

TITLE 1
ADMINISTRATION

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CHAPTER 1
SENECA CITY CODE

SECTION:

- 1-1-1: Title
- 1-1-2: Acceptance
- 1-1-3: Amendments
- 1-1-4: Code Alterations

1-1-1: **TITLE:** Upon the adoption by the city council, this city code is hereby declared to be and shall hereafter constitute the official city code of Seneca. This city code of ordinances shall be known and cited as the *SENECA CITY CODE* and is hereby published by authority of the city council and shall be supplemented to incorporate the most recent legislation of the city as provided in section 1-1-3 of this chapter. Any reference to the number of any section contained herein shall be understood to refer to the position of the same number, its appropriate chapter and title heading, and to the section itself, when reference is made to this city code by title in any legal documents. (2007 Code)

1-1-2: **ACCEPTANCE:** The city code, as hereby presented in printed form, shall hereafter be received without further proof in all courts and in administrative tribunals of this state as the ordinances of the city of general and permanent effect, except the excluded ordinances enumerated in section 1-2-1 of this title. (2007 Code)

1-1-3: **AMENDMENTS:** Any ordinance amending the city code shall set forth the title, chapter and section number of the section or sections to be amended, and this shall constitute sufficient compliance with any statutory requirement pertaining to the amendment or revision by ordinance of any part of this city code. All such amendments or revisions by ordinance shall be immediately forwarded to the codifiers, and the said ordinance material shall be prepared for insertion in its proper place in each copy of this city code. Each such replacement page shall be properly

identified and shall be inserted in each individual copy of the city code.
(2007 Code)

1-1-4: **CODE ALTERATIONS:** It shall be deemed unlawful for any person to alter, change, replace or deface in any way any section or any page of this city code in such a manner that the meaning of any phrase or provision may be changed or omitted. Said code, while in actual possession of officials and other interested persons, shall be and remain the property of the city and shall be returned to the office of the city recorder-manager when directed so to do by order of the city council. (2007 Code)

CHAPTER 2

SAVING CLAUSE

SECTION:

- 1-2-1: Repeal Of General Ordinances
- 1-2-2: Public Ways And Public Utility Ordinances
- 1-2-3: Court Proceedings
- 1-2-4: Severability Clause

1-2-1: **REPEAL OF GENERAL ORDINANCES:** All general ordinances of the city passed prior to the adoption of this city code are hereby repealed, except such as are included in this city code or are by necessary implication herein reserved from repeal (subject to the saving clauses contained in the following sections), and excluding the following ordinances which are not hereby repealed: tax levy ordinances; ordinances electing to receive state revenues; appropriation ordinances; ordinances relating to boundaries and annexations; contract ordinances and ordinances authorizing the execution of a contract or the issuance of warrants; salary ordinances; ordinances establishing, naming or vacating streets, alleys or other public places; improvement ordinances; bond ordinances; ordinances relating to elections; ordinances relating to the transfer or acceptance of real estate by or from the city; and all special ordinances¹. (2007 Code)

1-2-2: **PUBLIC WAYS AND PUBLIC UTILITY ORDINANCES:** No ordinance relating to railroad crossings with streets and other public ways, or relating to the conduct, duties, service or rates of public utilities shall be repealed by virtue of the adoption of this city code or by virtue of the preceding section, excepting as the city code may contain provisions for such matters, in which case, this city code shall be considered as amending such ordinance or ordinances in respect to such provisions only. (2007 Code)

1. Special ordinances are listed in the appendix following this code.

1-2-3: COURT PROCEEDINGS:

- A. **Prior Acts:** No new ordinance shall be construed or held to repeal a former ordinance whether such former ordinance is expressly repealed or not, as to any offense committed against such former ordinance or as to any act done, any penalty, forfeiture or punishment so incurred, or any right accrued or claim arising under the former ordinance, or in any way whatever to affect any such offense or act so committed or so done, or any penalty, forfeiture or punishment so incurred or any right accrued or claim arising before the new ordinance takes effect, save only that the proceedings thereafter shall conform to the ordinance in force at the time of such proceeding, so far as practicable. If any penalty, forfeiture or punishment may be mitigated by any provision of a new ordinance, such provision may be, by consent of the party affected, applied to any judgment announced after the new ordinance takes effect.
- B. **Extend To All Repeals:** This section shall extend to all repeals, either by express words or implication, whether the repeal is in the ordinance making any new provisions upon the same subject or in any other ordinance.
- C. **Pending Actions:** Nothing contained in this chapter shall be construed as abating any action now pending under or by virtue of any general ordinance of the city herein repealed, and the provisions of all general ordinances contained in this code shall be deemed to be continuing provisions and not a new enactment of the same provisions; nor shall this chapter be deemed as discontinuing, abating, modifying or altering any penalty accrued or to accrue, or as affecting the liability of any person, firm or corporation, or as waiving any right of the city under any ordinance or provision thereof in force at the time of the adoption of this city code. (2007 Code)

1-2-4: SEVERABILITY CLAUSE: If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this city code, or any part hereof or any portion adopted by reference or any codes or portions of codes adopted herein is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this code, or any part hereof or any portion adopted by reference or any codes or portions of codes adopted herein. The city council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions,

paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective. (2007 Code)

CHAPTER 3**DEFINITIONS; INTERPRETATIONS****SECTION:**

- 1-3-1: General Rules Of Interpretation
- 1-3-2: Definitions, General
- 1-3-3: Catchlines

1-3-1: GENERAL RULES OF INTERPRETATION:

- A. **Liberal Construction:** All general provisions, terms, phrases and expressions contained in this code shall be liberally construed in order that the true intent and meaning of the city council may be fully carried out.
- B. **Minimum Requirements:** In the interpretation and application of any provision of this code, it shall be held to be the minimum requirements adopted for the promotion of the public health, safety and general welfare.
- C. **Computation Of Time:** Whenever a notice is required to be given or an act to be done in a certain length of time before any proceeding shall be had, the day on which such notice is given or such act is done shall be counted in computing the time, and the day on which such proceeding is to be held shall be counted.
- D. **Delegation Of Authority:** Whenever a provision appears requiring the head of a department or some other city officer to do some act or perform some duty, it is to be construed to authorize the head of the department or other officer to designate, delegate and authorize subordinates to perform the required act or perform the duty, unless the terms of the provision or section specify otherwise.
- E. **Gender:** A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

- F. **Joint Authority:** All words giving a joint authority to three (3) or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.
- G. **May/Shall:** The word "may" is permissive; the word "shall" is mandatory.
- H. **Nontechnical And Technical Words:** Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.
- I. **Number:** A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing.
- J. **Officers And Employees Generally:** Whenever any officer or employee is referred to by title only, such reference shall be construed as if followed by the words "of the city of Seneca".
- K. **Tense:** Words used in the past or present tense include the future as well as the past and present.
- L. **Ordinance:** The word "ordinance" contained in the ordinances of the city has been changed in the content of this city code to "title", "chapter", "section" and/or "subsection" or words of like import for organizational and clarification purposes only. Such change to the city's ordinances is not meant to amend passage and effective dates of such original ordinances. (2007 Code)

1-3-2: **DEFINITIONS, GENERAL:** Whenever the following words or terms are used in this code, they shall have such meanings herein ascribed to them, unless the context makes such meaning repugnant thereto:

- AGENT:** A person acting on behalf of another with authority conferred, either expressly or by implication.
- CITY:** The city of Seneca, county of Grant, state of Oregon.
- CODE:** The city code of the city of Seneca, Oregon.

