

Chapter 40, DEPARTMENTS

[HISTORY: Adopted by the City Council of the City of Binghamton as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Administration of government -- See Ch. 5.

ARTICLE I, Department of Public Safety [Adopted 10-5-1970 (Ch. 2, § 2-51, of the 1970 Code)]

§ 40-1. Department established; bureaus enumerated. [Amended 3-17-10 by Local Law 1-2010]

There is hereby established a Department of Public Safety which shall consist of the following municipal bureaus:

- A. Bureau of Police.
- B. Bureau of Fire.
- C. Bureau of Signals.
- D. Bureau of Building Inspection.
- E. Plumbing Examining Board.
- G. Electrical Examining Board.

ARTICLE II, Department of Public Works [Adopted 10-5-1970 (Ch. 2, §§ 2-57 through 2-60, of the 1970 Code)]

§ 40-2. Department established.

There is hereby established a Department of Public Works.

§ 40-3. Commissioner of Public Works.

- A. Position created. There is hereby created the position of Commissioner of Public Works.
- B. Powers and duties. The Commissioner of Public Works shall be the head of the Department of Public Works. He or she shall possess all the powers and shall perform all the duties, prescribed, imposed and conferred upon a Commissioner of Public Works by Article 7 of the Second Class Cities Law and by the provisions of the Supplemental Charter of the City, not inconsistent with provisions of the Optional City Government Law, except that he or she shall not possess the power nor perform the duties of directing the superintendence of parks and recreational facilities. The Commissioner of Public Works shall possess such other powers and perform such other duties as may be prescribed by law or by ordinance of the City Council.
- C. Salary. The Commissioner of Public Works shall receive such salary as may be determined by the City Council, to be paid in the same installments as the salaries of other City officers and employees.

§ 40-4. Deputy Commissioners of Public Works. [Amended 9-20-1979 by Ord. No. 191-79]

- A. Positions created. There are hereby created the positions of Deputy Commissioners of Public Works to the number and extent as the Common Council may by ordinance prescribe, to be appointed by, and serve at, the pleasure of the Mayor, unless superseded by civil service regulations.
- B. Powers, duties, salary. The Deputy Commissioners of Public Works are hereby authorized to act generally for and in place of the Commissioner of Public Works. They shall possess every power and perform all and every duty belonging to the office of Commissioner of Public Works or so much of such duties as the

Commissioner of Public Works may deem it necessary to delegate. They shall receive such salary as may be determined by the City Council, to be paid in the same installments as the salaries of other City officers and employees.

§ 40-5. Designation of fiscal officer. [Amended 10-20-1980 by Ord. No. 218-80]

Pursuant to the authority granted by the State Legislature in Chapter 363 of the Laws of 1980, the City hereby elects to designate the State Industrial Commissioner as the fiscal officer for the purposes of § 220 of the Labor Law.

ARTICLE III, Purchasing Department [Adopted 10-5-1970 (Ch. 2, §§ 2-65 through 2-70, of the 1970 Code)]

§ 40-6. Department established.

There is hereby established a Purchasing Department.

§ 40-7. Purchasing Agent.

- A. Position created. There is hereby created the position of Purchasing Agent.
- B. Duties. The Purchasing Agent shall be the head of the Purchasing Department. He or she shall possess all the powers and perform all the duties heretofore held and performed by the Purchasing Agent and Deputy Purchasing Agent of the City. He or she shall possess such other powers and perform such other duties as prescribed by law or ordinance of the City Council.
- C. Salary. The Purchasing Agent shall receive such salary as may be determined from time to time by the City Council. Such salary shall be paid in the same installments as the salaries of other City officers and employees.
- D. Bond. The Purchasing Agent is hereby required to give an official undertaking in such penal sum as may be determined by the City Council.

§ 40-8. Assistant Purchasing Agent.

- A. Position created. There is hereby created the position of Assistant Purchasing Agent.
- B. Bond. The Assistant Purchasing Agent is hereby required to give an official undertaking in such penal sum as may be specified by the City Council.
- C. Duties; salary. The Assistant Purchasing Agent is hereby authorized to act generally for and in place of the Purchasing Agent. He or she shall possess every power and perform all and every duty belonging to the office of Purchasing Agent or so much of such duties as the Purchasing Agent may deem it necessary to delegate. He or she shall receive such salary as may be determined by the City Council to be paid in the same installments as the salaries of other City officers and employees.

