

ADMINISTRATIVE CODE

Chapter 3

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[HISTORY: Adopted by the City Council of the City of Dover 12-14-77 as the Administrative Code. Departments amended 10-25-78 by Ord. #23-78; amended 9-22-82 by Ord. #17-82; amended 10-27-82 by Ord. #21-82; amended 12-13-89 by Ord. #26-89; amended 12-19-90 by Ord. #20-90; amended 2-21-90 Ord. #1-90; amended 7-17-91 by Ord. # 25-91; repeal 7-1-92 Ord. #19-92; amended 5-18-94 by Ord. #A05/94; repeal 5-18-94 by Ord. # A05-94; amended 5-18-94 by Ord # A05-94; amended 9-28-94 by Ord. #16-94; amended 9-28-94 by Ord. #16-94; amended 8-27-96 by Ord. # 13-96; amended 3-19-97 by Ord. #06-97; amended 4-8-98 by Ord. # 04-98; amended 12-21-05 by Ord. # 2-2005; Generally revised in 2010. Purchasing Code amended 2-13-80 Ord. # 2-80; amended 4-1-92 by Ord. # 08-92; amended 3-19-99 by Ord. 01-99; generally amended in 2010. Boards and commissions. Repeal 4-21-99 by Ord. #05-99; repeal 3-17-93 by Ord. 01-93; repeal 4-16-97 by Ord. 10-97. Adding boards and commissions 7-25-84 by Ord. #14-84 (Board of Trustees); 1-15-92 by Ord. #49-91 (Building Code Board of Appeals); 11-20-96 by Ord. # 18-96 (Solid Waste Advisory); 4-18-01 by Ord. #06-2001 (Arts); 5-16-01 by Ord. # 10-01 (Transportation Advisory); 2-20-02 by Ord. #02-2002 (Joint Fiscal); 6-16-04 by Ord. # 10-2004 (DBIDA); 2-22-07 by Ord. # 02-2007; Generally amended in 2010; repeal of provisions for boards, commissions and committees in the Administrative Code in 2010 with the creation of a new Chapter 5 (new) Boards, Commissions and Committees.]**

**ARTICLE I
GENERAL PROVISIONS**

3-1. Legislative authority.

- A. This Administrative Code is established in accordance with the provisions of RSA 49-C:21. The Administrative Code may be amended from time to time pursuant to the provisions of RSA 49-C:21.
- B. Should any section or provision of the Administrative Code be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of this Administrative Code as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.
- C. The City Manager may issue administrative regulations promulgating procedures, administrative policies and programs of the City to supplement this Administrative Code. These regulations, together with the Administrative Code and any other standard operating procedures established by subordinate departments, shall conform to the requirements of the ordinances of the City of Dover, existing collective bargaining agreements and all other applicable state and federal laws.

Comment [ABK1]: This section is new. It sets out the authority under the Charter and State law.

3-2 Departments.

Comment [ABK2]: The department structure remains the same as the provisions of former section 3-1.

The administrative service of the city shall consist of the following departments, and the department head shall be known by the titles shown:

Department	Department Head
* Executive	City Manager
* Finance	Finance Director
* Fire and Rescue	Fire Chief
* Public Welfare	Director of Public Welfare
* Public Library	Director of Public Library
* Community Services	Director of Community Services
* Planning and Community Development	Director of Planning and Community Development
* Police	Police Chief
* Recreation	Director of Recreation

Comment [ABK3]: Public Welfare was formerly called Human Services

3-3 Powers and duties of department heads.

- A. Department heads shall be responsible for the efficient and cost effective operation of their departments on a courteous, cooperative and friendly basis while interacting with citizens of Dover and all other departments. They shall perform all duties and exercise all the powers conferred upon their office by applicable laws, ordinances and resolutions.
- B. Department heads may prescribe departmental rules and regulations not inconsistent with general law, the City Charter, the Administrative Code, City ordinances, administrative regulations, and the provisions of the Merit Plan for the administration of their departments, conduct of the employees and the proper performance of department functions.
- C. Department heads may, with the approval of the City Manager, establish department divisions and subunits as may be desirable in the interest of economy and efficiency in accordance with sound administrative principles and practices.
- D. Department heads shall be responsible for satisfactory maintenance and care of all city property and buildings assigned to their department.
- E. Department heads shall be responsible for preparing and submitting routine and special reports on the operation of their departments to the City Manager or to any state or federal agencies as required.
- F. All employees shall be under the immediate supervision of their respective department heads and or designees, and all employees in the Classified Service shall be compensated on the basis of a uniform pay plan.

