solicitation agent may establish a selling price based upon an independent appraisal or published schedule of values generally accepted by the insurance industry, schedule and advertise a sale date, and sell to the first buyer meeting the sales terms.

(vi) Trade-In. By trade-in, in conjunction with acquisition of other price-based items under a competitive solicitation. The solicitation shall require the offer to state the total value assigned to the surplus property to be traded.

(vii) Donation. By donation to any organization operating within or providing a service to residents of the city of St. Helens which is recognized by the Internal Revenue Service as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

(b) Disposal of Property with Minimal Value. Surplus property which has a value of less than \$500.00, or for which the costs of sale are likely to exceed sale proceeds may be disposed of by any means determined to be cost-effective, including by disposal as waste. The official making the disposal shall make a record of the value of the item and the manner of disposal.

(c) Personal-Use Items. An item (or indivisible set) of specialized and personal use, other than police officer's handguns, with a current value of less than \$100.00 may be sold to the employee or retired or terminated employee for whose use it was purchased. These items may be sold for fair market value without bid and by a process deemed most efficient by the city administrator.

(d) Police Officers' Handguns. Upon honorable retirement from service with the city of St. Helens, a police officer may purchase the handgun that ~~she or he~~ was ~~were~~ using at the time of retirement. The purchase price shall be the fair market value of the handgun as determined by an independent appraisal performed by a qualified weapons appraiser. An officer electing to exercise this option shall notify the city of St. Helens at least 30 days prior to ~~his or her~~ their expected retirement date and request an appraisal of the handgun. Upon receipt of the appraisal fee from the officer the city of St. Helens shall arrange for the appraisal. A copy of the completed appraisal shall be provided to the officer, who shall have up to 30 days from the date of retirement to purchase the handgun for the appraised fair market value.

(e) Restriction on Sale to City of St. Helens Employees. City of St. Helens employees shall not be restricted from competing, as members of the public, for the purchase of publicly sold surplus property, but shall not be permitted to offer to purchase property to be sold to the first qualifying bidder until at least three days after the first date on which notice of the sale is first publicly advertised.

(f) Conveyance to Purchaser. Upon the consummation of a sale of surplus personal property, the city of St. Helens shall make, execute and deliver a bill of sale signed on behalf of the city of St. Helens, conveying the property in question to the purchaser and delivering possession, or the right to take possession, of the property to the purchaser.

#### (11) Concession Agreements.

(a) General. No part of a concession agreement shall contain or constitute a waiver of any generally applicable rules, code provisions or requirements of the city of St. Helens concerning regulation, registration, licensing, inspection, or permit requirements for any construction, rental or business activity.

(b) Classes of Contracts Eligible for Award without Competition. The following concession agreements may be awarded by any method deemed appropriate by the solicitation agent, including, without limitation, by direct appointment, private negotiation, from a qualified pool, or using a competitive process.

(i) Contracts Under \$5,000. Contracts under which the solicitation agent estimates that receipts by the city of St. Helens will not exceed \$5,000 in any fiscal year and \$50,000 in the aggregate.

(ii) Single Event Concessions. Concessions to sell or promote food, beverages, merchandise or services at a single public event shall be awarded based on any method

determined by the city administrator to provide a fair opportunity to all persons desiring to operate a concession, but in which the promotion of the public interest and success of the event shall be of predominant importance.

(c) Competitive Award. Concession agreements solicited by the city of St. Helens for the use of designated public premises for a term greater than a single event shall be awarded as follows:

(i) Small Concessions. For concession agreements for which the concessionaire's projected annual gross revenues are estimated to be \$500,000 or less, the city administrator has discretion to use either an informal solicitation or formal request for proposals process applicable to contracts for personal services. If the proposals received indicate a probability that the concessionaire's annual gross revenues will exceed \$500,000, the solicitation agent may, but shall not be required to, reissue the solicitation as a request for proposals.

(ii) Major Concessions. Concession agreements for which the concessionaire's projected annual gross revenues under the contract are estimated to exceed \$500,000 annually shall be awarded using a request for proposals. (Ord. 3158 § 3, 2012; Ord. 2942 § 14, 2005)

## **2.04.130 Public contracts – Informal solicitation procedures.**

The city of St. Helens may use the following procedure for informal solicitations in lieu of the procedures set forth in the Model Rules.

### (1) Informally Solicited Quotes and Proposals.

(a) Solicitation of Offers. When authorized by these regulations, an informal solicitation may be made by general or limited advertisement to a certain group of vendors, by direct inquiry to persons selected by the solicitation agent, or in any other manner which the solicitation agent deems suitable for obtaining competitive quotes or proposals. The solicitation agent shall deliver or otherwise make available to potential offerors a written scope of work, a description of how quotes or proposals are to be submitted and description of the criteria for award.

(b) Award. The solicitation agent shall attempt to obtain a minimum of three written quotes or proposals before making an award. If the award is made solely on the basis of price, the solicitation agent shall award the contract to the responsible offeror that submits the lowest responsive quote. If the award is based on criteria other than, or in addition to, price, the solicitation agent shall award the contract to the responsible offeror that will best serve the interest<sup>s</sup> of the city of St. Helens, based on the criteria for award.

(c) Records. A written record of all persons solicited and offers received shall be maintained. If three offers cannot be obtained, a lesser number will suffice, provided that a written record is made of the effort to obtain the quotes.

### (2) Qualified Pools.

(a) General. To create a qualified pool, the city administrator shall invite prospective contractors to submit their qualifications to the city of St. Helens for inclusion as participants in

a pool of contractors qualified to provide certain types of goods, services, or projects including personal services, and public improvements.

(b) Advertisement. The invitation to participate in a qualified pool shall be advertised in the manner provided for advertisements of invitations to bid and requests for proposals by publication in at least one newspaper of general statewide circulation. If qualification will be for a term that exceeds one year or allows open entry on a continuous basis, the invitation to participate in the pool must be republished at least once per year and shall be posted at the city of St. Helens's main office and on its website.

(c) Contents of Solicitation. Requests for participation in a qualified pool shall describe the scope of goods or services or projects for which the pool will be maintained and the minimum qualifications for participation in the pool, which may include, but shall not be limited to, qualifications related to financial stability, contracts with manufacturers or distributors, certification as an emerging small business, insurance, licensure, education, training, experience and demonstrated skills of key personnel, access to equipment, and other relevant qualifications that are important to the contracting needs of the city of St. Helens.

(d) Contract. The operation of each qualified pool may be governed by the provisions of a pool contract to which the city of St. Helens and all pool participants are parties. The contract shall contain all terms required by the city of St. Helens, including, without limitation, terms related to price, performance, business registration or licensure, continuing education, insurance, and requirements for the submission, on an annual or other periodic basis, of evidence of continuing qualification. The qualified pool contract shall describe the selection procedures that the city of St. Helens may use to issue contract job orders. The selection procedures shall be objective and open to all pool participants and afford all participants the opportunity to compete for or receive job awards. Unless expressly provided in the contract, participation in a qualified pool will not entitle a participant to the award of any city of St. Helens contract.

(e) Use of Qualified Pools. Subject to the provisions of these regulations concerning methods of solicitation for classes of contracts, the solicitation agent shall award all contracts for goods or services of the type for which a qualified pool is created from among the pool's participants, unless the solicitation agent determines that the best interests of the city of St. Helens require solicitation by public advertisement, in which case, pool participants shall be notified of the solicitation and invited to submit competitive proposals.

