

Chapter 5, ADMINISTRATION OF GOVERNMENT

[HISTORY: Adopted by the City Council of the City of Binghamton 10-5-1970 (Ch. 2, §§ 2-1 through 2-26, of the 1970 Code). Amendments noted where applicable.]

§ 5-1. City datum plane; official bench mark.

- A. All elevations hereafter established or used for any purpose whatsoever by any department or bureau of the City shall be based on "mean sea level" as established by the United States Geodetic Survey.
- B. The official bench mark for all City purposes hereafter shall be the aluminum tablet set in the west wall of the Broome County Court House north of the original entrance to the basement of the building. The elevation of the official bench mark is established as 866.056 feet above mean sea level. For purposes of comparison elevation 866.056 feet above mean sea level shall be taken as equal to elevation 14,650 feet above City datum as formerly used.

§ 5-2. Official map or plan.

The Randall Topographical Map, consisting of Sheet Nos. 1, 2, 4 to 8 inclusive, 15 to 23 inclusive, 40 and 41, be and the same hereby are adopted as the official general map or plan of the City of Binghamton.

§ 5-3. City Hall hours. [Added 5-30-1973 by Ord. No. 106-73]

Except for certain designated holidays, and certain special hours maintained by the City Treasurer's office for collection purposes, the new City Hall shall be opened throughout the entire year, Monday through Friday, from 9:00 a.m. to 5:00 p.m. In conformance with the negotiated Taylor Law contract between the City and the employees employed in the City Hall, the hours of said employees shall be from 9:00 a.m. to 5:00 p.m., with one hour for lunch, Monday through Friday, throughout the entire year.

§ 5-4. Seal and signatures required for conveyances and leases.

All conveyances or leases executed by the City shall be under the corporate seal and shall be signed by the Mayor and the City Clerk.

§ 5-5. Identification of City-owned automobiles; exception.

All City-owned automobiles, other than those used in the Department of Public Safety, Bureau of Police, shall have inscribed thereon, in letters of not less than two inches in height, the words "City of Binghamton" in gold or luminous paint.

§ 5-6. Depositories for City funds.

The City Council shall from time to time designate such financial institutions as it deems necessary and proper as depositories for City funds.

§ 5-7. Investment policy. [Added 10-17-1988 by Ord. No. 136-88; amended 7-19-1993 by Ord. No. 93-93; 2-21-1996 by Ord. No. 16-96; Amended 5-4-2006 by Ord. No. 06-19; Amended 8-20-2014 by Ord. No. 14-41]

- A. Scope. This investment policy applies to all moneys and other financial resources available for investment on its own behalf or on behalf of any other entity or individual.
- B. Objectives. The primary objectives of the local government's investment activities are, in priority order:
 - (1) To conform with all applicable federal, state and other legal requirements (legal);
 - (2) To adequately safeguard principal (safety);
 - (3) To provide sufficient liquidity to meet all operating requirements (liquidity); and

(4) To obtain a reasonable rate of return (yield).

C. Delegation of authority. The governing board's responsibility for administration of the investment program is delegated to the chief fiscal officer who shall establish written procedures for the operation of the investment program consistent with these investment guidelines. Such procedures shall include an adequate internal control structure to provide a satisfactory level of accountability based on a data base or records incorporating description and amounts of investments, transaction dates, and other relevant information and regulate the activities of subordinate employees.

D. Prudence.

- (1) All participants in the investment process shall seek to act responsibly as custodians of the public trust and shall avoid any transaction that might impair public confidence in the City of Binghamton to govern effectively.
- (2) Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the safety of the principal as well as the probable income to be derived.
- (3) All participants involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair their ability to make impartial investment decisions.

E. Diversification. It is the policy of the City of Binghamton to diversify its deposits and investments by financial institution, by investment instrument, and by maturity scheduling.

F. Internal controls.

- (1) It is the policy of the City for all moneys collected by any officer or employee of the government to transfer those funds to the chief fiscal officer within one day of receipt, or within the time period specified in law, whichever is shorter.
- (2) The chief fiscal officer is responsible for establishing and maintaining an internal control structure to provide reasonable, but not absolute, assurance that deposits and investments are safeguarded against loss for unauthorized use or disposition, that transactions are executed in accordance with management's authorization and recorded properly, and are managed in compliance with applicable laws and regulations.

G. Designation of depositories. The banks and trust companies authorized for the deposit of monies up to the maximum amounts are: [Last amended 5-4-2006 by Ord. No. 06-19; Amended 8-20-2014 by Ord. No. 14-41]

<u>Depository Name</u>	<u>Maximum Amount</u>	<u>Officer</u>
JP Morgan Chase Bank	\$30,000,000	Chief Fiscal
M & T Bank	\$30,000,000	Chief Fiscal
HSBC Bank	\$30,000,000	Chief Fiscal
NBT Bank	\$30,000,000	Chief Fiscal
Chemung Canal Trust Bank	\$30,000,000	Chief Fiscal

H. Collateralizing of deposits. In accordance with the provisions of General Municipal Law § 10, all deposits of City of Binghamton, including certificates of deposit and special time deposits, in excess of the amount insured under the provisions of the Federal Deposit Insurance Act shall be secured:

- (1) By a pledge of "eligible securities" with an aggregate "market value" as provided by GML § 10, equal to the aggregate amount of deposits from the categories designated in § 5-7M.