COUNCIL:	Unless otherwise indicated, the council of the city of Seneca.
COUNTY:	The county of Grant, state of Oregon.
FEE:	A sum of money charged by the city for the carrying on of a business, profession or occupation.
LICENSE:	The permission granted for the carrying on of a business, profession or occupation.
ORS:	Oregon Revised Statutes.
OCCUPANT:	As applied to a building or land, shall include any person who occupies the whole or any part of such building or land whether alone or with others.
OFFENSE:	Any act forbidden by any provision of this code or the omission of any act required by the provisions of this code.
OPERATOR:	The person who is in charge of any operation, business or profession.
OWNER:	As applied to a building or land, shall include any part owner, joint owner, tenant in common, joint tenant or lessee of the whole or of a part of such building or land.
PERSON:	Any public or private corporation, firm, partnership, association, organization, government or any other group acting as a unit, as well as a natural person.
PERSONAL PROPERTY:	Shall include every description of money, goods, chattels, effects, evidence of rights in action and all written instruments by which any pecuniary obligation, right or title to property is created, acknowledged, transferred, increased, defeated, discharged or diminished and every right or interest therein.

- RETAILER:** Unless otherwise specifically defined, shall be understood to relate to the sale of goods, merchandise, articles or things direct to the consumer.
- RIGHT OF WAY:** The privilege of the immediate use of the roadway or other property.
- STATE:** The state of Oregon.
- STREET:** Shall include alleys, lanes, courts, boulevards, public ways, public squares, public places and sidewalks.
- TENANT:** As applied to a building or land, shall include any person who occupies the whole or any part of such building or land, whether alone or with others.
- WHOLESALE DEALER:** These terms, unless otherwise specifically defined, shall be understood to relate to the sale of goods, merchandise, articles or things to persons who purchase for the purpose of resale.
- WRITTEN, IN WRITING:** May include printing and any other mode of representing words and letters, but when the written signature of any person is required by law to any official or public writing or bond, it shall be in the proper handwriting of such person, or in case such person is unable to write, by such person's proper mark. (2007 Code)
- 1-3-3: CATCHLINES:** The catchlines of the several sections of the city code are intended as mere catchwords to indicate the content of the section and shall not be deemed or taken to be titles of such sections, nor be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any section hereof, nor unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted. (2007 Code)

CHAPTER 4

CONFISCATED, ABANDONED OR LOST PROPERTY

SECTION:

- 1-4-1: Storage By City
- 1-4-2: Investigation By City Officials
- 1-4-3: Procedure For Sale Of Abandoned Property
- 1-4-4: Redemption Prohibited; Disposition Of Proceeds
- 1-4-5: Release Of Property From Storage

1-4-1: **STORAGE BY CITY:** The city shall have the right to take or impound a vehicle or other personal property found or abandoned upon the streets of the city; or found without an owner claiming the same; or which shall, by reason of confiscation or in any other manner, come into the hands of the city. The city shall provide a claim to either place the same upon or in city property for further disposition, or store the same within the city's storage yard. (Ord. 39, 2-8-1983)

1-4-2: **INVESTIGATION BY CITY OFFICIALS:**

- A. Identification Of Owner: The officials of the city, upon finding personal property, as referred to in this chapter, or coming into possession of the same, shall diligently inquire of all available persons as to the name and address of the owner, conditional vendor or mortgagee or any other person interested therein and shall examine the motor vehicle or other personal property for a license number, motor number, serial number, make and style, and for any other information which will aid in the identification of the owner, conditional vendor, mortgagee or other interested person.
- B. Motor Vehicle, Search Of State Records: If the property in question is a motor vehicle, the city, after having acquired all available information, shall immediately transmit the same to the secretary of state with an inquiry for the name and address of the owner, conditional vendor, mortgagee or other person interested. (Ord. 39, 2-8-1983)

1-4-3: PROCEDURE FOR SALE OF ABANDONED PROPERTY:

- A. **Owner Known:** If the owner or conditional vendor of property referred to in this chapter or mortgagee or other person interested therein is found and identified, he shall be immediately notified by registered letter that the personal property is held by the city and will be sold at public auction at the city hall grounds, the place of storage, or any other designated location within the city on a certain day and hour, to the highest and best bidder, for cash. This sale shall not be held until ten (10) days have elapsed from the receipt by the owner of the registered notice.
- B. **Owner Unknown:** If after sixty (60) days from the day the personal property referred to in this chapter shall come into the possession of the city, the owner, conditional vendor, mortgagee or other interested person cannot be found after due diligence as herein set out, then the city council shall cause to be published in a newspaper printed and published in the county, a notice embodying the information set out in subsection A of this section, which shall be published twice, the first publication of which shall be made more than ten (10) days before such proposed sale.
- C. **Surrender Of Property To Owner Before Sale:** If the owner or conditional vendor of the personal property referred to in this chapter or mortgagee or other person interested therein shall apply to the city council, before a sale shall have taken place, for the return of such property and shall submit to the city council satisfactory evidence of his interest therein and shall tender with the application the costs in the seizing, keeping and making sale of the motor vehicle or personal property, the city council, upon being satisfied that the claim is rightful, shall surrender the same to the claimant.
- D. **Sale Generally:** If no claim shall have been made before the time set for the sale of the personal property under this chapter, the city council shall, on the city hall grounds, the place of storage or any other place within the city designated in the notice of sale, sell such property to the highest and best bidder for cash, and in default of bids from other persons interested therein for a greater sum, shall bid the same in the city at its reasonable value.
- E. **Bill Of Sale:** Upon the consummation of a sale, the city council shall make, execute and deliver upon behalf of, and in the name of, the city, a bill of sale signed by the mayor, conveying the property in question to the purchaser, and coincidentally therewith delivering possession of such property to the purchaser. (Ord. 39, 2-8-1983)