(f) Amendment and Termination. The city administrator may discontinue a qualified pool at any time, or may change the requirements for eligibility as a participant in the pool at any time, by giving notice to all participants in the qualified pool.

(g) Protest of Failure to Qualify. The city administrator shall notify any applicant who fails to qualify for participation in a pool that it may appeal a qualified pool decision to the city council in the manner described in this code. (Ord. 2942 § 15, 2005)

## **2.04.140 Public contracts – Use of brand name specifications for public improvements.**

(1) In General. Specifications for contracts shall not expressly or implicitly require any product by one brand name or mark, nor the product of one particular manufacturer or seller, except for the following reasons:

(a) It is unlikely that such exemption will encourage favoritism in the awarding of public improvement contracts or substantially diminish competition for public improvement contracts; or

(b) The specification of a product by brand name or mark, or the product of a particular manufacturer or seller, would result in substantial cost savings to the city of St. Helens; or

(c) There is only one manufacturer or seller of the product of the quality required; or

(d) Efficient utilization of existing equipment, systems or supplies requires the acquisition of compatible equipment or supplies.

(2) Authority of City Administrator. The city administrator shall have authority to determine whether an exemption for the use of a specific brand name specification should be granted by recording findings that support the exemption based on the provisions of subsection (1) of this section.

(3) Brand Name or Equivalent. Nothing in this section prohibits the city of St. Helens from using a "brand name or equivalent" specification, from specifying one or more comparable products as examples of the quality, performance, functionality or other characteristics of the product needed by the city of St. Helens, or from establishing a qualified product list. (Ord. 2942 § 16, 2005)

## **2.04.150 Public contracts – Bid, performance and payment bonds.**

(1) Solicitation Agent May Require Bonds. The solicitation agent may require bid security and a good and sufficient performance and payment bond even though the contract is of a class that is exempt from the requirement.

(2) Bid Security. Except as otherwise exempted, the solicitations for all contracts that include the construction of a public improvement and for which the estimated contract price will exceed \$75,000 shall require bid security. Bid security for a request for proposal may be based on the city of St. Helens's estimated contract price.

(3) Performance Bonds.

(a) General. Except as provided in these regulations, all public contracts are exempt from the requirement for the furnishing of a performance bond.

(b) Contracts Involving Public Improvements. Prior to executing a contract for more than \$50,000 that includes the construction of a public improvement, the contractor must deliver a performance bond in an amount equal to the full contract price conditioned on the faithful performance of the contract in accordance with the plans, specifications and conditions of the contract. The performance bond must be solely for the protection of the city of St. Helens and any public agency that is providing funding for the project for which the contract was awarded.

(c) Cash-in-Lieu. The city administrator may permit the successful offeror to submit a cashier's check or certified check in lieu of all or a portion of the required performance bond.

(4) Payment Bonds.



(a) General. Except as provided in these regulations, all public contracts are exempt from the requirement for the furnishing of a payment bond.

(b) Contracts Involving Public Improvements. Prior to executing a contract for more than \$50,000 that includes the construction of a public improvement, the contractor must deliver a payment bond equal to the full contract price, solely for the protection of claimants under ORS [279C.600](#).

(5) Design/Build Contracts. If the public improvement contract is with a single person to provide both design and construction of a public improvement, the obligation of the performance bond for the faithful performance of the contract must also be for the preparation and completion of the design and related services covered under the contract. Notwithstanding when a cause of action, claim or demand accrues or arises, the surety is not liable after final completion of the contract, or longer if provided for in the contract, for damages of any nature, economic or otherwise and including corrective work, attributable to the design aspect of a design-build project, or for the costs of design revisions needed to implement corrective work.

(6) Construction Manager/General Contractor Contracts. If the public improvement contract is with a single person to provide construction manager and general contractor services, in which a guaranteed maximum price may be established by an amendment authorizing construction period services following preconstruction period services, the contractor shall provide the bonds required by subsection (1) of this section upon execution of an amendment establishing the guaranteed maximum price. The city of St. Helens shall also require the contractor to provide bonds equal to the value of construction services authorized by any early work amendment in advance of the guaranteed maximum price amendment. Such bonds must be provided before construction starts.

(7) Surety – Obligation. Each performance bond and each payment bond must be executed solely by a surety company or companies holding a certificate of authority to transact surety business in Oregon. The bonds may not constitute the surety obligation of an individual or individuals. The performance and payment bonds must be payable to the city of St. Helens or to the public agency or agencies for whose benefit the bond is issued, as specified in the solicitation documents, and shall be in a form approved by the city administrator.

(8) Emergencies. In cases of emergency, or when the interest or property of the city of St. Helens probably would suffer material injury by delay or other cause, the requirement of furnishing a good and sufficient performance bond and a good and sufficient payment bond for the faithful performance of any public improvement contract may be excused, if a declaration of such emergency is made in accordance with the provisions of SHMC [2.04.120\(7\)](#), unless the city council requires otherwise. (Ord. 2942 § 17, 2005)

## **2.04.160 Public contracts – Electronic advertisement of public improvement contracts.**

In lieu of publication in a newspaper of general circulation in the city of St. Helens metropolitan area, the advertisement for an invitation to bid or request for proposals for a contract involving a public improvement may be published electronically by posting on the city of St. Helens's website; provided, that the following conditions are met:

(1) The placement of the advertisement is on a location within the website that is maintained on a regular basis for the posting of information concerning solicitations for projects of the type for which the invitation to bid or request for proposals is issued; and



(2) The solicitation agent determines that the use of electronic publication will be at least as effective in encouraging meaningful competition as publication in a newspaper of general circulation in the city of St. Helens metropolitan area and will provide costs savings for the city of St. Helens, or that the use of electronic publication will be more effective than publication in a newspaper of general circulation in the city of St. Helens metropolitan area in encouraging meaningful competition. (Ord. 2942 § 18, 2005)

## **2.04.170 Appeal of debarment or prequalification decision.**

(1) Right to Hearing. Any person who has been debarred from competing for city of St. Helens contracts or for whom prequalification has been denied, revoked or revised may appeal the decision to the city council as provided in this section.

(2) Filing of Appeal. The person must file a written notice of appeal with the city administrator within three business days after the prospective contractor's receipt of notice of the determination of debarment, or denial of prequalification.

(3) Notification. Immediately upon receipt of such notice of appeal, the city administrator shall notify the city council of the appeal.

(4) Hearing. The procedure for appeal from a debarment or denial, revocation or revision of prequalification shall be as follows:

(a) Promptly upon receipt of notice of appeal, the city administrator shall notify the appellant of the time and place of the hearing;

(b) The city council shall conduct the hearing and decide the appeal within 30 days after receiving notice of the appeal from the city administrator; and

(c) At the hearing, the city council shall consider de novo the notice of debarment, or the notice of denial, revocation or revision of prequalification, the standards of responsibility upon which the decision on prequalification was based, or the reasons listed for debarment, and any evidence provided by the parties.

(5) Decision. The city council shall set forth in writing the reasons for the decision.

(6) Costs. The city council may allocate the costs for the hearing between the appellant and the city of St. Helens. The allocation shall be based upon facts found by the council and stated in the decision that, in the council's opinion, warrant such allocation of costs. If the council does not allocate costs, the costs shall be paid as by the appellant, if the decision is upheld, or by the city of St. Helens, if the decision is overturned.