- (2) By an eligible "irrevocable letter of credit" issued by a qualified bank other than the bank with the deposits in favor of the government for a term not to exceed 90 days with an aggregate value equal to 140% of the aggregate amount of deposits and the interest, if any. A qualified bank is one whose commercial paper and other unsecured short-term debt obligations are rated in one of the three highest rating categories by at least one nationally recognized statistical rating organization or by a bank that is in compliance with applicable federal minimum risk-based capital requirements.
- (3) By an eligible surety bond payable to the government for an amount at least equal to 100% of the aggregate amount of deposits and the agreed upon interest, if any, executed by an insurance company authorized to do business in New York State, whose claims-paying ability is rated in the highest rating category by at least two nationally recognized statistical rating organizations.

I. Safekeeping and collateralization.

- (1) Eligible securities used for collateralizing deposits shall be held by the depository and/or a third party bank or trust company subject to security and agreements at the discretion of the chief fiscal officer; provided, however, that the bank or trust is rated in one of the three highest rating categories by at least one nationally recognized statistical rating organization. A third party custodian will be required if not so rated.
- (2) The security agreement shall provide that eligible securities are being pledged to secure local government deposits together with agreed upon interest, if any, and any costs or expenses arising out of the collection of such deposits upon default. It shall also provide the conditions under which the securities may be sold, presented for payment, substituted or released and the events which will enable the local government to exercise its rights against the pledged securities. In the event that the securities are not registered or inscribed in the name of the local government, such securities shall be delivered in a form suitable for transfer or with an assignment in blank to the City of Binghamton or its custodial bank.
- (3) The custodial agreement shall provide that securities held by the bank or trust company, or agent of and custodial for, the local government, will be kept separate and apart from the general assets of the custodial bank or trust company and will not, in any circumstances, be commingled with or become part of the backing for any other deposit or other liabilities. The agreement should also describe that the custodian shall confirm the receipt, substitution or release of the securities. The agreement shall provide for the frequency or revaluation of eligible securities and for the substitution of securities when change in the rating of a security may cause ineligibility. Such agreement shall include all provisions necessary to provide the local government a perfected interest in the securities.

J. Permitted investments.

- (1) As authorized by General Municipal Law § 11, the City of Binghamton authorizes the chief fiscal officer to invest moneys not required for immediate expenditure for terms not to exceed its projected cash flow needs in the following types of investments:
 - (a) Special time deposit accounts;
 - (b) Certificates of deposit;
 - (c) Obligations of the United States of America;
 - (d) Obligations guaranteed by agencies of the United States of America where the payment of principal and interest are guaranteed by the United States of America;
 - (e) Obligations of the State of New York;
 - (f) Obligations issued pursuant to LFL § 24.00 or 25.00 by any municipality, school district or district corporation located in New York State;
 - (g) Obligations of this local government, but only with any moneys in a reserve fund established pursuant to GML § 6-c, 6-d, 6-e, 6-g, 6-h, 6-j, 6-k, 6-l, 6-m, or 6-n.

- (2) All investment obligations shall be payable or redeemable at the option of the City within such times as the proceeds will be needed to meet expenditures for purposes for which the moneys were provided and, in the case of obligations purchased with the proceeds of bonds or notes, shall be payable or redeemable at the option of the City within two years of the date of purchase.
- K. Authorized financial institutions and dealers. The City of Binghamton shall maintain a list of financial institutions and dealers approved for investment purpose and establish appropriate limits to the amount of investment which can be made with each institution or dealer. All financial institutions with the local government conducts business must be credit worthy. Banks shall provide their most recent consolidated report of condition (Call Report) at the request of the City. Security dealers not affiliated with a bank shall be required to be classified as reporting dealers affiliated with New York Federal Reserve Bank, as primary dealers. The chief fiscal officer is responsible for evaluating the financial position and maintaining a listing of proposed depositories, trading partners and custodians. Such listing shall be evaluated at least annually.
- L. Purchase of investments.
 - (1) The chief fiscal officer is authorized to contract for the purchase of investments:
 - (a) Directly, including through a repurchase agreement, from an authorized trading partner.
 - (b) By participation in a cooperative investment program with another authorized governmental entity pursuant to Article 5G, of the General Municipal Law where such program meets all the requirements set forth in the Office of the State Comptroller Opinion No. 88-46, and the specific program has been authorized by the governing board.
 - (c) By utilizing an ongoing investment program with an authorized trading partner pursuant to a contract authorized by the governing board.
 - (2) All purchased obligations, unless registered or inscribed in the name of the local government, shall be purchased through, delivered to and held in the custody of a bank or trust company. Such obligations shall be purchased, sold or presented for redemption or payment by such bank or trust company only in accordance with prior written authorization from the officer authorized to make the investment. All such transactions shall be confirmed in writing to the City of Binghamton by the bank or trust company. Any obligation held in the custody of a bank or trust company shall be held pursuant to a written custodial agreement as described in General Municipal Law § 10.
 - (3) The custodial agreement shall provide that securities held by the bank or trust company, as agent of and custodian for, the local government, will be kept separated and apart from general assets of the custodial bank or trust company and will not, in any circumstances, be commingled with or become part of the backing for any other deposit or other liabilities. The agreement shall describe how the custodian shall confirm the receipt and release of the securities. Such agreement shall include all provisions necessary to provide the local government a perfected interest in the securities.
- M. Repurchase agreements. Repurchase agreements are authorized subject to the following restrictions:
 - (1) All repurchase agreements must be entered into subject to a master repurchase agreement.
 - (2) Trading partners are limited to banks or trust companies authorized to do business in New York State and primary reporting dealers.
 - (3) Obligations shall be limited to obligations of the United States of America and obligations guaranteed by agencies of the United States of America.
 - (4) No substitutions of securities will be allowed.
 - (5) The custodian shall be party other than the trading partner.