§ 40-9. Authority of Purchasing Agent to dispose of items. [Amended 11-19-1973 by Ord. No. 235-73]

- A. Upon certification by the department head of any City department that any item or items of equipment, materials or other personal property belonging to the City of Binghamton, and used by said department, has become obsolete, worn out or for any reason is no longer of use to the City of Binghamton, and is available for disposition, the Board of Contract and Supply be and it hereby is authorized to dispose of such property at public auction or by sealed bids upon the best cash terms available. Such sales shall be advertised in the official newspaper of the City of Binghamton in accordance with standard procedures of sealed competitive bidding.

B. Upon written representation of a department head and the Purchasing Agent that surplus property has a market value of less than \$100, the Board of Contract and Supply may authorize the Purchasing Agent to dispose of said property upon such terms as he or she deems appropriate.

C. Any funds received from such sale or sales shall be payable to the City Treasurer upon receipt thereof.

§ 40-10. Authority of Purchasing Agent to purchase insurance in open market.

The Purchasing Agent is hereby authorized and empowered to purchase and procure fire, property damage and public liability insurance on motor equipment, including fire apparatus and trailers used in the collection of ashes and garbage, and owned by the City, in the open market, and to expend the sums, or so much thereof as may be necessary, from and out of the items for insurance as appear, from year to year, in the budget of the City, and as may be necessary for such purpose.

§ 40-11. Minority business commitment program. [Added 3-21-1983 by Ord. No. 41-83; amended 5-4-1987 by Ord. No. 45-87]

The following terms and conditions shall be incorporated as a condition of all bid specifications prepared by the City of Binghamton's Department of Developmental and Community Services and Department of Public Works for those contracts for public work which result in a contract award exceeding the sum of \$50,000.

A. Minority utilization commitment. Any primary contractor shall take affirmative action, as defined herein, to utilize certified minority business enterprises for subcontracts on City projects.

B. Definitions. The following terms as used herein are defined as follows:

AFFIRMATIVE ACTION -- A goal of awarding 10% of the total dollar value of the contract to minority business enterprises.

MINORITY BUSINESS ENTERPRISE (MBE)

(1) A business at least 51% of which is owned by minority group members or, in the case of publicly owned businesses, at least 51% of the stock is owned by minority group members. For the purposes of this paragraph, minority business members are citizens of the United States who are Black, Hispanic, Asian American, American Indian, Eskimos or Aleuts. The minority group ownership interest shall be real, substantial and continuing.

(2) Certification of eligible minority business enterprises shall be extended, upon written application submitted by a bona-fide MBE as defined above, by the Board of Contract and Supply for a probationary period not to exceed one year pending final MBE certification by the New York State Department of Commerce.

SUBCONTRACTING -- Includes construction, modifications, supplies and material and service work contracted for by the primary contractor in the first prosecution of any work so performed.

C. Implementation of affirmative action.

(1) Contractors shall implement the affirmative action requirements provided for herein by:

(a) Utilizing a source list of certified minority business enterprises as established by the Board of Contract and Supply; and

(b) Soliciting bids from such minority business enterprises, particularly from those located in the City of Binghamton, the County of Broome and those counties contiguous to the County of Broome; and

(c) Giving minority business enterprises at least 10 days to submit proposals in response to such solicitations; and

(d) Maintaining records showing minority business enterprises and specific efforts to identify and award contracts and subcontracts to these companies; and

(e) Agreeing to make every reasonable effort to meet the City's affirmative action goals under this minority utilization commitment program in conjunction with the Board of Contract and Supply in the exercise of such efforts.

(2) The Board shall establish an administrative procedure to remove from the MBE source list minority business enterprises whose work product or performance is determined by the Board to be unsatisfactory by clear and convincing evidence.

(3) The Board of Contract and Supply shall have the authority to establish such reasonable rules and regulations as it deems necessary to implement the goals of this program consistent with the terms of this section.