(7) Judicial Review. The decision of the city council may be reviewed only upon a petition in the circuit court of Columbia County filed within 15 days after the date of the decision. (Ord. 2942 § 19, 2005)

## 2.12 CITY ADMINISTRATOR

### 2.12.010 Position created.

There is hereby created and established for the city of St. Helens the office and position of “city administrator.” ~~and the person who fills such position shall be appointed in the manner and for such term as all other officers of the city of St. Helens are appointed in accordance with the City Charter. The position shall be held by the city recorder and administered by him/her in conjunction with his/her other duties.~~ (Ord. 3030 § 2, 2007)

### 2.12.020 ~~Financial department head.~~

~~The city administrator shall report directly to the city council, shall be the administrative head of the central business office and the financial department of the city of St. Helens, and shall do all things with respect to management of the city and as central business office and the financial department as are permitted or directed by statute, charter, ordinance and the city council. (Ord. 3030 § 3, 2007)~~

### 2.12.030 Power and authority – Duties.

The city administrator shall exercise all authority and power herein delegated, or hereinafter delegated, to him/her~~them~~ by the city council. ~~and shall have the same responsibility with respect to the central business office and financial department as do other municipal officers with respect to the departments of which they are the department head.~~ The duties of the city administrator are listed in the job description that is approved by City Council. shall include, but shall not be limited to, any one or all of the following: preparing, reviewing and approving all orders on the treasury; investing municipal funds; budgeting municipal funds; internal auditing of all municipal financial operations; managing and administering the central business office and finance department; and managing the cash inflow and outflow of the city of St. Helens. The duties and responsibilities hereinabove listed shall not be interpreted as limiting the authority of the city administrator but shall be interpreted as merely a partial definition of his/her~~their~~ responsibilities. (Ord. 3030 § 4, 2007)

### 2.12.040 Salary.

The salary of the city administrator shall be fixed included in the yearly unrepresented salary schedule that is approved by City Council.~~and determined by action of the city council. (Ord. 3030 § 5, 2007)~~

## 2.20 MUNICIPAL JUDGES

### 2.20.010 Appointment resolution.

In order to appoint any municipal court judge as the judicial officer of the city under Chapter V, Section 21, of the Charter of the city of St. Helens, the council shall enact a resolution naming the appointee, the effective date of the appointee, and stating terms and conditions of employment. Municipal court judges shall have all the charter and statutory powers of judicial officers and city judges. (Ord. 2383 § 1, 1982)

### 2.20.020 Pro tempore judges.

There may be more than one municipal court judge appointed for the same term. One or more municipal judges pro tempore may be appointed by resolution to act in the absence of an appointed municipal court judge.

(1) Pro tempore judges shall have all the charter and statutory powers of judicial officers and city judges.

(2) Pro tempore judges shall be appointed for whatever term and at whatever compensation designated by the council. (Ord. 2383 § 2, 1982)

### 2.20.030 Administration.

The municipal court judge so designated shall conduct court for the transaction of judicial business and administer the court calendar. (Ord. 2383 § 3, 1982)

### 2.20.040 Salary.

The salary of the municipal court judge shall be established ~~by contract terms agreed pursuant to the personal services agreement agreed upon by the municipal court judge and city council annually by resolution during the city budget process and said salary shall not be reduced during the judge's term of office. Compensation for municipal court judges pro tem shall be set in written order or resolution of the council.~~ Municipal court judge and pro tem compensation is not determined based upon fluctuations in municipal court revenue. (Ord. 2947 § 2, 2005)

### 2.20.050 Term of office.

~~The municipal court judge term of office shall be determined by the agreed contract terms that are agreed between the municipal court judge and city council. The term of office of the St. Helens municipal court judge shall be stated in the resolution appointing the judge pursuant to this chapter. The term shall be two years from the date of initial appointment when the appointment is made in an odd-numbered year. Otherwise, the appointment is for one year or the unexpired term of the departing judge. The term for a pro tem shall be as set forth in the resolution appointing the judge pro tem.~~ (Ord. 2947 § 3, 2005)

### 2.20.060 Standards of conduct and performance.

The city of St. Helens municipal court judge shall conduct ~~himself or herself~~ themselves in accordance with all of the applicable rules of the Government Standards and Practices Commission and applicable rules in the Oregon Code of Judicial Conduct, Rules of Professional Conduct, Revised Oregon Code of Judicial Conduct, including but not limited to the following:

~~(1) The judge shall have his or her performance and conduct shall be measured against the following standards:~~

~~(a) A judge shall observe high standards of conduct so that the integrity, impartiality and independence of the judiciary are preserved and shall act at all times in a manner that promotes public confidence in the judiciary and the judicial system.~~

~~(b) A judge shall not commit a criminal act.~~

~~(c) A judge shall not engage in conduct that reflects adversely on the judge's character, competence, temperament or fitness to serve as a judge.~~

~~(d) A judge shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation.~~

~~(e) A judge shall not allow family, social or other relationships to influence judicial conduct or judgment.~~

~~(f) A judge shall not use the position to advance the private interests of the judge or any person, nor shall a judge convey or permit anyone to convey the impression that anyone has a special influence with the judge, but a judge may provide a character or ability reference for a person about whom the judge has personal knowledge.~~

~~(g) A judge shall not testify as a character witness except pursuant to subpoena.~~

~~(h) A judge shall not hold membership in any organization that the judge knows is a discriminatory organization. For purposes of this rule, "discriminatory organization" means an organization that, as a policy or practice and contrary to applicable federal or state law, treats persons less favorably in granting membership privileges, allowing participation or providing services on the basis of sex, race, national origin, religion, sexual orientation, marital status, disability or age.~~

~~(2) The judge shall be impartial and diligent in the performance of his or her judicial duties:~~

~~(a) A judge's performance of judicial duties shall take precedence over all other activities, and a judge shall not neglect the business of the court.~~

~~(i) A judge shall provide to every person who has a legal interest in a proceeding, and to that person's lawyer, the right to be heard according to law.~~

~~(ii) A judge shall not communicate or permit or cause another to communicate with a lawyer or party about any matter in an adversary proceeding outside the course of the proceeding, except with the consent of the parties or as expressly authorized by law or permitted by this rule.~~

~~(iii) A judge may communicate ex parte when circumstances require for scheduling, administrative purposes or emergencies that do not deal with substantive matters or issues on the merits; provided, that:~~

~~(A) The judge reasonably believes that no party will gain a procedural or tactical advantage as a result of the ex parte communication; and~~

~~(B) The judge makes provision by delegation or otherwise promptly to notify all other parties of the substance of the ex parte communication and allows an opportunity to respond.~~

~~(iv) Except as provided in subsection (2)(a)(v) of this section, a judge shall promptly disclose to the parties any communication not otherwise prohibited by this rule that will or reasonably may influence the outcome of any adversary proceeding. The disclosure shall identify the person with whom the communication occurred and the substance of the communication, and the judge shall give the parties a reasonable opportunity to respond to the information disclosed.~~

~~(v) Subsection (2)(a)(iv) of this section does not limit or require disclosure to a party of any discussions about legal or administrative matters or other matters in the record related to a case that occur between a judge and any of the following: another judge of the same level; employees of the court; or employees of the judicial branch of government.~~