N. Schedule of eligible securities.

- (1) Obligations issued, or fully insured or guaranteed as to the payment of principal and interest, by the United States of America, an agency thereof or a United States Government sponsored corporation.
- (2) Obligations issued or fully guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, and the African Development Bank.
- (3) Obligations partially insured or guaranteed by any agency of the United States of America, at a proportion of the market value of the obligation that represents the amount of the insurance or guaranty.
- (4) Obligations issued or fully insured or guaranteed by the State of New York, obligations issued by municipal corporation or school district.
- (5) Obligations issued by states (other than the State of New York) of the United States rated in one of the three highest rating categories by at least one nationally recognized statistical rating organizations.
- (6) Obligations of Puerto Rico rated in one of the three highest rating categories by at least one nationally organized statistical rating organization.
- (7) Obligations of domestic corporations rated in one of the two highest rating categories by at least one nationally recognized statistical rating organizations.
- (8) Any mortgage related securities, as defined in the Securities Exchange Act of 1934, as amended, which may be purchased by banks under the limitations established by bank regulatory agencies.
- (9) Commercial paper and bankers' acceptances issued by a bank, other than the bank, rated in the highest short-term category by at least one nationally recognized statistical rating organization and having maturities of not longer than 60 days from the date they are pledged.
- (10) Zero coupon obligations of the United States government marketed as "treasury strips."

O. Procedure for investment.

- (1) Chief fiscal officer shall monitor all balances of City accounts to insure sufficient collateral.
- (2) All rates on investments to be obtained through competitive rate, negotiable rate, or comparison of daily rates [i.e., Wall Street Journal rates on thirty-, sixty-, ninety-day certificate of deposit rates, United Treasury rates versus current rates (i.e., MBIA Accounts, Bank Money Market Accounts)].
- (3) Written or FAX confirmation of all investments shall be required.
- (4) All depositories and dealers shall be required to submit statements at least monthly certifying collateral and values. The chief fiscal officer shall monitor the pledged collateral for legality and sufficiency.
- (5) All 5G cooperative investments shall issue monthly statements indicating deposits and withdrawals from the cooperatives to be monitored by the chief fiscal officer.
- (6) The chief fiscal officer shall authorize all investments as to legality and rate.

§ 5-8. Deposit or commingling of proceeds of capital notes and budget notes with other City funds.

The proceeds, inclusive of premiums, of capital notes issued in amounts of \$100,000 or less, and of budget notes, need not be deposited in a special account but may be deposited and commingled with other funds of the City in any account of the City in such banks or trust companies authorized to do business in this state and designated as the official depositories of the City.

§ 5-9. Petty cash funds. [Amended 11-5-1979 by Ord. No. 261-79; 9-7-1982 by Ord. No. 114-82; 1-24-1983 by Ord. No. 6-83; 2-2-1987 by Ord. No. 8-87; 2-21-1989 by Ord. No. 18-89; 5-6-1991 by Ord. No. 48-91; 5-17-2017 by Ord. No. 17-36]

- A. Established; amount. Petty cash funds are hereby created, established and authorized for each department in an amount not to exceed \$150 per department or authorized division of a department. Notwithstanding the above, the City Clerk shall be permitted to maintain petty cash funds of up to \$500 and the City Treasurer shall be permitted to maintain petty cash funds of up to \$1,500.
- B. Written request required; liability of department head. Notwithstanding the foregoing, no such petty cash fund shall be created unless and until the appropriate department or bureau head shall have submitted to the Comptroller a written request for such a fund, setting forth the purpose of such fund and the amount to be deposited in said fund, which amount shall be consistent with the provisions of Subsection A hereof. Said request shall include the specific consent of that department head to assume personal liability for any and all monies transferred to said fund, and he or she shall thereafter be personally and individually liable for any deficiencies in or loss from said fund from any cause whatever. Said request shall require the approval of the Comptroller and the Mayor.
- C. Audit of funds; operation, maintenance of funds. All such petty cash funds shall be subject to periodic audit by the Comptroller, and shall be operated and maintained according to such rules, regulations and procedures as shall be promulgated by the Comptroller and City Treasurer in their discretion. Any such rules, regulations and procedures shall be distributed to all departments and/or bureaus maintaining such funds and shall be filed with the City Clerk.
- D. Source of funds; promulgation of rules, regulations. The Comptroller and City Treasurer are authorized and empowered to create from general funds such petty cash funds as are herein authorized, and to establish and promulgate such rules, regulations and procedures with regard to the maintenance thereof as they in their discretion may deem necessary.