Comment [ABK4]: This section was formerly 3-2. All paragraphs remain the same except former Paragraphs G & H. Paragraph G required department heads to submit budget estimates to the City Manager which is addressed by the Charter. Paragraph H required department heads to follow the Purchasing code. The new Purchasing code requires department heads to comply with its provisions.

Comment [ABK5]: New provision requiring department heads to comply with administrative regulations when establishing department rules.

Comment [ABK6]: Deleted former 3-4(A) which stated: "Department heads may establish subordinate positions and make appointments and removals as may be necessary, within the limitations of the appropriations provided and subject to the provisions of the City Charter, the Merit Plan and the approval of the City Manager."

3-4 Appointment of department heads; compensation ;

Comment [ABK7]: Formerly 3-4(B)

Comment [ABK8]: This section was formerly Section 3-3.

A. All department heads shall be appointed, as provided by the City Charter, for indefinite terms, on the basis of merit and fitness to perform their duties and may be removed by the City Manager for misconduct or inefficiency as provided for in the City Charter, Merit Plan and state statute.

Comment [ABK9]: This provision adds the Charter and state statute as sources of authority.

B. The compensation of all department heads shall be fixed by the provisions of the Merit Plan.

Comment [ABK10]: This provision confirms the use of the Merit Plan as required by the Charter.

3-5 Authority and functions of the City Manager

Comment [ABK11]: This section was formerly Section 3-5 (B)

A. Pursuant to section C5-5 of the City Charter, the City Manager shall have the following authority and shall perform the following functions:

- 1) The City Manager shall be the administrative head of the city and shall perform all the duties and have all the responsibilities prescribed by the City Charter, by ordinance, resolution and state law.
- 2) The City Manager shall supervise the heads of all departments established by this Code and shall have the power to suspend and discipline, and to perform or delegate duties and responsibilities to the department heads.

Comment [ABK12]: The provisions of former 3-4.1 are **omitted** as follows:
“ A. All Administrative Offices of the City of Dover whether located in City Hall or elsewhere in the City, shall be open at least 40 hours per week at times which are convenient for the conduct of business by the citizens of Dover and others wishing to do business with the city.
B. The specific hours of operation shall be established by the City Council, with the advice of the City Manager, by resolution.”

ARTICLE II MUNICIPAL DEPARTMENTS

3-6 Executive

There shall be an Executive Department, under the direct supervision of the City Manager, who shall be responsible for human resources, legal, economic development and information systems functions and who shall administer the functions of the department with appropriate supervisory, clerical and labor staff.

Comment [ABK13]: The following descriptions of departments are generally amended to focus on “functions” rather than divisions of the individual departments. This results in **omitting** detailed descriptions of the divisions and responsibilities currently existing in Sections 3-5 through 3-24. The configuration of functions within departments will adjust to meet changing conditions by administrative directive.

3-7 Finance

There shall be a Finance Department, under the direct supervision of a Director, who shall be responsible for accounting, purchasing, tax collection, treasurer, assessment, water/sewer billing, audit, city clerk services, elections and budget functions and who shall administer the functions of the department with appropriate supervisory, clerical and labor staff.

3-8 Fire & Rescue

There shall be a Fire & Rescue Department, under the direct supervision of a Fire Chief, who shall be responsible for fire and emergency medical services, emergency management and inspection functions and who shall administer the functions of the department with appropriate supervisory, clerical and labor staff. The Fire Chief shall

have all the powers conferred upon fire wardens by law. The Fire Chief shall be the emergency management director with all duties and powers associated with the position pursuant to state law.