~~(b) A judge shall not, while a proceeding is pending in any court within the judge's jurisdiction, make any public comment that might reasonably be expected to affect the outcome or impair the fairness of the proceeding. The judge shall require similar abstention on the part of court personnel who are subject to the judge's direction or control. This rule shall not prohibit a judge from making public statements in the course of official duties, from explaining for public information the procedures of the courts, from establishing a defense to a criminal charge or civil claim against the judge or from otherwise responding to allegations concerning the judge's conduct in the proceeding.~~

~~(c) A judge possessing knowledge that another judge or a lawyer has committed a violation of the rules of judicial or professional conduct or law that raises a substantial question as to that individual's honesty, trustworthiness or fitness as a judge or lawyer shall inform the Commission on Judicial Fitness and Disability or the Oregon State Bar Disciplinary Counsel.~~

~~(d) A judge possessing knowledge or evidence concerning another judge or lawyer shall reveal that knowledge or evidence on request by a tribunal or other authority empowered to investigate or act upon the conduct.~~

~~(e) A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality reasonably may be questioned, including but not limited to instances when:~~

~~(i) The judge has a bias or prejudice concerning a party or has personal knowledge of disputed evidentiary facts concerning the proceeding;~~

~~(ii) The judge served as a lawyer in the matter in controversy, or a lawyer with whom the judge previously was associated served during the association as a lawyer in the matter, or the judge or the lawyer has been a material witness in the matter;~~

~~(iii) The judge knows that the judge, individually or as a fiduciary, or the judge's spouse, parent or child, wherever residing, or any other person residing in the judge's household has a financial interest in the subject matter in controversy, is a party to the proceeding or has any other interest that could be substantially affected by the outcome of the proceeding;~~

~~(iv) The judge, the judge's spouse, parent or child, wherever residing, or any other person residing in the judge's household:~~

~~(A) Is a party to the proceeding, or an officer, director, partner or trustee of a party;~~

~~(B) Is acting as a lawyer in the proceeding;~~

~~(C) Is known by the judge to have an interest that could be substantially affected by the outcome of the proceeding; or~~

~~(D) Is, to the judge's knowledge, likely to be a material witness in the proceeding.~~

~~(f) A judge shall be responsible for knowing about the judge's financial interests, including such interests relating to service as a fiduciary, and shall make reasonable efforts to be informed about the financial interests of the judge's spouse, domestic partner, parents and children, wherever residing.~~

~~(g) For purposes of this subsection:~~

~~(i) "Fiduciary" includes relationships such as personal representative, trustee, conservator and guardian;~~

~~(ii) "Financial interest" means more than de minimus ownership of a legal or equitable interest or a relationship as director, advisor or other active participant in the affairs of a party, except that:~~

~~(A) Ownership in a mutual or common investment fund that owns securities is not a "financial interest" unless the judge participates in the management of the fund;~~

~~(B) Holding an office in an educational, religious, charitable, fraternal or civic organization is not a "financial interest" in property of the organization;~~

~~(C) The proprietary interest of a policyholder in a mutual insurance company, a depositor in mutual savings association, or a similar proprietary interest, is a "financial interest" in the organization only if the outcome of the proceeding could substantially affect the value of the interest; and~~

~~(D) Ownership of government securities is a "financial interest" in the issuer only if the outcome of the proceeding could substantially affect the value of the securities.~~

~~(h) A judge who is disqualified under this subsection may, rather than withdraw from the proceeding, disclose on the record the basis of the disqualification. If, after such disclosure, the parties all agree in writing or on the record that the judge's relationship is immaterial or that the judge's financial interest is insubstantial, the judge may participate in the proceeding. Any writing, signed by or on behalf of all parties, shall be incorporated in the record of the proceeding.~~

~~(i) A judge shall be faithful to the law and shall decide matters on the basis of the facts and applicable law.~~

~~(j) A judge shall not be swayed by partisan interests, public clamor or fear of criticism.~~

~~(k) A judge shall maintain order and decorum in proceedings before the judge.~~

~~(l) A judge shall be patient, dignified and courteous to litigants, jurors, witnesses, lawyers, court personnel and members of the public.~~

~~(m) A judge shall not act in a way that the judge knows, or reasonably should know, would be perceived by a reasonable person as biased or prejudiced toward any of the litigants, jurors, witnesses, lawyers or members of the public.~~

~~(n) A judge shall require lawyers and court personnel who are subject to the judge's direction or control to act in accord with the principles embodied in subsections (1) and (2) of this section. (JR 2-101—JR 2-110)~~

~~(3) Conflict with Judicial Obligations:~~

~~(a) A judge shall not serve as an officer, director, trustee or advisor of a private or public corporation or of an educational, religious, charitable, fraternal, political or civic organization if the corporation or organization regularly engages in proceedings that would ordinarily come before the judge or in adversary proceedings in any court in Oregon.~~

~~(b)(i) A judge shall not personally solicit funds for any private or public entity or for any educational, religious, charitable, fraternal, political, or civic organization, or use or permit the use of the prestige of the judicial office, including a reference to the judge's official position, for that purpose.~~

~~(ii) Notwithstanding subsection (3)(b)(i) of this section, a judge may:~~

~~(A) Assist a private or public entity devoted to improvement of the law, legal education, the legal system, or the administration of justice in raising, managing, or investing funds;~~

~~(B) Personally solicit funds from or make recommendations to private and public granting agencies with respect to private or public entities devoted to the improvement of the law, legal education, the legal system, or the administration of justice;~~

~~(C) Permit the judge's name and position to be identified in stationery or other materials listing officers, directors, trustees, or committee members of a private or public entity devoted to the improvement of the law, legal education, the legal system, or the administration of justice;~~

~~(D) Appear at, participate in, or permit the judge's name or title to be used in connection with, fundraising events for private or public entities devoted to the improvement of the law, legal education, the legal system, or the administration of justice;~~

~~(E) Assist a not for profit private or public educational, religious, charitable, fraternal, or civic organization in raising, managing or investing funds. Such assistance may not include making a direct request for financial support for the entity as part of the judge's involvement or permitting the judge's title to be used in connection with such a request.~~

~~(iii) "Personally solicit funds," as used in this subsection, means a direct request for financial support in person, by letter, by telephone, or by any other means of communication but does not include receiving and handling funds or goods donated or offered in exchange for goods or services sold to raise funds.~~



~~(iv) "Assist ... in raising, managing or investing funds," as used in this subsection, means any fundraising activity other than personally soliciting funds.~~

~~(c) A judge shall not directly or indirectly accept gifts, bequests, favors or loans from anyone, except that a judge may accept:~~

~~(i) Gifts incident to a public testimonial to the judge, publications supplied by publishers on a complimentary basis for official use or invitations to the judge to attend law-related functions or activities related to the improvement of law, legal education, the legal system, or the administration of justice;~~

~~(ii) Ordinary social hospitality; gifts, bequests, favors or loans from relatives; gifts from friends for wedding, birthday or other personal occasions; loans from lending institutions in the regular course of business on terms generally available to persons who are not judges; or scholarships, fellowships or grants awarded on terms applied to other applicants;~~

~~(iii) Any other gift, bequest, favor or loan only if the donor is not a party or other person whose interests have come or are likely to come before the judge.~~

~~(d) Nonpublic information acquired by a judge in a judicial capacity shall not be used or disclosed for any purpose not related to judicial duties. (Ord. 2947 § 4, 2005)~~