1-4-4: **REDEMPTION PROHIBITED; DISPOSITION OF PROCEEDS:** The sale and conveyance, under subsections 1-4-3D and E of this chapter, shall be without redemption. The proceeds of such sale shall be first applied upon the storage, towing bills, and publication fees and other costs of the keeping and sale, and the balance shall go to the general fund of the city. No claim for storage and towing shall exceed the proceeds from the sale of any personal property. (Ord. 39, 2-8-1983)

1-4-5: **RELEASE OF PROPERTY FROM STORAGE:** The owner or operator of any place in which personal property, referred to in this chapter, has been stored by the city shall not release a vehicle or property without having first obtained a written release from the city council. (Ord. 39, 2-8-1983)

CHAPTER 5

MEASURE 37 CLAIMS PROCEDURE

SECTION:

- 1-5-1: Purpose
- 1-5-2: Definitions
- 1-5-3: Claim Requirements
- 1-5-4: Conditions, Revocation And Transfer
- 1-5-5: Fees
- 1-5-6: Private Cause Of Action
- 1-5-7: Availability Of Funds To Pay Claims
- 1-5-8: Applicable State Law

1-5-1: **PURPOSE:** The purpose of this chapter is to accomplish the following regarding claims for compensation under Oregon Revised Statutes chapter 197, as amended by ballot measure 37, adopted November 2, 2004:

Process claims for compensation quickly, openly, thoroughly, and consistently with the law; enable present real property owners making claims for compensation to have an adequate and fair opportunity to present their claims to the city; provide the city with the factual and analytical information necessary to adequately and fairly consider claims for compensation; and take appropriate action under the alternatives provided by law; preserve and protect limited public funds; preserve and protect the interests of the community by providing for public input into the process of reviewing claims; and establish a record of decisions capable of withstanding legal review. (Ord. 85, 12-1-2004, eff. 12-1-2004)

1-5-2: **DEFINITIONS:** For the purpose of this chapter, the following definitions apply:

APPRAISAL: A written statement prepared by an appraiser licensed by the appraiser certification and

license board of the state of Oregon under Oregon Revised Statutes chapter 674. For commercial or industrial property, the term "appraisal" also means a written statement prepared by an appraiser holding the Member Appraisal Institute qualifications and evidenced by written certification.

BALLOT MEASURE 37: The provisions added to Oregon Revised Statutes chapter 197 by ballot measure 37 as approved by Oregon voters on November 2, 2004.

CITY OF SENECA: The city of Seneca shall be referred to herein as "city".

CLAIM: The written demand for compensation made by an owner of real property in accordance with ballot measure 37 and this chapter.

EXCEPTIONS TO LAND USE REGULATION: The following land use regulations are excluded from the application of this chapter:

A. A regulation restricting or prohibiting activities commonly and historically recognized as public nuisances under common law, and criminal laws of Oregon and the city;

B. A regulation restricting or prohibiting activities for the protection of public health and safety such as fire and building codes, health and sanitation regulations, solid or hazardous waste regulations, and pollution control regulations;

C. A regulation required for compliance with federal law;

D. A regulation restricting or prohibiting the use of a property for the purpose of selling pornography or performing nude dancing; or

E. A regulation enacted prior to the date of acquisition of the real property by the owner or

a family member of the owner who owned the subject property prior to acquisition or inheritance by the owner, which occurred first.

FAMILY MEMBER:

The wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner of the real property, an estate of any of the foregoing family members, or a legal entity owned by any one or combination of these family members of the owner of the real property.

LAND USE REGULATION:

Any comprehensive plan, zoning ordinance, land division ordinance, or transportation ordinance of the city of Seneca. The term "land use regulation" does not include "exempt land use regulations" as defined herein.

MEASURE 37:

Those amendments to Oregon Revised Statutes chapter 197, made by Oregon ballot measure 37, passed November 2, 2004.

OWNER:

Present owner of the real property this is the subject of the claim for compensation or any interest therein. The owner must be a person who is the sole fee simple owner of the real property or all joint owners whose interests add up to a fee simple interest in the property including all persons who represent all recorded interests in property, such as co-owners, holders of less than fee simple interests, leasehold owners, and security interest holders.

PROPERTY:

Any real property or interest therein. This term includes only a single parcel or contiguous parcels in single ownership. It does not include contiguous parcels or parcels not contiguous that are under different ownerships.

REDUCTION IN VALUE:

The difference in the fair market value of the property without enactment, enforcement or

application of a land use regulation and the value with enactment, enforcement or application of a land use regulation. (Ord. 85, 12-1-2004, eff. 12-1-2004)

1-5-3: CLAIM REQUIREMENTS:

A. Form, Completeness And Review:

1. A claim must be submitted and accepted for filing only using the forms provided by the city. A claim must consist of all materials required under this chapter. A claim will not be considered filed under ballot measure 37 until the city accepts the claim after the requirements of this chapter are fulfilled by the owner of real property. (Ord. 85, 12-1-2004, eff. 12-1-2004)

2. The city recorder-manager will conduct a completeness review within fifteen (15) days after submittal of the claim and will advise the owner in writing of any material remaining to be submitted. The owner must submit the material needed for completeness within thirty (30) days of the written notice that additional material is required. If the owner fails to provide the additional materials within the thirty (30) day period, the claim will not be accepted for filing. (Ord. 85, 12-1-2004, eff. 12-1-2004; amd. 2007 Code)

3. The one hundred eighty (180) day period required before accrual of a cause of action for compensation in circuit court under measure 37 begins on the date the designated city official deems the claim complete, and accepts it for filing. The designated city official will mark the date of completeness and filing on the claim form and provide a copy to the claimant.

4. The owner may request an extension for filing a complete claim. A request for an extension or continuance will be deemed a waiver of the beginning of the one hundred eighty (180) day period required before accrual of a cause of action for compensation.

B. Claim Requirements: A claim will not be accepted for filing without all of the following information:

1. Fee: An application fee must be paid in advance of acceptance for filing to cover the costs of completeness review and claim processing. The fee will be established by city council resolution and

may in like manner be amended or altered from time to time at the discretion of the council. (Ord. 85, 12-1-2004, eff. 12-1-2004)

2. Claim Form: A completed claim on a form provided by the recorder-manager or such other person as authorized by the city council. (Ord. 85, 12-1-2004, eff. 12-1-2004; amd. 2007 Code)

3. Identification Of Owner And Other Interest Holders: The name(s), address(es) and telephone number(s) of all owners, and anyone with any interest in the property, including lienholders, trustees, renters, lessees, and a description of the ownership interest of each.