§ 5-10. Bond of officers and employees.

Officers and employees of the City shall, prior to entering into the duties of their offices, post bond in such amount as may be determined from time to time by the City Council.

§ 5-11. Duty of officers to deliver papers in proceedings or actions affecting City to Corporation Counsel.

Whenever any papers in any proceeding or action by which the City is affected shall be served on any officer of the City he or she shall forthwith deliver the same to the Corporation Counsel who shall thereupon take such action in the matter as shall be necessary to protect the interests of the City until the next meeting of the City Council, when he or she shall report the matter to the Council with his or her proceedings thereon.

§ 5-12. Payment of salaries of Council and Mayor.

The salaries of Council members and the Mayor shall be paid in the same installments as the salaries of other City officials and employees.

§ 5-13. Marriage officers. [Amended 10-19-1992 by Ord. No. 93-92; 1-17-1996 by Ord. No. 3-96; Amended 8-17-09 by Ord. No. 28-2009; Amended 3-17-10 by Local Law 1-2010]

- A. The City Council has the power to appoint marriage officers to solemnize a marriage within the boundaries of the City of Binghamton.
- B. The Council for the City of Binghamton hereby creates two positions of marriage officers for the City of Binghamton pursuant to Domestic Relations Law § 11-c, and hereby appoints the City Clerk and the Deputy City Clerk as marriage officers for the City of Binghamton.
- C. The City Clerk and the Deputy City Clerk are currently paid employees and residents of the City of Binghamton and are hereby authorized to perform marriage solemnization services. If these services

are performed during the normal work week of Monday through Friday between 9:00 a.m. and 5:00 p.m. the marriage officers shall provide said services at a cost set forth by City Council (See Exhibit J), such funds to be credited to the City's general fund. All marriage services are to be performed within the City of Binghamton.

D. Records.

- (1) Said marriage officers shall be required to maintain records of the marriage solemnization services that they perform by keeping a record of the name of the parties, their future address and phone number, the date and location of the performance of the service and the amount of any gift or gratuity that was received for performance of said service. These records are to be kept by each of the marriage officers separately.
- (2) A report indicating the date and location of performance of a service and the amount of any gift or gratuity that was received for performance of the same is to be provided to each member of the Council of the City of Binghamton and to the Comptroller's office on a semiannual basis. The first report shall be due the first week of January 1996 and every six months thereafter. In the event that the Comptroller's office, the Corporation Counsel or any member of City Council wishes to review or have copies of the full record which includes the name and address of the parties for whom marriage solemnization services were performed, the marriage officer shall provide said records. Those receiving full records do so with the understanding that said records are to be received in confidence and the parties receiving said record are to avoid any public dissemination of said records in order to protect the confidentiality of the individuals for whom the service was provided.

E. The term of the office of the marriage officers shall commence upon the effective date of this legislation and shall terminate on December 31, 1999, unless sooner terminated pursuant to Domestic Relations Law § 11-c, Subdivision 4.

§ 5-14. Fees for marriage certificates. [Amended 8-15-1979 by Ord. No. 178-79; 4-7-1986 by Ord. No. 31-86]

Pursuant to Domestic Relations Law § 14-a, Subdivision 2, the City Clerk of the City of Binghamton is authorized to charge a fee as set from time to time (See Exhibit J) by resolution of City Council for a marriage certificate, payable at the time of issuance of the marriage license, and upon request of any applicant whose name appears thereon, issue a similar certificate of marriage, as above, and similarly expanded with additional facts upon the express additional request, for all marriages heretofore indexed and recorded in the office of the City Clerk, for a fee as set from time to time by resolution of City Council. No fee shall be charged for any certificate when required by the Veterans Administration to be used in determining the obligation of an person to participate in the benefits made available by the Veterans Administration.

§ 5-15. Mileage allowance for travel on City business. [Amended 8-15-1979 by Ord. No. 178-79; 4-7-1986 by Ord. No. 31-86]

The payment of a mileage allowance equivalent to the mileage allowance now, and as may be, authorized by the Internal Revenue Service, for miles actually and necessarily traveled on official business by any City officer or employee, for the use of his or her own automobile is hereby authorized and established. The payment vouchers shall set forth the point of destination and the miles traveled.

§ 5-16. Number of Commissioners of Deeds.

Under and pursuant to the provisions contained in section eleven of the supplemental charter of the City, 125 is fixed and determined upon as the number of Commissioners of Deeds in and for the City that may be appointed by the Mayor.

§ 5-17. Inspection of work done under contracts for public improvements. [Amended 3-17-10 by Local Law 1-2010]

All contracts for public improvements for the City shall contain a provision that any Council member acting on behalf of the City shall have access to any public improvement for the purpose of surveying and inspecting said public improvement at any reasonable time.

§ 5-18. Publication of orders, ordinances, local laws, etc.

The City Clerk be and he or she hereby is directed to refrain from publishing in the official newspaper of the City, any City, City Council or Traffic Board orders, ordinances, local laws, proceedings, legal advertising or legal notices, except those orders, ordinances, local laws, proceedings, legal advertising and legal notices which are legally mandated or which are legally required by applicable United States or New York State statute, order, rule or regulation or by local law or ordinance of the City.