## **2.20.070 Supervision – Removal.**

Pursuant to City Charter no appointed official may supervise the judge's performance; accordingly, the city council alone may take action to remove a judge for misconduct in office or willful violation of applicable rules or standards of conduct; however, the council may refer said complaint or investigation to the Oregon State Bar for appropriate investigation or action, and the council may, in its sole discretion, appoint a hearing examiner, investigator or citizen board to conduct a hearing or investigation and make recommendations to the council regarding the judge's conduct or performance. A judge shall not be removed during ~~his or her~~their term of office except if the judge ceases to be qualified for office, e.g., no longer an active member of the Oregon State Bar, or except for misconduct or violation of applicable rules or standards of conduct. Notwithstanding the above, the council may, without cause, remove the sitting municipal court judge upon payment of a severance ~~equal to the compensation due for the unexpired term of the judge~~in accordance with the terms of the personal services agreement. (Ord. 2947 § 5, 2005)

## **2.20.080 Complaints.**

No complaint concerning the municipal court judge shall be accepted or considered by the council unless the complainant has submitted such complaint in writing and verified the truthfulness of the allegations and facts asserted in the complaint. The council may summarily dismiss the complaint if it is determined to be unfounded or refer the matter to the appropriate agency for a hearing. (Ord. 2947 § 6, 2005)

## 2.24 JURIES AND JURY TRIALS

### 2.24.010 Master jury list.

At least once a year, upon order of the municipal judge, the court clerk shall prepare or obtain a master list of names and places of residence of persons selected by random means from electoral rolls. If the master list becomes exhausted or the presiding judge believes it soon will become so, additional jurors may be added to the master list from the electoral rolls in the same random manner as before, and these persons may be summoned in the same manner as those added to the term jury list. (Ord. 2544 § 1, 1988)

### 2.24.020 Jury term list.

Not less than 10 days from the beginning of the jury term ordered by the municipal judge, a term jury list of names and places of residence of persons randomly selected from the master jury list shall be prepared. The number of names on the list shall be determined, as needed, by the municipal judge. (Ord. 2544 § 2, 1988)

### 2.24.030 Disqualification of jurors.

When it appears to the municipal judge that the person whose name is drawn is dead, ~~or~~ resides out of the city, or is otherwise ineligible to serve, the ballot shall be destroyed. If it appears to the municipal judge, ~~or he has good reason to believe~~, that a person whose name is drawn is temporarily absent from the city, or is ill, or is so engaged as to be unable to attend at the time of the trial without great inconvenience, the ballot shall be laid aside, the name not placed on the jury list for the trial for which the jury is being selected, but such ballot shall be returned to the jury box after the drawing is completed. (Ord. 2544 § 3, 1988)

### 2.24.040 Juror summons.

Not less than ~~10-21~~ days before the beginning of the jury term, the court clerk shall mail notice of summons, juror questionnaire, and information letter to each person on the term jury list. If the term jury list becomes exhausted or the presiding judge believes it may become so, additional jurors may be selected from the master list and added to the term jury list in the same random manner as before. These may be summoned either by written notice through the mail or by official personal delivery, at a reasonable period of time before attendance is required. (Ord. 2544 § 4, 1988)

### 2.24.050 Juror orientation.

At the time a person is summoned to serve as a juror, the municipal judge shall question the person to determine the eligibility of that person to serve as a juror. This may be accomplished by sending juror eligibility forms to each prospective juror by mail or official delivery along with the summons. Failure to complete and return the form with accurate information and by a specified date without a proper showing of just cause for such a failure can result in punishment for contempt. Review of the juror questionnaire shall usually be done ~~at the juror orientation for each jury term prior to the trial date~~. The municipal judge shall ~~explain the duties of jurors, discuss the questionnaire with prospective jurors and~~ determine the eligibility of a sufficient number of jurors for ~~two jury panels for the term trial~~. (Ord. 2544 § 5, 1988)

## **~~2.24.060 Trial schedule.~~**

~~An initial list of trials for each jury panel shall be distributed to eligible jurors that become members of a jury panel at the juror orientation. New or rescheduled trials may be added to the jury panel's trial schedule by mail or actual notice at any time during the term. (Ord. 2544 § 6, 1988)~~

## **~~2.24.070 Pretrial conference.~~**

~~The municipal judge shall schedule pretrial conferences at least three working days prior to each scheduled trial. A written, pretrial summary prepared by the city and defense counsel may be approved by the judge prior to the scheduled date of pretrial. If a pretrial summary is not approved in advance, the city attorney, defense counsel, and the defendant shall appear at City Hall at the scheduled pretrial date and time. The municipal judge may establish by order such forms and procedures deemed necessary for the pretrial conference. (Ord. 2544 § 7, 1988)~~

## **2.24.080 Juror confirmation.**

Each juror shall be instructed to contact the municipal court clerk prior to each scheduled jury trial assigned to that juror and to record confirmation of their availability. ~~After the pretrial conference, the municipal court clerk shall record the telephone message informing jurors of the final trial scheduled.~~ The municipal court clerk shall prepare the jury list from juror confirmations for the municipal judge. (Ord. 2544 § 8, 1988)

## **2.24.090 Final jury selection.**

At the time of trial, all summoned jurors not previously excused ~~six confirmed eligible potential jurors~~ shall be called by the municipal judge for to the jury box for voir dire examination by the city attorney and defense counsel. Potential jurors may be excused by the municipal judge for cause as defined under state law. Each attorney may exercise up to three preemptory-peremptory challenges in the manner directed by the municipal judge. (Ord. 2544 § 9, 1988)

## **2.24.100 Juror compensation.**

Jurors who appear at the trial and serve as jurors shall receive as compensation for such services the sum of \$10.00 for each day of attendance upon the municipal court. (Ord. 2544 § 10, 1988)

## **2.24.110 Notice – Contempt of court.**

When a jury is drawn, summons therefor shall be issued and mailed by the municipal judge. Any person notified to appear as a juror and disregarding such notice may be adjudged in contempt of court by the municipal judge. (Ord. 2544 § 11, 1988)

## 2.28 CITY LIBRARY AND LIBRARY BOARD

### 2.28.010 Public library established.

There is hereby established a public library to be known as the "city of St. Helens public library" pursuant to ORS 357-417(1)(a). (Ord. 2627 § 1, 1991)

### 2.28.020 Financing.

The city proposes to finance the library out of the general fund of the budget, but does have authority and may finance the library by an annual serial levy, providing the same has been approved by the qualified voters of the city. (Ord. 2627 § 2, 1991)

### 2.28.030 Hearings.

The public library shall not be abolished, nor shall support be withdrawn therefrom, unless at least two public hearings are first held at least 90 days apart. Notice of the public hearings shall be given in a newspaper of general circulation within the city for two successive weeks at least 30 days prior to each hearing. (Ord. 2627 § 3, 1991)

### ~~2.28.040 Council responsibility.~~

~~The librarian-library director is directly responsible to the city council-city administrator, unless otherwise provided by city ordinance. AB annually the mayor assigns to individual councilmembers-councilors liaison responsibility for city departments. The mayor shall assign at least one city councilperson-councilor liaison responsibility for the operation of the public library. The liaison-councilor shall be responsible for reporting to the city council on the general operation of the library facility, including personnel matters and expenditures of all budgeted funds. The councilperson-councilor shall seek the counsel of and consult with the library board and may take part in their deliberations, but the councilperson-councilor shall not be a voting member of the library board. The councilperson-councilor shall serve as a liaison between the library board and the city council. (Ord. 2943 § 1, 2005; Ord. 2627 § 4, 1991)~~

### 2.28.045 Library rules and compliance therewith.

The ~~librarian-library director~~ shall promulgate rules of conduct to be observed by patrons of the library. Failure to comply with the library rules shall constitute a violation and may be prosecuted as provided in SHMC 1.06.060 through 1.06.160. (Ord. 3152 § 1, 2011)

### 2.28.0590 Gifts and bequests.

The board may solicit gifts and bequests of real or personal property or funds (other than fees and fines) to benefit the library.