4. Property Description: The address, tax lot number, and legal description of the real property that is the subject of the claim.

5. Nearby Property Owner Information: The names and addresses of all owners of property within two hundred fifty feet (250') of the property, as listed on the most recent property tax assessment roll where such property is located.

6. Listing Of Nearby Owned Property: Identification of any other property owned by the owner within two hundred fifty feet (250') of the boundary of the claim property.

7. Title Report: A title report demonstrating the title history, the date the owner acquired ownership of the property, and the ownership interests of all owners. The title report must also specify any restrictions on use of the property unrelated to the land use regulation including, but not limited to, any restrictions established by covenants, conditions and restrictions (CC&Rs), other private restrictions, or other regulations, easements or contracts.

8. Copy Of Existing Regulation: A copy of the land use regulation that the owner making the claim believes has had the effect of reducing the fair market value of the property, including the date the owner claims the land use regulation was first enacted, enforced or applied to the property.

9. Copy Of Prior Regulations: A copy of the land use regulation in existence, and applicable to the property, when the owner became the owner of the property, and a copy of the land use regulation in existence immediately before the regulation that was enacted or enforced or applied to the property, that the owner claims restricts the use of the property and, the owner claims, caused a reduction in

fair market value due to the regulation described in subsection B8 of this section being more restrictive.

10. Appraisals: A written appraisal by an appraiser, qualified as such in the state of Oregon, stating the amount of the alleged reduction in the fair market value of the property by showing the difference in the fair market value of the property before and after enactment, enforcement, or application of the land use regulation described in subsection B8 of this section, and explaining the rationale and factors leading to that conclusion. If the claim is for more than thirty thousand dollars (\$30,000.00), copies of two (2) appraisals by different appraisers may be required.

11. Narrative: The owner must provide a narrative describing the history of the owner and any family member's ownership of the property, the history of land use regulations applicable to the claim, and how the enactment, enforcement or application of the land use regulation restricts the use of the property, or any interest therein, and has the effect of reducing the fair market value of the property, or any interest therein.

12. Statement Regarding Exceptions: A statement by the owner making the claim of why the land use regulation in question is not an exempt land use regulation as defined in section 1-5-2 of this chapter (defined term is "exceptions to land use regulation").

13. Statement Of Owner's Understanding Of Effect Of Any Modification, Removal Or Nonapplication Of Land Use Regulation: A statement by the owner explaining their understanding of what effect a modification, removal or nonapplication of the land use regulation would have on the potential development of the property, stating the greatest degree of development that the owner believes would be permitted on the property if the identified land use regulation were modified, removed or not applied.

14. Copies Of Documents: Copies of any land use actions, development applications or other applications for permits previously filed in connection with the property and the action taken. City "enforcement" or "application" of the land use regulation is a prerequisite to making a measure 37 claim which must be described and identified by the claimant.

15. Site Plan And Drawings: A copy of the site plan and drawings in a legible eight and one-half inch by eleven inch (8 $\frac{1}{2}$ " x 11") format

that relate to the proposed use of the property if the land use regulation is modified, removed or applied.

16. Statement Of Relief Sought: A statement of the relief sought by the owner. (Ord. 85, 12-1-2004, eff. 12-1-2004)

C. Recommendation To Council: The city recorder-manager will assess any claim for compensation and make a recommendation to the city council on the disposition of the claim. The city council may decide a review recommendation is not necessary. The recommendation will state that the claim be:

1. Denied;

2. Investigated further;

3. Declared valid, in which case the recommendation will further state whether the land use regulation at issue should be removed, waived or modified, or that the claimant should be compensated; or

4. Evaluated in another manner not inconsistent with this chapter or ballot measure 37, including possible city condemnation of the property.

D. Appraisal Of Property: The city recorder-manager may, in his discretion, retain the services of an appraiser to appraise the property and evaluate the claim to assist in determining the validity of a claim. The appraiser's fee may be included in the fee required of the owner in subsection B1 of this section. (Ord. 85, 12-1-2004, eff. 12-1-2004; amd. 2007 Code)

E. Notice Of Public Hearing:

1. Notice of the public hearing will be provided to the claimant and to all record owners of the subject property, and to all owners of the property within two hundred fifty feet (250') of the subject property. Additional notice may be sent to the Oregon department of land conservation and development and such others as the city may designate.

2. The notice will state the date, time and location of the hearing and will be sent no later than ten (10) days before the hearing. The notice will describe the hearing process, and will state how evidence may be submitted, and shall:

a. State the basis of the claim, the amount of the compensation sought and the regulation that causes the compensation to be alleged to be due.

b. Identify the property by the street address or other easily understood geographical reference.

c. State the name of a local government representative to contact and the telephone number where additional information may be obtained.

d. State that a copy of the claim and the supporting documents submitted by the owner are available for inspection at no cost, and that copies will be provided at a reasonable cost.

F. Conduct Of Hearing: If a hearing is held:

1. All documents or evidence relied upon by the owner shall be submitted to the designated city official as part of the claim. Persons other than the owner may submit documents or evidence at the hearing.

2. Any staff report used at the hearing shall be available prior to the hearing.

3. The failure of a person entitled to notice to receive notice as provided in this section shall not invalidate such proceedings. The notice provisions of this section shall not restrict giving notice by other means, including posting, newspaper publication, radio and television or other electronic means.

G. Council Action: After the conclusion of the public hearing, and no later than one hundred eighty (180) days from the date the claim was filed, the city council will:

1. Determine that the claim does not meet the requirements of this chapter and ballot measure 37, and deny the claim; or

2. Adopt an order with appropriate findings that supports a determination that the claim is valid and directs that the claimant be compensated in an amount set forth in the order; or

3. Remove, waive or modify the challenged land use regulation as applied to the subject property.

- H. **Basis For Council Decision:** The city council's decision to remove, waive or modify a land use regulation or to compensate the claimant will be based on whether the public interest would be better served by compensating the owner, or by removing, waiving or modifying a land use regulation with respect to the subject property; or any other factors deemed relevant by the city council.
- I. **Application Of Land Use Regulations:** If the city council removes, waives or modifies a land use regulation, it may apply the land use regulations in effect at the time the claimant acquired the property.
- J. **Owner's Burden Of Proof:** The owner will bear the burden of proof relating to the claim, the devaluation of the owner's property and the owner's entitlement to just compensation. The standard of proof will be by a preponderance of the evidence.
- K. **Dispensing Copies Of Council Order:** A copy of the city council order will be sent by mail to the owner. A copy of the city council order may be sent to the individual or entity that participated in the city council review process if they request a copy be sent to them and provide the city with a mailing address.
- L. **Additional Procedures:** The city council may establish by resolution additional procedures related to the processing of ballot measure 37 claims. (Ord. 85, 12-1-2004, eff. 12-1-2004)

1-5-4: CONDITIONS, REVOCATION AND TRANSFER:

- A. **Conditions For Compensation Approval:** The city council may establish any relevant conditions of approval for compensation, should compensation be granted, or for any other action under this chapter.
- B. **Grounds For Revocation Of Approval:** Failure to comply with any condition of approval is: 1) grounds for revocation of the approval of the compensation for the claim; 2) grounds for recovering any compensation paid; and 3) grounds for revocation of any other actions taken under this chapter.
- C. **Revocation Or Modification Approval:** If the owner, or the owner's successor in interest, fails to fully comply with all conditions of approval, the city may institute a revocation or modification proceeding before the city council under the same process for city council review of a claim under this chapter.