§ 5-19. Public notification procedures for ordinances affecting zoning. [Amended 10-4-1999 by Ord. No. 99-150]

- A. Within five days after an ordinance amending, supplementing, repealing or changing the Zoning Ordinance of the City has been introduced in the City Council, the City Clerk shall mail a suggested form of protest to each owner of property who is authorized to present a written protest against the particular zoning amendment, supplement, repeal or change pursuant to § 83 of the General City Law, which said suggested form of protest shall be substantially as set out in § 5-20.
- B. The applicant shall place a sign obtained from the City Clerk in the front yard of the property for which the public hearing is required. Said sign shall be posted a minimum of 10 calendar days prior to the date of the public hearing (excluding the date of the hearing) and shall remain on the property until after the public hearing has been conducted. Said sign shall be placed in such a manner as to be visible from the street on which the parcel fronts. In the event that the parcel does not have a front yard, the sign shall be placed in a window or otherwise affixed to a building in a manner which can be easily viewed from the street or sidewalk. The applicant shall then file an affidavit of posting with the City Clerk stating when and where the sign was posted. In the case of parcels containing more than 300 feet of frontage, one sign per 300 feet, or part thereof, of frontage shall be required. In the case of corner lots, one sign shall be placed on each front yard. Said sign shall state the general nature of the public hearing, the date, time and place of the public hearing, and a telephone number to call for additional information. The cost for said sign(s) shall be in addition to the application fee.

§ 5-20. Form of protest. [Amended 3-17-10 by Local Law 1-2010]

The protest provided for in § 5-19 shall be substantially as follows.

Form of Protest

CITY OF BINGHAMTON, NEW YORK,
OFFICE OF CITY CLERK,
MUNICIPAL BUILDING,
BINGHAMTON, NEW YORK

TO: (Name and address from assessment roll) Date:

This is your official notice that Introductory Ordinance No. _____ for the year _____ has been introduced in Binghamton City Council. Said Ordinance proposes a zoning change described below for the properties listed below:

Street Address
Tax Map Lot No.
Presently Zoned

Proposed Zone

A public hearing will be held in the Council Chambers, City Hall, Collier Street, Binghamton, New York, at 6:30 p.m. on _____ with respect to the above zoning change.

Ordinarily, a zoning change requires only a simple majority vote of City Council for adoption. However, if a prescribed number of SIGNED, WRITTEN AND ACKNOWLEDGED PROTESTS are received, a three-fourths vote of City Council is required for adoption of the ordinance containing the zoning change.

The instrument below is a suggested form of protest; it is not necessarily the only form permissible; and, providing that it complies with the provisions of § 83 of the General City Law, you may use any other form.

In order to be valid, the property owner's signature(s) must be acknowledged before a Notary Public or Commissioner of Deeds.

You may appear in person to speak at a public hearing to be held before City Council on _____ at 6:30 p.m. However, for the purpose of deciding whether the majority vote or a three-fourths vote of City Council is required for adoption of the pending Zoning Ordinance, only those written protests signed and acknowledged as required by § 83 of the General City Law will be considered. In other words, verbal objections at the public hearing have no effect whatsoever on the number of Council votes required for adoption of the above-described Zoning Ordinance.

In the event that you are opposed to the above-described zoning change, you may FILL OUT, SIGN AND ACKNOWLEDGE the following PROTEST and return same to the City Clerk of the City of Binghamton on or before _____, the date of the scheduled public hearing.

CITY CLERK

TO THE CITY COUNCIL OF THE CITY OF BINGHAMTON:

This instrument is a protest against the above-described zoning amendment (supplement, repeal or change), pursuant to § 83 of the General City Law and Section 21 of the Zoning Ordinance of the City of Binghamton, New York, as amended.¹

I (We) hereby protest against the proposed zoning amendment (supplement, repeal or change) which is incorporated in an ordinance entitled, "An Ordinance Amending the Zoning Ordinance of the City of Binghamton, New York," being Introductory Ordinance No. _____ for the year _____ Date:

SIGNATURE(S)
OF PROPERTY OWNER(S)

STATE OF NEW YORK,
COUNTY OF BROOME ss:

On this ___ day of _____, 20___, before me the subscriber, personally appeared _____ known to me to be the same person(s) described in and who executed the above instrument, and he acknowledged to me that he executed the same.

NOTARY PUBLIC, OR
COMMISSIONER OF DEEDS

Note: In order to be valid, the property owner's signature(s) must be acknowledged before a Notary Public or Commissioner of Deeds.

§ 5-21. Effect of failure to mail or receive form.

The failure of the City Clerk to mail a copy of the suggested form of protest to any property owner or property owners who are authorized to present a written protest against a particular zoning amendment, supplement, repeal or change pursuant to § 83 of the General City Law, or the failure of any such property owner or property owners to receive such a suggested form of protest shall in no way invalidate the particular zoning amendment, supplement, repeal or change to which such protest would have related. The act of the City Clerk in determining the persons who are entitled to receive such a suggested form of protest shall not be binding or conclusive as to the rights of any person included or not included in such determination, nor shall any such determination be binding on the City Council or the City.