Acquisition of real or personal property by gift shall occur by a legal instrument of conveyance or other writing transferring title of the real or personal property to the city, and such instrument shall clearly define the rights and responsibilities of all parties. The city council shall

decide whether to accept all such gifts of property on behalf of the city and the library that have a value in excess of more than \$250.00 or that impose financial obligations on the city.

All property or funds shall be administered by the city in accordance with its terms. Funds donated to the library shall be placed in a special account and shall be subject to expenditure only for the purpose for which donated, except that donated funds without specific limitations as to use may be used for general library purposes.~~to be used exclusively for the improvement of the library or as designated by the donor. Funds in this account may only be expended after they have been properly budgeted or approved by the city.~~

Donated funds shall be used for improvements in addition to, and not in lieu of, the normal support provided to operate the library out of the city general fund.

#### **2.28.050.30.010 Library board.**

The library board shall consist of at least seven members and no more than nine members appointed by the mayor and confirmed by the city council. One of the members shall be the member of the city council annually designated as the council liaison to the Public Library library board by the mayor. The council member shall be an ex officio, nonvoting member of the commission library board who seeks counsel of and consults with the library board and may take part in their discussions. A majority of members shall be residents of the city. No member of the library board shall have any financial interest, either directly or indirectly, in any contract to which the library is a party, nor shall any such member receive a salary or any payment for material or for any services rendered the board. Board members may be reimbursed for expenses incurred in the performance of their duties. (Ord. 3212 § 1, 2017; Ord. 2627 § 5, 1991)

#### **2.30.020 28.060 Terms of office —Vacancies.**

At their first meeting, two of the newly appointed members of the library board shall fill vacancies then existing. The other newly appointed members shall choose their term of office by lot as follows: one member shall hold office for a term expiring on June 30, 2018, and the other newly appointed member shall hold office for a term beginning July 1, 2017, and ending on June 30, 2021. Succeeding appointees shall hold office for a term of four years from July 1st in the year of their appointment. At the expiration of the term of any board member, the mayor shall appoint a new member or may reappoint a member for a term of four years with the confirmation of the city council.

Appointments made under this chapter shall be for a term of four years from July 1<sup>st</sup> in the year of their appointment. Members appointed previously under this chapter shall continue in office

until the expiration of their term of office. The terms of office of each ~~Library B~~board member shall be for a period of four years with no more than two full-term ~~commissioners~~members being replaced each year. Appointments are normally made in June with terms of office to commence on July 1st. The provisions of the ordinance amending this section do not alter the terms of office of current commissioners and said positions shall continue in accordance with their terms. At the expiration of the term of any board member, the mayor shall appoint a new member or may reappoint a member for a term of four years with the confirmation of the city council. No person shall hold appointment as a member for more than two full consecutive terms, but any person may be appointed again to the board after an interval of one year.

### **2.30.030– Vacancies.**

If a vacancy occurs, the mayor shall appoint a new member to complete the unexpired term with the ~~consent~~ confirmation of the city council. ~~No person shall hold appointment as a member for more than two full consecutive terms, but any person may be appointed again to the board after an interval of one year.~~

### **2.30.040 Removal/resignation**

A ~~Library B~~board member may be removed from the ~~commission~~board, for cause, following a hearing before the city council. A ~~commissioner~~board member may resign in lieu of removal following a hearing. Cause for removal includes but is not limited to misconduct in office or nonperformance of official duties, violation of government standards and practices, conviction of a crime, including the crime of official misconduct, as well as any other actions or conduct by the commissioner which is detrimental to the reputation and good will of the city of St. Helens. Notwithstanding the above provisions for removal, ~~a~~ Any board member failing to attend three consecutive board meetings without approval of the board shall be deemed to have resigned their position. In the event of such resignation, the council shall be notified, the position declared vacant and reappointment procedures commenced. Nothing herein prohibits a ~~commissioner~~member who has resigned by operation of this section from being reappointed to the ~~commission~~board.

~~Any board member failing to attend three consecutive board meetings without approval of the board may be removed by the city council and a new member appointed to complete the unexpired term. (Ord. 3212 § 2, 2017; Ord. 2627 § 6, 1991)~~

### **2.30.050 ~~29.070~~ Officers.**

A ~~M~~majority of the members of the board shall comprise a quorum. ~~At the first meeting of each fiscal year, the board shall elect a chair~~man and a vice-chair~~man~~. The past-chair, chair, and vice-chair ~~who~~ shall serve for a term of one year. At the end of the fiscal year, the vice-chair will

assume the role of chair and the chair will assume the role of past chair for the coming fiscal year. The ~~librarian~~ library director shall designate a library employee to serve as secretary to the board and keep a record of its action. The board shall have authority to make and alter rules, with approval of the city council, for its government and procedure.

### **2.30.060 Meetings.**

The ~~Library B~~board shall meet as often as deemed appropriate by the ~~commissionboard~~ but not less than once every other calendar month or as otherwise directed by the city council. All meetings of the ~~Library B~~board shall be open to the public and shall in all respects fully comply with Oregon public meetings law. Special meetings of the ~~commissionboard~~ shall require not less than 24 hours' notice to local newspapers and posting of meeting notice in public places reasonably calculated to give notice to interested parties. The ~~Library B~~board shall have the authority to make and alter written rules for the conduct of its business, including rules of procedure for conduct of public meetings and public hearings. The adoption of bylaws is expressly authorized, subject to the consent of the city council. For purposes of conducting business, a quorum shall require the attendance of a majority of the members that are currently appointed to the Board at the time of the meeting. Minutes of ~~Library~~library ~~B~~board meetings and activities shall be regularly submitted to the city council for review and acceptance. (Ord. 3229 § 1, 2018)

### **2.3028.0780 Duties and powersResponsibilities.**

The duties of the library board shall include:

- (1) Keeping informed about current trends in library services and administration;
- (2) Studying library growth and needs in the city and its vicinity;
- (3) Developing long-range plans for library service and facilities, consistent with city priorities and with state, regional, and national goals pertinent to libraries;
- (4) Recommending types of library service for the city and its vicinity;
- ~~(5) Investigating sources of funding for library services and facilities;~~
- ~~(6)~~(5) Recommending policies for the acceptance and use of gifts for library purposes;
- ~~(7)~~(6) Participation in the annual budgetary process of the city where the process pertains to the library;
- ~~(8)~~(7) Recommending policies and procedures conducive to efficient and effective operation of the library;
- ~~(9)~~(8) Reviewing and recommending terms for contracts and working relationships with other public agencies regarding library services;
- ~~(10)~~(9) Encouraging widespread public support and use of the library;
- ~~(11)~~(10) Submitting an annual report to the city council; and
- (11) Performing other duties as authorized by the city council;



(12) Serving on Ad-Hoc committees and work groups as determined necessary; including but not limited to, a material review panel when a request has been submitted to reconsider library materials; and

(12) Serving on an appeal panel when an excluded patron requests reinstatement of library privileges.