- D. **Decision Runs With Property:** Unless otherwise stated in the city's decision, any action taken under this chapter runs with the property and is transferred with ownership of the property. All conditions, time limits or other restrictions imposed with approval of a claim will be binding on all subsequent owners of the subject property.
- E. **Waiver Of Regulations; Nonconforming Use:** A land use regulation waived under this chapter will create a nonconforming use, or a nonconforming structure, as appropriate, on the property benefitting from the waiver. (Ord. 85, 12-1-2004, eff. 12-1-2004)

1-5-5: **FEES:**

- A. **Processing Fee:** The city recorder-manager shall maintain a record of the city's costs in processing a claim. Following final action by the city on the claim at the local level, the city recorder-manager shall send to the property owner a bill for the actual costs, including staff and legal costs, that the city incurred in reviewing and acting on the claim. (Ord. 85, 12-1-2004, eff. 12-1-2004; amd. 2007 Code)
- B. **Attorney Fees:** If a claim made herein is denied or not fully paid within one hundred eighty (180) days of the date of filing a completed claim and the owner commences suit or action to collect compensation, if the city is the prevailing party in such action, then the city shall be entitled to any sum which a court, including any appellate court, may adjudge reasonable as attorney fees. In the event the city is the prevailing party and is represented by "in house" counsel, the prevailing party shall nevertheless be entitled to reasonable time incurred and the attorney fee rates and charges reasonably and generally accepted in the city for the type of legal services performed. (Ord. 85, 12-1-2004, eff. 12-1-2004)

1-5-6: **PRIVATE CAUSE OF ACTION:** If the city council's approval of a claim by removing or modifying a land use regulation causes a reduction in value of other real property located in the vicinity of the real property, the owner(s) of the other real property shall have a cause of action in the appropriate Oregon circuit court to recover from the owner(s) of the real property subject to the claim in the amount of such reduction in value. A person who recovers for a reduction in value of real property under this section shall be entitled to recover reasonable attorney fees and disbursements from the owner(s) of the real property subject to the claim. This section does not create a cause of action against the city. (Ord. 85, 12-1-2004, eff. 12-1-2004)

1-5-7: **AVAILABILITY OF FUNDS TO PAY CLAIMS:** Compensation can only be paid based on the availability and appropriation of funds for this purpose. (Ord. 85, 12-1-2004, eff. 12-1-2004)

1-5-8: **APPLICABLE STATE LAW:** For all claims filed with the city, the applicable state law is measure 37, as amended, modified or clarified by subsequent amendments or regulations adopted by the Oregon state legislature or Oregon state administrative agencies. Any claim that has not been processed completely under this chapter shall be subject to any such amendments, modifications, clarifications or other actions taken at the state level; and this chapter shall be read in a manner so not to conflict with such amendments, modifications, clarifications or other action taken at the state level. This chapter is adopted solely to address claims filed under the authority of those provisions of measure 37. Except as expressly provided by this chapter, no rights independent of said provisions are created by adoption of this chapter. (Ord. 85, 12-1-2004, eff. 12-1-2004)

CHAPTER 6
CITY COUNCIL

SECTION:

- 1-6-1: Regular Council Meetings
- 1-6-2: Planning Commission And Committees
- 1-6-3: Meeting Minutes
- 1-6-4: Conduct Of Meeting
- 1-6-5: Exclusion Orders
- 1-6-6: Temporarily Suspended Rules
- 1-6-7: Attorney-Client Relationship

1-6-1: **REGULAR COUNCIL MEETINGS:** Regular council meetings are on the second Tuesdays of each month at six o'clock (6:00) P.M., unless the council designates otherwise. Council meetings are held at Seneca City Hall, 106 A Avenue in Seneca, Oregon, or at any place that the council may direct. The council shall endeavor to adjourn regular meetings by eight o'clock (8:00) P.M. or as close thereto as possible. (Ord. 87, 2-9-2010)

1-6-2: **PLANNING COMMISSION AND COMMITTEES:** Any planning commission or any committee created by the council shall be advisory to the council and shall conduct meetings and minute taking in accordance with the public meeting law and Seneca city charter and this code. Any recommendations by any planning commission or any committee created by the council must be the result of formal votes taken at meetings at which a quorum is present. (Ord. 87, 2-9-2010)

1-6-3: **MEETING MINUTES:**

- A. Minutes shall be taken at all meetings of the city council, any planning commission or committee.
- B. Minutes shall be maintained in the office of the city recorder-manager at city hall.

- C. Minutes shall accurately reflect the matters discussed and views of participants and comply with the public meeting law, and Seneca city charter and this code. Minutes shall include at least the following information:
1. All members of the governing body present;
 2. All motions, proposals, resolutions, orders, ordinances and measures proposed and their disposition;
 3. The results of all votes and, the names of all persons making, seconding or dissenting;
 4. The substance of any discussion on any matter; and
 5. Subject to Oregon Revised Statutes 192.410 to 192.505 relating to public records, a reference to any document discussed at the meeting.
- D. Minutes shall be drafted by the designated person within a reasonable time after the meeting and presented in final form at the next meeting for approval. All approved meeting minutes must be signed by the authorized person at the time the minutes are approved. Meeting minutes shall be available to the public within a reasonable time after the meeting. (Ord. 87, 2-9-2010)

1-6-4: CONDUCT OF MEETING:

- A. **Presiding Officer:** The mayor shall preside at the meetings of the city council unless the mayor delegates this authority to another councilor. If the mayor is absent at any meeting, the council president shall function as the presiding officer. In the absence of these officers at any meeting, the councilors present shall appoint a chair pro tem and proceed with the meeting.
- B. **Order And Decorum:** The presiding officer shall be responsible for ensuring order and decorum is maintained. Comments and disagreements should be addressed to the topic at hand and avoid negative personal remarks. Attendees and speakers are required to strictly abide by the directions of the presiding officer. Behavior or actions that are unreasonably loud or disruptive shall be cause for removal from council meetings. Failure to abide by the presiding officer's instructions constitutes "disruption of a lawful assembly" as provided in Oregon Revised Statutes 166.025(1)(c). Disruptive behavior

includes engaging in violent or distracting action, making loud or disruptive noise or using loud or disruptive language, and refusing to obey an order of the presiding officer. Signs are not permitted and will be considered disruptive.