§ 5-22. Identification cards; misuse; revocation. [Amended 10-1-1973 by Ord. No. 201-73]

- A. The Mayor be, and he or she hereby is, authorized and empowered to make, issue and deliver to City officials and employees and representatives of the news media, an identification card permitting the person possessing such card to pass fire and police lines when authorized. Such identification card shall contain the name of the person to whom issued, his or her title or place of employment and a photograph of the holder.
- B. Requests for such identification cards shall be made in writing to the Mayor's office.
- C. Whenever any person to whom the identification card referred to in Subsection A hereof has been issued shall be guilty of misuse of such card, the same may be revoked upon written notice from the Mayor.
- D. Any person who shall obtain or attempt to obtain any privilege by the misuse, fraudulent use, duplication or counterfeit or transfer of such identification card, or knowingly permit its use by another person, shall be guilty of a misdemeanor and upon conviction shall be subject to the penalties set forth in Chapter 1, General Provisions, § 1-4.
- E. The identification cards issued hereunder and the rights and privileges conferred thereby are revocable at the pleasure of the Mayor with the exception of those identification cards issued to members of the Council of the City of Binghamton, during and for their term of office.

§ 5-23. Adoption of records retention and disposition schedule. [Amended 4-21-1975 by Ord. No. 55-75; Amended 1-6-10 by Ord. No. 4-2010]

- A. The City of Binghamton hereby adopts the Records Retention and Disposition Schedule MU-1, published by the New York State Archive and Records Administration, containing record retention times for the various records held within City Hall, as may be amended from time to time.
- B. Pursuant to New York State Arts and Cultural Affairs Law § 57.19 the Mayor of the City of Binghamton, as chief executive official, designates the City Clerk to be the Records Management Officer ("RMO"), subject to approval of City Council.

§ 5-24. Public access to records. [Added 4-21-1975 by Ord. No. 54-75; Amended 9-4-07 by Ord. No. 44-2007; Amended 5-19-08 by Ord. No. 27-2008]

- A. Adoption of regulations. The Council of the City of Binghamton, in recognition of the right of the people to know the process of governmental decision making and the documents and statistics leading to determinations, as well as the right of the people to orderly and efficient governmental

administration, hereby adopts the following regulations for the City of Binghamton, pursuant to § 88, Subdivision 2, of the Public Officers Law of the State of New York, and Chapter XXV of the Regulations of the Committee on Public Access to Records, Part 1401.

B. Definitions. For the purposes of this section, the following definitions are adopted:

FISCAL OFFICER -- The fiscal officer shall be the City Comptroller, whose office is maintained at City Hall, Governmental Plaza, Binghamton, New York, 13901.

HEARING OFFICER -- The hearing officer shall be the Mayor of the City of Binghamton.

RECORDS ACCESS OFFICER

(1) The head of each department, bureau, or office listed below shall serve as records access officer for said department, bureau or office:

- (a) Mayor.
- (b) Assessment.
- (c) Building Inspector.
- (d) City Clerk.
- (e) City Court.
- (f) Civil Service.
- (g) Community Development.
- (h) Corporation Counsel.
- (i) Data Processing.
- (j) Engineering.
- (k) Finance.
- (l) Fire.
- (m) Police Bureau.
- (n) Public Works.
- (o) Purchasing.
- (p) Recreation.
- (q) Signal Bureau.
- (r) City Treasurer.
- (s) Vital Statistics.
- (t) Water Bureau.
- (u) Weights and Measures.

(2) Each of the above is located at City Hall, Binghamton, New York, 13901.

REQUESTER -- Any person seeking information pursuant to this section.

C. Duties of records access officers, fiscal officer and hearing officer.

(1) The records access officers shall:

- (a) Coordinate responses to public requests for access to records.
- (b) Insure that a current subject matter list is maintained in his or her office and in the office of the City Clerk, and that both copies are available for public inspection during regular business hours.
 - [1] Said subject matter list shall be reasonably detailed and shall enable a requester to specify the records desired with particularity.
 - [2] Said subject matter list shall be reviewed at six-month intervals to insure currency.
- (c) Assist requester in identifying requested records if necessary.
- (d) Upon locating the desired records:
 - [1] Make them promptly available; or

- [2] Specify a date, not more than five days after the date of the request, when said records will be available; or
 - [3] Deny access to the records in whole or in part, and explain in writing the reasons for denial.
 - (e) Upon request for copies of records:
 - [1] Make a photostatic copy available upon payment of the established fee; or
 - [2] Permit the requester to copy said records manually.
 - (f) Upon request, certify that a transcript is a true copy of records copied.
 - (g) Upon failure to locate records certify that:
 - [1] The City is not the legal custodian for such records; or
 - [2] The records of which the City is a legal custodian cannot be found; or
 - [3] The records have been destroyed pursuant to the regulations of the State Education Department.
 - (h) Maintain a record of requests for information, showing date, time, name of requester, copies provided, monies received and action taken upon request.
 - (i) Provide forms for appeals of denials of records, and forward completed forms to the hearing officer forthwith.
- (2) The fiscal officer shall:
 - (a) Maintain a current payroll list showing name, address, title and salary for every City employee, except members of the Binghamton Police Department for whom the list shall show only title and salary.
 - (b) Provide, for inspection, said payroll list, upon written request in the forms provided by the Comptroller of the State of New York.
 - (c) Insure that said list is inspected only under the supervision of, and in the office of, the fiscal officer, during regular working hours, or at such other place as may be convenient to the fiscal officer.
 - (d) Upon requests for copies of said payroll list:
 - [1] Make a copy available upon payment of the established fee; or
 - [2] Permit the requester to copy said list.
- (3) The hearing officer shall:
 - (a) Decide any appeal from a denial of access to records by the records access officer or the fiscal officer, when:
 - [1] Said appeal is in writing; and
 - [2] Said appeal identifies:
 - [a] The date and location of requests for records.
 - [b] The records to which the requester was denied access.
 - [c] The name and return address of the requester.
 - (b) Inform the requester (in writing) of his or her decision within seven business days of receipt of an appeal.
 - (c) Maintain a record, which shall be available for public inspection and copying, of all appeals received, including:
 - [1] Original appeal form.
 - [2] Final disposition thereof.
 - [3] All documentary materials leading to the final determination.
 - [4] Written opinions, if made.