D. Contractor's obligations.

(1) A contractor's bid shall not be considered by the Board when a contractor fails to certify in his or her bid that he or she agrees to make every reasonable effort to comply with the affirmative action requirements provided for in this section. Prior to the issuance by the Board of a "Notice to Proceed," each contractor shall submit to the Board a list of all minority business enterprises with whom he or she has signed a binding contractual agreement or is presently negotiating an agreement for the purpose of satisfying the minority business enterprise utilization goals provided for in this section.

(2) The Board shall establish periodic compliance checks by the affirmative action specialist at a minimum of 20%, 40% and 60% of project completion. Evidence of noncompliance shall promptly be transmitted to the Board by the affirmative action specialist.

(3) In the event the contractor violates any of the provisions of this section, the Board may:

(a) To the extent permitted by law, withhold payment due the contractor until the contractor takes such actions as are necessary to cure or remedy such violation;

(b) Require the contractor to pay the City with respect to the contractor's refusal or bad faith failure to achieve the goal for minority business enterprise (MBE) participation liquidated damages which equal on a dollar for dollar basis the amount of achievable and reasonable "MBE" participation and/or unachieved MBE contracts;

(c) Declare the contractor an irresponsible bidder for a reasonable period of time consistent with law.

E. Women business enterprise (WBE), voluntary.

(1) "Women business enterprises" are defined as a business concern:

(a) That is at least 51% owned by one or more economically disadvantaged women, or, in the case of any publicly owned business, at least 51% of the stock of which is owned by one or more such women; such women being United States citizens or permanent resident aliens, regardless of race or ethnicity; and

(b) The ownership interest controlled by a woman or women shall be maintained on a real, substantial and continuing basis.

(2) Contractors are encouraged to voluntarily seek out qualified WBE's for participation in City contracts; neither a goal nor a compliance requirement is herein established.

ARTICLE IV, Department of Developmental and Community Services [Adopted 6-14-1982 by L.L. No. 1-1982 (Sub-Part XXXVIII of the 1970 Code)]

§ 40-12. Department established; designation of Department head.

A Department of Developmental and Community Services, to be known as the Office of Developmental and Community Services, is hereby established in and for the City of Binghamton. The head of the Department, until such time as the position of Director of Community Development is reclassified pursuant to the Civil Service Law, shall be the Director of Community Development, who shall be appointed by and serve at the pleasure of the Mayor.

§ 40-13. Powers and duties of Director.

The powers and duties of the Director of Community Development, under the general direction of the Mayor, shall include but not be limited to the inauguration and direction of comprehensive programs for the development and redevelopment of properties in the City of Binghamton through clearance, reconstruction, renewal, rehabilitation, conservation, restoration or improvement, or any combination of these, for the arrest, prevention and elimination of substandard and unsanitary areas, slums and blight; the coordination of capital improvement programs of the City for purposes of obtaining maximum assistance for urban renewal and economic development from the state and federal governments; the inauguration and undertaking of programs, designed to retain, restore or expand the City's commercial, industrial and residential tax base; the inauguration and development of social programs of the type and nature presently administered by the Community Development Department; the inauguration and development of programs of public information in all areas concerned with the development and redevelopment of properties and the development of social programs; the implementation of programs to promote understanding and support for proposed projects and to promote cooperation with interested citizens' groups in the development of interest and participation in public projects; and the submission of applications for federal or state funds, subsidies, grants or grants-in-aid for the development of social programs and the conservation, urban renewal or redevelopment through clearance, replanning or rehabilitation of any areas as may be authorized by the City Council.

§ 40-14. Exercise of powers regarding planning and zoning.

In addition to those powers and duties set forth above, the Director of Community Development shall possess all of the powers and duties heretofore exercised by the City Planning Director, including those of Zoning Director.

§ 40-15. Department to succeed Community Development Department.

The current administrative and operational organization of the Community Development Department shall become part of the Department of Developmental and Community Services. The Department of Developmental and Community Services shall be in all respects the successor in interest to the Community Development Department as created by State Local Law 2 of 1974.

§ 40-16. Creation of bureaus and divisions authorized.

City Council shall authorize by ordinance the creation of bureaus or divisions within the Department of Developmental and Community Services upon the submission of administrative and operational reorganization plans by the Director of Community Development.