- C. **Time Limits For Agenda Items:** The presiding officer may set time limits on agenda items.
- D. **Public Comments:** Comments or testimony during city council meetings from persons other than the council or city staff will be entertained only during that part of the agenda where public comments are permitted, or at the discretion of the presiding officer.
- E. **Disorderly Conduct:** The presiding officer may limit comments or refuse to recognize the person if the person's remarks become irrelevant, repetitious, personal, impertinent, abusive or slanderous, or if the person's conduct is disorderly or disruptive. In the event that a member of the audience refuses to abide by the presiding officer's order, that person may be denied further opportunity to address the council and may be removed upon order of the presiding officer. Except as provided otherwise elsewhere in this code or in rules of procedure adopted by the city council, the order in which comments are to be received is left to the discretion of the presiding officer. The presiding officer may request that a spokesperson be selected for a group of persons wishing to speak.

1. In case the presiding officer should fail to act, any member of the council may obtain the floor and move to require enforcement of this rule; upon affirmative vote of the majority of the council present, the council is authorized to remove the person or persons, as if the presiding officer so directed.

- F. **Enforcement Of Decorum:** The recorder-manager, or such member or members of the state or county police department or such other persons as the presiding officer shall designate, shall carry out all orders and instructions given by the presiding officer for the purpose of maintaining order and decorum. (Ord. 87, 2-9-2010)

1-6-5: EXCLUSION ORDERS:

- A. If, during one or more city council meetings, any person repeatedly engages in conduct that is disorderly, abusive or disruptive, or repeatedly fails or refuses to obey a ruling of the mayor, council president or other presiding officer regarding a matter of order or

procedure, the city council may vote to issue an order excluding that person from city hall, and from any other buildings in which city council meetings occur, in accordance with the provisions of this section.

- B. An exclusion order issued under subsection A of this section shall provide that, for a period of sixty (60) days, the person who is the subject of the order is prohibited from entering or remaining at city hall after five o'clock (5:00) P.M. on any day when evening city council meetings are scheduled to occur, and between seven o'clock (7:00) A.M. and nine thirty o'clock (9:30) A.M. on any day when morning city council meetings are scheduled to occur, and shall also provide that the person is prohibited from entering or remaining at any building in which a city council meeting takes place for the duration of that meeting. The exclusion period shall be ninety (90) days for a second exclusion order issued to same person within a twenty four (24) month period, and one hundred twenty (120) days for a third or subsequent exclusion order issued to the same person within a twenty four (24) month period. The exclusion period shall begin ten (10) calendar days following the date of mailing or posting of the written notice required under subsection C of this section, unless it is suspended as provided in subsection E of this section.
- C. The recorder-manager shall mail written notice of an exclusion order to the last known address of the person who is the subject of the order. If no address is known, the recorder-manager shall post the notice in a public location a city hall, and shall cause the notice to remain posted until the expiration of the exclusion period.
- D. The written notice required under subsection C of this section shall include:
1. A description of the conduct warranting the exclusion order;
 2. The duration of the exclusion period;
 3. A description of the times of exclusion and buildings from which the person is excluded pursuant to subsection B of this section, together with a list of the city council meetings that are scheduled to occur during the exclusion period as of the date of the notice;
 4. A statement that violation of the exclusion order shall be a criminal trespass;

5. Examples of how the person may communicate with the city council during the exclusion period other than by personal testimony, such as by letters, e-mail messages, written testimony or testimony through representatives;

6. Examples of how the person may monitor meetings of the city council that occur during the exclusion period, such as by reviewing minutes and news media accounts;

7. A description of the process for appealing the exclusion order as provided in subsection E of this section.

- E. A person who is the subject of an exclusion order may contest the order by filing a written notice of appeal with the municipal court or if none, the appropriate state court handling city functions within ten (10) calendar days following the date of mailing or posting of the written notice under subsection C of this section. The notice of appeal shall include the person's name, address and telephone number, and shall include a description of the reasons why the person contends that the order is invalid. A timely filing of a complete notice of appeal as provided in this subsection shall suspend the effective date of the exclusion order until the municipal court or if none, the appropriate state court handling city functions rules on the appeal.
- F. Upon timely receipt of a complete notice of appeal, the municipal court or if none, the appropriate state court handling city functions shall notify the appellant and the recorder-manager of the date and time of a hearing on the appeal. If, after reviewing the testimony and other evidence presented at the hearing, the court finds that the validity of the exclusion order has been proven by a preponderance of the evidence, the court shall enter an order upholding the exclusion order and establishing the commencement date of the exclusion period. If the court finds that validity of the exclusion order has not been proven by a preponderance of the evidence, the court shall enter an order vacating the exclusion order. The order of the municipal court or if none, the appropriate state court handling city functions shall be final. (Ord. 87, 2-9-2010)

1-6-6: **TEMPORARILY SUSPENDED RULES:** Any provision of this chapter not required by state law, city charter or this code may be temporarily suspended by the council. (Ord. 87, 2-9-2010)

1-6-7

1-6-7

1-6-7: **ATTORNEY-CLIENT RELATIONSHIP:** The city and the office of city attorney shall have an attorney-client relationship, and the city shall be entitled to all the benefits thereof. (Ord. 87, 2-9-2010)

CHAPTER 7
PUBLIC CONTRACTS

SECTION:

- 1-7-1: Contract Review Board
- 1-7-2: Definitions
- 1-7-3: Public Contracts For Goods And Services
- 1-7-4: Public Improvement Contracts
- 1-7-5: Offeror Disqualification
- 1-7-6: Personal Services Contracts
- 1-7-7: Disposition Of Personal Property
- 1-7-8: HUD Section 3 Contracting Policy And Procedure
- 1-7-9: Adoption Of Code And Rules

1-7-1: **CONTRACT REVIEW BOARD:** The city council is designated as the local contract review board for the city and shall have all the rights, powers and authority necessary to carry out the provisions of Oregon Revised Statutes chapters 279A, 279B, and 279C (the "public contracting code"). Except as otherwise provided in this chapter, the city recorder-manager or their designated purchasing agent, is designated as the city's contracting agency for purposes of contracting powers and duties assigned to the city as a contracting agency under the public contracting code. (Ord. 89, 8-14-2012)

1-7-2: **DEFINITIONS:** As used in this chapter, the following words or phrases shall have the following meanings. All words and phrases not defined in this section shall have the meanings ascribed to them in the public contracting code or the model rules adopted by the Oregon attorney general thereunder ("model rules").