D. Time and place of inspection.

- (1) Requests for records may be made at City Hall, Binghamton, New York, 13901, during regular business hours.
- (2) Requests for the payroll list shall be submitted to the fiscal officer, at the office of the Comptroller, City Hall, Binghamton, New York, 13901, during regular business hours.

- (a) Inspection shall be permitted by the fiscal officer in his or her office during regular business hours, or at such other place or time as the fiscal officer, in his or her discretion, shall specify.

E. Requests for records.

- (1) Requests for records shall be in writing, on the form specified, provided that a written request shall not be required for records that have been customarily available without written request.
- (2) Requests shall be sufficiently detailed to allow the locating of the records by municipal personnel within a reasonable time.
 - (a) A request for any or all records falling within a specific category shall conform to this standard of identifiability.
- (3) No records shall be removed by the requester from the office where the record is located without the permission of the records access officers or the fiscal officer.

F. Denial of access to records.

- (1) Denials of access to records by the records access officers shall be in writing and shall specify the grounds for denial:
 - (a) Said writing shall identify the hearing officer by name, title, office address, and office telephone number.
 - (b) Said writing shall advise the requester of his or her right to appeal to the hearing officer.
- (2) Grounds for denial of access:
 - (a) The following shall not be disclosed:
 - [1] Such personal matters as may have been reported in confidence to the City or any of its officers or employees, and which are not relevant or essential to the ordinary business of the City.
 - [2] Employment, medical or credit histories or personal references of applicants for employment, unless a written release, verified by individual concerning whom information is requested, is provided to the records access officer.
 - [3] Items involving the medical or personal records of a client or patient in a hospital or medical facility.
 - [4] Items of a personal nature when, in the discretion of the records access officer, disclosure would result in an economic or personal hardship to the subject party and when such records are not relevant or essential to the ordinary business of the City.
 - [5] Lists of names and addresses, if such lists would be used for private, commercial, or fund-raising purposes.
 - [a] The records access officers shall have the power to determine the purposes for which such lists are sought. Failure to reply to such inquiry shall be deemed a withdrawal of the request for access to records.
 - [6] Information specifically exempted by statute.
 - [7] Information confidentially disclosed to the City or its officers or employees and compiled and maintained for the regulation of commercial enterprise, including trade secrets, or for the grant or review of a license to do business, which, if openly disclosed, would permit an unfair advantage to competitors of the subject enterprise, unless disclosure is directed by some other statute.
 - [8] Information which, if disclosed, would constitute an unwarranted invasion of personal privacy.

[9] Information which is part of investigatory files compiled for law enforcement purposes.

- G. Public notice. The following shall be conspicuously posted in each department, bureau or office:
- (1) The name, title, office address and office telephone number of the records access officers and the fiscal officer.
 - (2) A notification of the right to appeal by any requester denied access to a record for whatever reason, and the name and office address of the hearing officer to whom an appeal is to be directed.
- H. Fees for copies of records shall not exceed twenty-five cents per photocopy not in excess of nine inches by fourteen inches, or the actual cost of reproducing any other record.
- I. Previous procedures unaffected. Nothing in this section shall be construed to deny access to any records that were previously available to the public pursuant to the laws of the State of New York. Furthermore, those records which are, and have been, specifically exempted from disclosure by state and federal law shall remain confidential.
- J. Severability. If any provision of this section or the application thereof to any person or circumstances is adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the other provisions of this section or the application thereof to other persons and circumstances.
- K. Effective date. This section shall take effect immediately.

§ 5-25. Records management program. [Added 9-4-1989 by Ord. No. 89-115; amended 2-6-1995 by Ord. No. 95-8; Amended 1-6-10 by Ord. No. 4-2010]

A local government records management program shall be established pursuant to New York State Arts and Cultural Affairs Law § 57.19 as follows:

- A. The RMO, as defined in § 5-23 above, shall be responsible for overseeing the records management program for the City of Binghamton. Said officer will be responsible for administering the storage of inactive and archival public records for the City of Binghamton in accordance with local, state, and federal laws and guidelines. In performing his/her duties, the records management officer shall:
- (1) Continually survey and examine public records and recommend their classification to determine the most suitable methods to be used for maintaining, storing, and servicing obsolete and permanent records and those records which are not subject to disposition according to the laws of the State of New York.
 - (2) Establish guidelines for proper records management for the various departments and to work with each individual department to establish a retention schedule more consistent with the specific types of documents generated by, and used in their departments.
 - (3) Report when requested to the Mayor and the City Council on the activities of the records management officer with respect to the responsibilities enumerated herein.
- B. Cooperative efforts: That the RMO may accomplish the duties and responsibilities of office in a cooperative effort with all other local government entities. Any cooperative effort shall be based upon a written cooperation agreement subject to the approval of the Council of the City of Binghamton.
- C. Grant application: The records management officer is authorized, alone or in conjunction with another governmental entity or entities, to make application for grant funds established pursuant to Chapter 78, for the implementation of the records management program.