3-9 Public Welfare

There shall be a Public Welfare Department, under the direct supervision of a Director, who shall be responsible for providing public welfare and benefit functions and who shall administer the functions of the department with appropriate supervisory, clerical and labor staff.

3-10 Public Library

There shall be a Public Library Department, under the direct supervision of a Director, who shall be responsible for providing library service functions and who shall administer the functions of the department with appropriate supervisory, clerical and labor staff.

3-11 Community Services

There shall be a Community Services Department, under the direct supervision of a Director, who shall be responsible for providing engineering, public works, utilities, facilities and grounds, environmental, solid waste and recycling, and fleet maintenance functions, and who shall administer the functions of the department with appropriate supervisory, clerical and labor staff. The Community Services Director, or designee, shall be the tree warden and road agent pursuant to state law.

3-12 Planning and Community Development

There shall be a Planning and Community Development Department, under the direct supervision of a Director, who shall be responsible for planning and community development functions, and who shall administer the functions of the department with appropriate supervisory, clerical and labor staff.

3-13 Police

There shall be a Police Department, under the direct supervision of a Police Chief, who shall be responsible for public safety and public parking functions, and who shall administer the functions of the department with appropriate supervisory, clerical and labor staff. The Police Chief shall have all powers contained in state law.

3-14 Recreation Programs

There shall be a Recreation Department, under the direct supervision of a Director, who shall be responsible for recreational programming and who shall administer the functions of the department with appropriate supervisory, clerical and labor staff.

**ARTICLE III
PURCHASING CODE**

Comment [ABK14]: The Purchasing Code was adopted in 1977. Spot amendments have been made sparingly over the past 30 years. Purchasing codes are authorized in state law by RSA 31:59-a.

3-15 Purpose.

The purposes of this Chapter are to standardize the purchasing procedures of the City, thereby increasing savings and protection of the taxpayers' money, to set forth the duties and responsibilities of the department heads in order to foster interdepartmental cooperation and trust with the office of the Purchasing Agent, and to assign all responsibility for purchasing to the Purchasing Agent.

Comment [ABK15]: This section duplicates the provisions of former 3-27.

3-16 Applicability of Article and compliance with Charter.

This Chapter shall apply to all purchases for all departments and agencies of the city pursuant to C6-16 of the Dover City Charter.

Comment [ABK16]: This section conforms to the provisions of former 3-28.

3-17 Definitions.

For the purposes of this Chapter, the following terms, phrases, words and their derivations shall have the following meanings:

Comment [ABK17]: These definitions conform to the provisions of former 3-26 except definitions for Field Purchase Orders and Sealed Formal Bids are deleted since these definitions are unnecessary under current practices. Field Purchase Orders are no longer used. The concept of sealed bids is contained in the definition of Competitive Bidding.

- A. **BID MOST ADVANTAGEOUS TO THE CITY** means the lowest responsible and responsive bid taking into consideration the price, the quality of the commodity or service, and the service reputation and experience of the bidder.
- B. **COMPETITIVE BIDDING** means the formal process involving sealed written bids as a means of achieving the bid most advantageous to the City for goods and services.
- C. **EMERGENCY PURCHASE** means a purchase occasioned by a potential threat to public health, safety or to property.
- D. **PURCHASE ORDER** means the document used to accomplish the purchase of goods and/or services.
- E. **GOODS AND SERVICES** means the complete array of purchases of the city, including but not limited to, supplies, commodities, equipment, construction materials and labor, consulting services, and training.
- F. **GROUP PURCHASE** means the purchase made by the Purchasing Agent by combining two (2) or more department requisitions in one (1) purchase order.
- G. **INFORMAL BID** means a quotation obtained from the vendor(s) in writing or by oral communication.