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**~~3-28-099 Gifts and bequests:~~**

~~The board may solicit gifts and bequests of real or personal property or funds (other than fees and fines) to benefit the library.~~

~~Acquisition of real or personal property by gift shall occur by a legal instrument of conveyance or other writing transferring title of the real or personal property to the city, and such instrument shall clearly define the rights and responsibilities of all parties. The city council shall decide whether to accept all such gifts of property on behalf of the city and the library that have a value in excess of \$250.00 or that impose financial obligations on the city.~~

~~All property or funds shall be administered by the city in accordance with its terms. Funds donated to the library shall be placed in a special account to be used exclusively for the improvement of the library or as designated by the donor. Funds in this account may only be expended after they have been properly budgeted or approved by the city.~~

~~Donated funds shall be used for improvements in addition to, and not in lieu of, the normal support provided to operate the library out of the city general fund.~~

## 2.32 NOMINATING PROCEDURES FOR CITY OFFICES

### 2.32.010 Nominating procedures.

City officers shall be nominated by the same procedures as provided in state election laws for nominating candidates for nonpartisan offices except as provided in this chapter. (Ord. 2504 § 1, 1986)

### 2.32.020 Nominating petitions and declarations of candidacy.

~~Nomination petitions and declarations of candidacy for city council shall clearly indicate one position number for the candidacy that corresponds to a city council position that is to be filled in that general election. (Ord. 2515, 1986; Ord. 2504 § 2, 1986)~~The form of nominating petition for all candidates for elective positions within the City shall substantially conform to the form designated by the Secretary of State.

### 2.32.030 Declaration fee.

~~The fee for declarations of candidacy for city office shall be as set forth in the most recent universal fee schedule adopted by council. (Ord. 3219 § 1, 2017; Ord. 2504 § 3, 1986)~~A person filing a nomination petition shall pay a fee, which shall be tendered at the time of the filing of the completed nomination petition. The fee shall be set forth in the most recent universal fee schedule adopted by city council.

### 2.32.040 Signatures required.

~~Nominating petitions shall contain at least 30 signatures of qualified electors residing in the city that are registered to vote in at least two city precincts. (Ord. 2504 § 4, 1986)~~Nominating petitions shall contain [at least 30 valid signatures of qualified electors the required number of signatures of electors as set forth in ORS 249.072\(2\)](#). Such qualified electors shall be duly registered voters under the laws of Oregon and shall be currently eligible to vote at any regular or special election of the city of St. Helens.

### 2.32.050 Position number.

~~Effective upon the swearing-in of the newly elected city councilors in January, 1987, each city councilmember shall be assigned a position number, 1 through 4, based on the alphabetical order of their last name. Hereafter, candidates for city council shall be nominated and elected by the city electors at large by position number. (Ord. 2515, 1986; Ord. 2504 § 5, 1986)~~

### 2.32.060 List of candidates.

~~The city election officer shall include in the certified statement of city offices to be filled and candidates nominated in each general election the list of the city council candidates by the position number for which they have been nominated. (Ord. 2504 § 6, 1986)~~The city elections officer shall file with the Columbia County clerk a statement of the city offices to be filled and for which candidates are to be nominating candidates for nonpartisan offices except as provided in this chapter. (Ord. 2504 § 1, 1986.

## 2.40 SIGNING OF CHECKS AND WARRANTS

### 2.40.010 Signing of checks and warrants.

All checks and warrants of the city of St. Helens must be signed by at least ~~two~~one representatives of the city who ~~are~~is legally authorized to sign said checks or warrants. (Ord. 2293 § 1, 1979)

### 2.40.020 Authorized signatures.

The persons authorized to sign checks or warrants on behalf of the city of St. Helens shall be as follows:

- (1) The Finance Director of the city of St. Helens; and
- (2) The City Administrator of the city of St. Helens; and
- (3) The City Recorder of the city of St. Helens; and
- (4) The Mayor or the President of the Common Council of the city of St. Helens

~~(1) The mayor or the president of the common council of the city of St. Helens; and~~

~~(2) The recorder or the person specifically appointed as assistant recorder of the city of St. Helens. (Ord. 2293 § 2, 1979)~~

### 2.40.030 Required signatures.

Any checks or warrants drawn on the city of St. Helens must be signed by one of the individuals named in SHMC 2.40.020, ~~two~~ four ~~individuals named in SHMC 2.40.020(1)~~, and one of the ~~two~~ individuals named in SHMC 2.40.020(2). (Ord. 2293 § 3, 1979)

## 2.72 CRIMINAL HISTORY RECORD CHECK POLICIES

### 2.72.010 Purpose.

The purpose of this chapter is to authorize the city of St. Helens police department to access Oregon State Police (OSP) criminal offender information through the Law Enforcement Data System (LEDS) to run background checks for prospective employees, city volunteers, liquor license applicants, social gaming license applicants, and any other applicant for whom the St. Helens Municipal Code requires a background check. (Ord. 3126 § 1, 2010)

### 2.72.020 Procedure.

All proceedings pursuant to this chapter shall be conducted in accordance with ORS ~~181.555~~[181A.230](#) and OAR [257-010-0025](#), which establish procedures for access to criminal record information possessed by the Oregon State Police (OSP) through the Law Enforcement Data System (LEDS), and as supplemented below.

(1) Parties subjected to a background check under the provisions of this chapter will be required to authorize the city to conduct a criminal offender information check through the OSP LEDS system.

(2) The city administrator, [human resources coordinator, or designee](#) will maintain the criminal history authorization forms for those doing work on behalf of the city and request that a criminal history check be made if it is determined that this will be in the best interest of the city in filling the position.

(3) The city of St. Helens police department will conduct the check on the prospective employee, volunteer, or applicant, and report to the city administrator, [human resources coordinator, or designee](#) whether the person's record indicates "no criminal and/or traffic infraction record" or "criminal and/or traffic record does not meet the standards set for that position."

(4) If the person's record is reported as "criminal record and/or traffic record does not meet standards set for that position," the city ~~administrator~~ may, in accordance with OAR [2547-010-0025](#)(1)(c), request a written criminal history report from the OSP Identification Services Section and pay the applicable fee for this service. The city ~~administrator~~ may make a written criminal and/or driving history record available to the selecting official for ~~his/her~~[their](#) consideration in determining whether the prospective employee meets the standards set for the position.

(5) The written criminal history record on persons who are not hired or appointed as a volunteer will be retained by the city ~~administrator~~ in accordance with the requirements of OAR [166-200-0090-166-200-0305](#)(3) and thereafter will be destroyed by shredding.

(6) The criminal history record of applicants and volunteers with a criminal history that are hired or appointed will become a part of the confidential personnel file of that employee or volunteer. Access to confidential personnel files is limited to authorized persons who have an official need to access such files as sanctioned by law or regulation.

(7) Applicants for employment or appointment as a volunteer who have a felony criminal history or a history of conviction of a misdemeanor will be closely examined to determine if the person possesses the required degree of public trust and confidence. Each selection will, however, be made

on an individual case-by-case basis, taking into account the person's qualifications, the requirements of the particular job or volunteer post applied for and the results of the criminal history check. Factors such as the age of the offender at the time of the offense, the type of offense and subsequent rehabilitation, and the public sensitivity of the position under consideration shall be taken into account in evaluating a criminal history report.