FORMAL QUOTE: Procedure pursuant to which written offers are solicited by advertising or other writing stating the quantity and quality of goods or services to be acquired, and which offers are received by the contracting agency on or before a stated date. In soliciting formal quotes, the contracting agency shall seek quotes from a sufficiently

large number of potential offerors to ensure sufficient competition to meet the best interests of the city. An award based on less than three (3) formal quotes may be made provided the contracting agency makes a written record of the effort to obtain quotes.

INFORMAL QUOTE:

Procedure pursuant to which written or verbal offers are gathered by correspondence, telephone or personal contact stating the quantity and quality of goods or services to be acquired. In soliciting informal quotes, the contracting agency shall seek quotes from a sufficiently large number of potential offerors to ensure sufficient competition to meet the best needs of the city. An award based on less than three (3) quotes may be made, provided the contracting agency makes a written record of the effort to obtain quotes.

PERSONAL SERVICES CONTRACT:

A contract to retain the services of an independent contractor, including architects, engineers, land surveying and related services. The contract shall be predominantly for services requiring special training or certifications, independent judgment, skill and experience.

SOLE SOURCE PROCUREMENT:

A contract for goods or services, or a class of goods or services, available from only one source.

WORKS OF ART:

All forms of original creations of visual art, including, but not limited to:

A. Painting: all media, including both portable and permanently affixed or integrated works such as murals;

B. Sculpture: in the round, bas-relief, high relief, mobile, fountain, kinetic, electronic, etc., in any material or combination of materials;

C. Miscellaneous art: prints, clay, drawings, stained glass, mosaics, photography, fiber and textiles, wood, metal, plastics and other mate-

rials or combination of materials, calligraphy, and mixed media, any combination of forms of media, including collage. (Ord. 89, 8-14-2012)

1-7-3: PUBLIC CONTRACTS FOR GOODS AND SERVICES: This section applies to public contracts that are not contracts for public improvements or contracts for personal services. A public contract shall not be artificially divided or fragmented to qualify for a different award procedure than that provided by this section.

A. Classes Of Public Contracts: The following classes of public contracts and respective award procedures are created:

1. **Public Contracts Valued At Less Than Five Thousand Dollars:** A public contract for an amount which is valued at less than five thousand dollars (\$5,000.00) shall be awarded by the contracting agency based on informal quotes. Amendments to public contracts under this section may not cause the contract price to exceed six thousand dollars (\$6,000.00).

2. **Public Contracts Valued At Five Thousand Dollars Or More But Less Than Twenty Five Thousand Dollars:** A public contract for an amount which is valued at five thousand dollars (\$5,000.00) or more, but less than twenty five thousand dollars (\$25,000.00), shall be awarded by the contracting agency based on formal quotes. Amendments to public contracts under this section may not cause the contract price to exceed an amount that is greater than twenty five percent (25%) of the original contract price.

3. **Public Contracts From Twenty Five Thousand Dollars:** A public contract for an amount which is valued at twenty five thousand dollars (\$25,000.00) or more shall be awarded by the city council based on competitive sealed bidding or competitive sealed proposals pursuant to the public contracting code.

B. Exemptions: The requirements of subsection A of this section do not apply to the following classes of public contracts:

1. Sole source procurements pursuant to Oregon Revised Statutes 279B.075.

2. Emergency procurements pursuant to Oregon Revised Statutes 279B.080.

3. Purchases through federal programs pursuant to Oregon Revised Statutes 279A.180.

4. Contracts for products or supplies under five thousand dollars (\$5,000.00).

5. Contracts for the purchase or commissioning of works of art.

6. Amendments to contracts exceeding the limits in subsection A of this section if the city council determines that it is not reasonably feasible to require additional competitive procurement to complete the purpose of the contract; otherwise the council shall direct additional competitive procurement and the competitive procurement procedure required for the amendment.

7. By resolution, the city council may exempt other public contracts or classes of public contracts from the requirements of subsection A of this section pursuant to Oregon Revised Statutes 279B.085. (Ord. 89, 8-14-2012)

1-7-4: **PUBLIC IMPROVEMENT CONTRACTS:** A public improvement contract is defined pursuant to the public contracting code and does not include contracts for minor alterations, ordinary repair and maintenance of public improvements, contracts for projects for which no funds of the city are directly or indirectly used except for participation that is incidental or related primarily to project design or inspection, and does not include any other construction contract that is not defined as a public improvement under the public contracting code. A public improvement contract shall not be artificially divided to qualify for a different award procedure than that provided by this section.

A. All public improvement contracts shall be awarded by the council based on competitive sealed bids pursuant to the public contracting code.

B. The requirements of subsection A of this section do not apply to the following classes of public improvement contracts:

1. **Public Improvement Contracts Valued At Less Than Five Thousand Dollars:** Public improvement contracts valued at less than five thousand dollars (\$5,000.00) shall be awarded by the contracting agency based on informal quotes.

2. **Public Improvement Contracts Valued At Five Thousand Dollars Or More But Less Than Twenty Five Thousand Dollars:** Public improvement contracts valued at five thousand dollars (\$5,000.00) or more but less than twenty five thousand dollars (\$25,000.00) shall be awarded by the contracting agency based on formal quotes.

3. **Emergency Public Improvement Contracts:** Emergency public improvement contracts may be exempted from competitive bidding if the contracting agency determines that an emergency exists and that conditions require the prompt execution of a contract. Emergency public improvement contracts shall be awarded in accordance with the public contracting code.

a. The contracting agency shall provide the council with a written statement indicating the nature of the emergency and stating with particularity the emergency conditions and why they pose an imminent threat to the public health, safety or welfare. The contracting agency shall not declare the same emergency more than two (2) times in any ninety (90) day period.

4. **Exempt By Resolution:** By resolution, the city council may exempt from competitive bidding a public improvement contract or class of public improvement contracts not otherwise exempt under this section pursuant to Oregon Revised Statutes 279C.335.

5. **Award Through Competitive Proposals:** When an exemption allows for award of the contract through competitive proposals, the provisions of Oregon Revised Statutes 279C.400 to 279C.410 shall apply.