- H. **LIST OF APPROVED VENDORS** means the list of vendors who have qualified to bid on city purchases of goods and services.
- I. **PURCHASE AMOUNT** means the total cost of goods or services including all determinable associated costs, e.g. construction, engineering, delivery, setup and training. Where the purchase consists of small frequent charges, the aggregate twelve (12) month cost of goods or services shall be used to determine the amount of a purchase and the applicability of the specific sections of the Purchasing Code.
- J. **SPECIFICATIONS** means the quantity and qualitative standards set by department heads as a guide to the Purchasing Agent and as a measure of quality which successful vendors must achieve. Specifications shall not unnecessarily restrict purchases as to trade name or eliminate bids being submitted on items that have the same specifications without a specific trade name.

3-18 Appropriations for purchases; availability of funds

No purchases shall be made until the City Council has approved the necessary appropriation, or in the case of federal or state grants to the city, the grant award has been received. The Finance Director, or designee, shall certify the availability of funds for all purchases.

Comment [ABK18]: This section conforms to the provisions of former 3-31 except the responsibility of certifying the availability of funds is consolidated in the Finance Director to correct an ambiguity in the former language.

3-19 Authority of the Purchasing Agent

- A. The Purchasing Agent is authorized to purchase goods and/or services for the use of one or more departments. All requests for goods and services shall be made to the Purchasing Agent by the department heads, or their designees.
- B. The Purchasing Agent shall maintain a list of approved vendors.

Comment [ABK19]: This is a new section to comply with the provisions of Dover charter provision C6-16 requiring the assignment of all purchasing responsibilities to a Purchasing Agent.

3-20 Use of credit cards

- A. Credit cards issued by the City may be used for the purchase of goods and services pursuant to administrative regulations on the use of credit cards.

Comment [ABK20]: This section is new. It is modeled after the City of Concord Purchasing Code 31-1-3 allowing the use of credit cards based upon administrative standards delineated separately in an Administrative Rule by the City Manager.

3-21 Small purchases(less than \$1,000)

- A. Small Purchases of less than One thousand dollars (\$1,000) may be executed by informal, direct purchasing by the head of a department, or designee, on forms provided by the Purchasing Agent.
- B. A copy of the purchase order shall be turned in to the Purchasing Agent within seven (7) days of the purchase.
- C. Small Purchases shall not be used if it is known or estimated, based on historic experience, that the aggregate twelve (12) month total cost of said purchases may exceed One thousand dollars (\$1,000).

Comment [ABK21]: This section conforms with former provisions in 3-33 except the use of the term Field Purchase is discontinued and replaced with the term "Small Purchases".

- D. Department heads should take appropriate steps to attain the best pricing practical when making Small Purchases.
- E. Informal bidding may be employed by the Purchasing Agent when requested by a department head.

3-22 Emergency purchases

- A. Emergency Purchase orders may be executed for emergency purchases not exceeding Five thousand dollars (\$5,000). A copy of the Emergency Purchase Order and report shall be sent to the Purchasing Agent within seven (7) days of the Emergency Purchase. The Purchasing Agent shall report the Emergency Purchase Order to the Finance Director and the City Manager.

Comment [ABK22]: This section conforms with the provisions of former provision 3-33 regarding emergencies. Emergency Purchases are addressed in a separate section. Emergency Purchase is a defined term confined to threats of public safety or harm. The City Manager may authorize waiver of Competitive Bidding for Emergency Purchases for purchases over \$10,000.

3-23 Quote purchases (\$1,000-\$9,999.99)

- A. The Purchasing Agent shall conduct bidding for Quote Purchases of One thousand dollars (\$1,000) to Nine thousand nine hundred ninety-nine dollars and ninety-nine cents (\$9,999.99). Quote bidding shall consist of a minimum of three quotes whenever possible.
- B. Verbal or oral quotes shall be required for Quote Purchases from \$1,000 to \$4,999.99.
- C. Written quotes from vendors are required for Quote Purchases from \$5,000 to \$9,999.99.
- D. Oral, verbal and written quotes shall be solicited by telephone, direct mail, direct conversation or by electronic means.

Comment [ABK23]: This section conforms to the provisions of former provision 3-36.

Comment [ABK24]: The Purchasing Agent reports there are situations where it is impracticable to obtain 3 quotes even though 3 quotes is the preferred method.