(8) Hiring an applicant or appointing a volunteer with a criminal history record will require a positive recommendation by the police department official conducting the background investigation and the approval of the city administrator, after full disclosure and consideration of the criminal history of the applicant. (Ord. 3126 § 2, 2010)

## Chapter 2.74

# PARKS AND ~~TRAILS~~ RECREATION COMMISSION

Sections:

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[2.74.060 Officers.](#)

~~[2.74.070 Secretary.](#)~~

[2.74.080 Meetings.](#)

[2.74.090 Responsibilities, powers and duties.](#)

### 2.74.010 Creation of commission.

There is hereby created within the city of St. Helens a parks and ~~trails~~ recreation commission. (Ord. 3229 § 1, 2018)

### 2.74.020 Membership.

The parks and ~~trails~~ recreation commission shall consist of 10 members, including one council member and nine at-large members. One of the 10 members shall be the member of the city council annually designated as parks and trails ~~commissioner and~~ council liaison to the public works (including parks) department by the mayor. The council member shall be an ex officio, nonvoting member of the commission who seeks counsel of and consults with the parks and recreation commission and may take part in their discussions. No less than six of the at-large members shall be residents of the city of St. Helens. At-large members are appointed by the mayor with the consent of the city council. Parks and recreation ~~trails~~ commission membership is an unpaid voluntary appointed position and members shall receive no compensation for their service except for expenses specifically budgeted and authorized by the city council. (Ord. 3229 § 1, 2018)

### 2.74.030 Terms of office.

The terms of office of each at-large parks and recreation ~~trails~~-commissioner shall be for a period of four years with no more than two full-term commissioners being replaced each year. Appointments are normally made in December with terms of office to commence on January 1st. The provisions of the ordinance amending this section do not alter the terms of office of current commissioners and said positions shall continue in accordance with their terms. (Ord. 3229 § 1, 2018)

### 2.74.040 Vacancies.

Any vacancies on the parks and recreation~~trails~~ commission shall be filled by appointment of the mayor at any time, with the consent of the council. Said appointment shall be for the remainder of the unexpired term of the vacated commissioner position. (Ord. 3229 § 1, 2018)

### 2.74.050 Removal/resignation.

An at-large parks and recreationtrails commissioner may be removed from the commission, for cause, following a hearing before the city council. A commissioner may resign in lieu of removal following a hearing. Cause for removal includes but is not limited to misconduct in office or nonperformance of official duties, violation of government standards and practices, conviction of a crime, including the crime of official misconduct, as well as any other actions or conduct by the commissioner which is detrimental to the reputation and good will of the city of St. Helens. Notwithstanding the above provisions for removal, a parks and recreationtrails commissioner who is absent from three consecutive regular parks and recreationtrails commission meetings without an excused absence as approved by the commission shall be deemed to have resigned his/her position on the commission. In the event of such resignation, the council shall be notified, the position declared vacant and reappointment procedures commenced. Nothing herein prohibits a commissioner who has resigned by operation of this section from being reappointed to the commission. (Ord. 3229 § 1, 2018)

## 2.74.060 Officers.

At the first meeting of each calendar year, the parks and trails commission shall elect a chair~~man~~ and a vice-chair~~man~~ to serve a one-year term. (Ord. 3229 § 1, 2018)

The city council may provide a secretary to the parks and recreationtrails commission and assign such other staff and consultant services as may be appropriate. In the event that the city staff cannot be provided, the parks and recreationtrails commission may designate one of its members or a volunteer as secretary to keep an accurate record of meetings of the parks and recreationtrails commission. The designated secretary need not be a member of the parks and trails commission. (Ord. 3229 § 1, 2018)

## 2.74.070 Secretary.

~~The city council may provide a secretary to the parks and trails commission and assign such other staff and consultant services as may be appropriate. In the event that the city staff cannot be provided, the parks and trails commission may designate one of its members or a volunteer as secretary to keep an accurate record of meetings of the parks and trails commission. The designated secretary need not be a member of the parks and trails commission. (Ord. 3229 § 1, 2018)~~

## 2.74.080 Meetings.

The parks and recreationtrails commission shall meet as often as deemed appropriate by the commission but not less than once every other calendar month or as otherwise directed by the city council. All meetings of the parks and recreationtrails commission shall be open to the public and shall in all respects fully comply with Oregon public meetings law. Special meetings of the commission shall require not less than 24 hours' notice to local newspapers and posting of meeting notice in public places reasonably calculated to give notice to interested parties. The parks and recreationtrails commission shall have the authority to make and alter written rules for the conduct of its business, including rules of procedure for conduct of public meetings and public hearings. The adoption of bylaws is expressly authorized, subject to the consent of the city council. For purposes of conducting business, a quorum shall require the attendance of a majority of the at-large commissioners that are currently appointed to the parks and recreationtrails commission at the time



of the meeting. Minutes of parks and recreationtrails commission meetings and activities shall be regularly submitted to the city council for review and acceptance. (Ord. 3229 § 1, 2018)

## **2.74.090 Responsibilities, powers and duties.**

The parks and recreationtrails commissioners shall have the responsibilities, obligations and duties of appointed public officers and the parks and recreationtrails commission shall have the responsibilities, obligations and duties of an advisory public body as provided for in laws of the state of Oregon and the laws of the city of St. Helens. The parks and recreationtrails commission shall have the power to act in an advisory capacity to the city council in all matters pertaining to the operation, planning, development, improvement, beautification, equipment and maintenance of public parks, trails, public bicycle and/or pedestrian ways, vacant park properties, public squares, public recreational facilities and publicly accessible buildings and associated grounds. The parks and recreationtrails commission shall have authority:

- (1) To review and call to the attention of the city council any deteriorating condition of city public parks, trails, bicycle and/or pedestrian ways, vacant park properties, public squares and publicly accessible buildings and associated grounds, public recreational facilities, and their associated infrastructure improvements including but not limited to access roads, equipment, athletic fields, gardens, landscape areas, open spaces, natural areas, playgrounds, and parking areas.
- (2) To review and call to the attention of the city council the effectiveness, or lack thereof, of parks, trails, public bicycle and/or pedestrian ways, and recreation programs conducted by or for the city of St. Helens.
- (3) To review and make recommendations to the city council on the operation, administration, maintenance and equipment needs of the public works department relative to parks, trails, public bicycle and/or pedestrian ways and recreation and the other public facilities identified in this section.
- (4) To review and make recommendations to the city council on the annual budget of the public works department relative to parks, trails, public bicycle and/or pedestrian ways, and recreation and the other public facilities identified in this section.
- (5) To review and make recommendations to the city council on master plans and capital improvement plans for parks, trails, public bicycle and/or pedestrian ways, and recreation and the other public facilities identified in this section.
- (6) To review and make recommendations to the city council on public park, public bicycle and/or pedestrian ways and recreation facility development plans, construction plans, recreation use or development proposals, and such other park related activities as deemed advisable by the city council.
- (7) To make periodic site visits and inspections, in accordance with public meetings law, and with the approval of the city engineering director, of city park and recreation facilities, public bicycle and/or pedestrian ways and other public facilities identified herein, as are necessary for the parks and trails commission to carry out its assigned duties.
- (8) To request that the city council assign or direct staff to prepare reports and compile information necessary for the parks and recreationtrails commission to carry out its assigned duties. (Ord. 3229 § 1, 2018)