- C. Amendments to public improvement contracts shall comply with the public contracting code.
- D. The performance and payment bonds requirements and exceptions of the public contracting code shall apply to all public improvement contracts.
- E. The city may undertake to construct a public improvement using its own equipment and personnel if doing so will result in the least cost to the city or public. If the city decides to construct a public improvement estimated to cost more than one hundred twenty five thousand dollars (\$125,000.00) using its own personnel and equipment, the city shall prepare adequate plans and specifications and the estimated unit cost of each classification of work, and maintain an accurate accounting in accordance with Oregon Revised Statutes 279C.305.

- F. If all responsive offers on a public improvement contract exceed the budget for the project, the contracting agency may, prior to contract award, negotiate for a price within the budget under the following procedures:
1. Negotiations shall start with the lowest responsive, responsible offeror. If negotiations are not successful, then the contracting agency may negotiate with the second lowest responsive, responsible offeror, and so on.
 2. Negotiations may include value engineering and other options to attempt to bring the project cost within the budgeted amount.
 3. A contract may not be awarded under this section if the scope of the project is significantly changed from the description in the original solicitation documents.
 4. The records of an offeror used in contract negotiations under this section are not subject to public inspection until after the negotiated contract has been awarded or the negotiation process has been terminated. (Ord. 89, 8-14-2012)

1-7-5: **OFFEROR DISQUALIFICATION:**

- A. The city council or contracting agency, whoever is awarding a public contract, may disqualify any person as an offeror on a contract if:
1. The person does not have sufficient financial ability to perform the contract. Evidence that the person can acquire a surety bond in the amount and type required shall be sufficient to establish financial ability;
 2. The person does not have available equipment to perform the contract;
 3. The person does not have key personnel of sufficient experience to perform the contract; or
 4. The person has breached previous contractual obligations.
- B. The provisions of the public contracting code regarding disqualification of persons shall apply in addition to this section with respect to public improvement contracts.

- C. A person who has been disqualified as an offeror may appeal the disqualification to the city council in accordance with the procedures in chapter 279C of the public contracting code. (Ord. 89, 8-14-2012)

1-7-6: PERSONAL SERVICES CONTRACTS:

- A. The following procedures shall apply to the award of personal services contracts:

1. **Personal Service Contracts For Five Thousand Dollars To Ten Thousand Dollars:** Personal services contracts involving an anticipated fee of five thousand dollars (\$5,000.00) or more but less than ten thousand dollars (\$10,000.00) per fiscal year shall be awarded by the contracting agency following solicitation of offers for personal services by written invitation or advertisement in sufficient number to provide a choice for the city from among qualified service providers. The contracting agency shall determine the selection criteria to be included in the written invitation or advertisement and shall have authority to negotiate and enter into the contract.

2. **Personal Service Contracts From Ten Thousand Dollars:** Personal services contracts to which subsection A1 of this section does not apply and having an anticipated fee of ten thousand dollars (\$10,000.00) or more shall be awarded by the city council following solicitation of offers based on the procedure and selection criteria adopted by the city council before offers are solicited.

3. **Other Personal Services Contracts:** Except as otherwise provided in the public contracting code, for all other personal services contracts, including amendments to and annual renewals of existing contracts and emergencies, the contracting agency may enter into the contract without a solicitation of offers. A personal services contract shall not be artificially divided or fragmented to qualify for the award procedures provided by this subsection.

- B. The following criteria shall be considered in the evaluation and selection of a personal services contractor. This section does not preclude the use of other additional criteria:

1. Total cost to the agency for delivery of services.

2. Expertise of the contractor in the area of specialty called for.

3. References from successfully completed projects managed by the contractor.
4. Utilization of locally procured goods, services, or personnel.
5. Other services provided by the contractor not specifically listed in the request for proposal.
6. Timeliness of delivery of services.
7. Other criteria specially listed in the solicitation document on a case by case basis. (Ord. 89, 8-14-2012)

1-7-7: DISPOSITION OF PERSONAL PROPERTY:

- A. The city council shall have the authority to determine when personal property owned by the city is surplus.
- B. The city council shall determine when all other property is to be considered surplus.
- C. The city council shall select the method of disposal which maximizes the value the city will realize from disposal of the surplus property. Surplus personal property shall be disposed of as follows:
 1. Sold to the highest qualified buyer meeting the sale terms when the value of each item so offered is less than two thousand dollars (\$2,000.00) and the sale has been advertised at least once in a newspaper of general circulation in the city of Seneca area not less than one week prior to the sale;
 2. Traded in on the purchase of replacement equipment or supplies;
 3. Sold at public auction advertised at least once in a newspaper of general circulation in the Grant County area not less than one week prior to the auction. The published notice shall specify the time, place and terms upon which the personal property shall be offered and a general description of the personal property to be sold;
 4. Sold at a fixed price retail sale if doing so will result in substantially greater net revenue to the city; or
 5. Contracted for use, operation or maintenance by one or more private or public entities. Prior to approval of such a contract, the city

council shall determine that the contract will promote the economic development of the city.

- D. All personal property sold pursuant to this section shall be sold as is without any warranty, either express or implied, of any kind.
- E. Sales of surplus personal property may be conducted electronically. (Ord. 89, 8-14-2012)

1-7-8: **HUD SECTION 3 CONTRACTING POLICY AND PROCEDURE:** It is the policy of the city of Seneca to require its contractors to make a good faith effort to provide equal employment opportunity to all employees and applicants for employment without regard to race, color, religion, sex, national origin, disability, veteran's or marital status, or economic status and to take affirmative action to ensure that both job applicants and existing employees are given fair and equal treatment.

The city of Seneca implements this policy through the awarding of contracts to contractors, vendors, professional service providers/consultants and suppliers, to create employment and business opportunities for residents of the city of Seneca and other qualified low and very low income persons.

The policy will ensure that in good faith the city of Seneca will have a reasonable level of success in the recruitment, employment, and utilization of section 3 residents and other eligible persons and section 3 business concerns working on contracts partially or wholly funded with the United States department of housing and urban development (HUD) monies. The city of Seneca shall examine and consider a contractor's, professional service provider/consultant or vendor's potential for success by providing employment and business opportunities to section 3 residents and business concerns prior to acting on any proposed contract award.

- A. The city of Seneca, section 3 plan, adopted under resolution 05-12 will be followed for all contracts that are partially or wholly funded with the United States department of housing and urban development (HUD) monies. (Ord. 89, 8-14-2012)

1-7-9: **ADOPTION OF CODE AND RULES:**

- A. Except as specifically provided in this chapter, public contracts shall be awarded, administered and governed according to the public con-

tracting code and the model rules, as they now exist and may be amended in the future.

- B. In the event of a conflict between any provisions of this chapter and the public contracting code or model rules, the provisions of the public contracting code or model rules shall prevail. (Ord. 89, 8-14-2012)