§ 5-26. Records Advisory Board. [Added 2-6-1995 by Ord. No. 95-8; Amended 1-6-10 by Ord. No. 4-2010]

There is hereby established a Records Advisory Board consisting of the Mayor or a designee, a member of City Council appointed by the Council President, the Comptroller or a designee, the Corporation Counsel or a designee, and the RMO. The function of the Advisory Board will be to provide advice and assistance to the RMO on the development of the City's records program, and to review the performance and where necessary propose changes and improvements to the program. The Advisory Board will meet as requested by the RMO or any member of the Advisory Board.

§ 5-27. Definitions. [Added 2-6-1995 by Ord. No. 95-8]

For the purpose of §§ 5-25 through 5-28, the following words and terms shall have the meaning ascribed thereto:

ARCHIVE -- Those records designated for permanent retention in the state records retention schedule, all records dating from 1910 or earlier, and those records designated as archival by the records management officer on the advice of the Records Advisory Board.

RECORD -- Any documents, books, papers, photographs, sound recordings, microfilm or any other materials, regardless of physical form or characteristics, made or received during the course of official City business.

RECORDS DISPOSITION -- The removal by the City, in accordance with the state records retention schedule, of records no longer necessary for the regular course of local government business. Removal methods may include the disposal of temporary records by destruction or donation or the transfer of records from one City agency to any other City agency.

RECORDS MANAGEMENT -- The planning, controlling, directing, organizing, training, promotion, and other managerial activities involved in records maintenance, use and disposition, including records preservation and disposal, records center or other storage facilities.

§ 5-28. Disposal of records. [Added 2-6-1995 by Ord. No. 95-8]

No records of the City of Binghamton shall be destroyed or otherwise disposed of by any department of the City without the express written approval of the records management officer. Destruction of confidential records must be approved by the Advisory Board before any destruction takes place.

§ 5-29. Fees for preparation of documents by City Treasurer. [Added 3-7-1983 by Ord. No. 29-83; amended 1-19-1988 by Ord. No. 6-88]

A schedule of fees as set from time to time (See Exhibit J) by resolution of City Council for the following is hereby established for the duplication of documents by the office of the City Treasurer:

- A. Tax certificate.
- B. Duplicate tax bills.
- C. Tax payment searches, per parcel.
- D. Delinquent tax advertising.
- E. Tax sale certificates.
- F. Checks returned, insufficient funds.

§ 5-30. Official newspaper designated. [Added 4-4-1983 by Ord. No. 46-83; amended 9-16-1985 by Ord. No. 111-85]

- A. Pursuant to and in accordance with the provisions of § 43 of the Second Class Cities Law, as amended by Local Law 4-71EN entitled, "A Local Law Amending Section 43 of the Second Class Cities Law Entitled 'Designation of Official Papers, Official Printing,' in Its Application to the City of Binghamton," the Council of the City of Binghamton hereby determines to designate but one official newspaper and designates The Press & Sun-Bulletin (a daily newspaper published in the County of Broome, and having general circulation in the City of Binghamton, and owned and published by the

Binghamton Press Co., Inc., Vestal Parkway East, Binghamton, New York 13903), as the official newspaper of the City of Binghamton for the period beginning immediately and continuing until a successor or successors shall be designated.

- B. The fees payable by the City of Binghamton to the Binghamton Press Co., Inc., for printing and publishing in accordance with the provisions of this section and Local Law 4-71 shall be calculated and paid in accordance with the provisions of § 70-a of the Public Officers Law or as the same may hereafter be amended by the New York State Legislature.
- C. The Binghamton Press Co., Inc., within 30 days after the adoption of this section by the Council of the City of Binghamton, shall enter into a written agreement with the City of Binghamton embodying the terms and conditions herein set forth; and the Mayor of the City of Binghamton is hereby authorized to execute such agreement on behalf of the City of Binghamton.

§ 5-31. Free parking authorized. [Added 5-2-1983 by Ord. No. 55-83]

The City Treasurer is hereby authorized to provide stamps for one hour of free parking at City ramps for those citizens paying taxes and bills in person at City Hall.

§ 5-32. Comptroller to provide financial information. [Added 4-21-1986 by Ord. No. 34-86; Amended 12-21-11 by Ord. No. 11-55]

The Comptroller will provide (i) all financial reports, audit reports, weekly revenue/budget reports, (ii) each fund's cash balance and interfund advances, and (iii) random audit results, to the Mayor and members of City Council on at least a quarterly basis via a shared internet portal site. The Comptroller or the Comptroller's representative will attend the second City Council work session in the months of May, August, November, and February, to review the preceding quarterly information with City Council.