3-24 Competitive bidding purchases (\$10,000 or more); waiver

- A. The Purchasing Agent shall advertise and conduct Competitive Bidding for purchases of goods and services of Ten thousand dollars (\$10,000) or more.
- B. Competitive Bidding may be waived by a majority vote of the City Council.

Comment [ABK25]: This provision expands the types of communication techniques available to the Purchasing Agent.

Comment [ABK26]: This section conforms with the provisions of former 3-35.

Comment [ABK27]: This section conforms to the provisions of former 3-40 except the Dover/State preference exception for ties is eliminated. "F. In the event of a tie for low bid by equally qualified bidders where one bid is not considered a bid most advantageous to the City, the following rules shall apply to the tied bidders:

3-25 Competitive bidding

The procedure for Competitive Bidding is:

- A. Competitive Bidding shall be initiated by the Purchasing Agent with a notice of solicitations for bidding sent to vendors and/or by advertising. The notice shall contain Specifications as to quantity and quality, date and time for the closing of bids, the date and time for opening bids, and other details regarding the bidding

1. Preference for award of a tie bid shall be given first to any bidder who is located within Dover. If none of the bidders are located in Dover, preference shall then be given to any bidder located within Stafford County and next, the State of New Hampshire in descending order.

2. If preference cannot be determined the purchasing agent shall, in the presence of such bidders if possible or in the presence of a witness, draw lots to determine who shall be awarded the bid."

process. All solicitations shall note that all purchases are subject to the conditions set forth in the City Purchasing Code.

- B. The Purchasing Agent shall solicit at least three (3) vendors when available on every purchase requiring Competitive Bidding unless exempted by the provisions of this ordinance. Bids shall be awarded to the vendor whose bid is the most advantageous to the City of Dover. In the event less than three (3) bids are received, the City Purchasing Agent may award the purchase on the basis of the bid most advantageous to the City of those submitted, or, may order a re-bidding.
- C. Technical specifications for bids shall state information as broadly as practicable, yet shall be specific enough to describe the requirements of the purchase. Non-technical specifications for bids shall state the quality required in general terms.
- D. Formal, sealed bids shall be submitted by qualified vendors before the bidding deadline, but may be withdrawn by any bidder before the deadline. After the bidding deadline the Purchasing Agent shall receive no further bids, and no bidder shall withdraw a bid. The City shall have custody of all bids submitted pursuant to this Purchasing Code.
- E. In accordance with RSA 447:16, the Purchasing Agent shall require security from vendors for construction projects estimated to be in excess of Twenty five thousand dollars (\$25,000). The elements of a purchase to be secured include, but are not limited to, the following:
 - 1) A Bid Bond to secure the bid price plus an additional ten percent (10%) of the bid price from the time of bid opening until signing of the contract, in case of default by the bidder.
 - 2) A Performance Bond in the amount of one hundred percent (100%) of the contract price to insure compliance with and completion of the contract.
 - 3) A Labor and Materials Bond in the amount of one hundred percent (100%) of the contract price to insure payment to suppliers and subcontractors by the contractor.
- F. The form of the security shall be prescribed by the Purchasing Agent and may consist, but is not limited to, bonds issued by surety companies licensed within the United States, certified checks and irrevocable letters of credit at banks acceptable to the City. The Purchasing Agent may waive the bond requirements on a case-by-case basis with the approval of the City Manager. The Purchasing Agent may include security requirements for projects less than Twenty-five thousand dollars (\$25,000) and in other types of purchases where doing so is advantageous to the City with the approval of the City Manager.

- G. In each and every case where bids are presented to the City Council for award, information presented to the City Council shall include solicitation information and bid amounts.
- H. The Purchasing Agent shall open bids, read them in public, inspect them and process for award. In determining the bid most advantageous to the City, the Purchasing Agent shall, whenever possible, analyze the bids so that the bids are compared on an equitable basis as determined in the sole discretion of the Purchasing Agent.

3-26 Major construction projects; prequalification of bidders

Comment [ABK28]: This section is new. It permits, but does not require, pre-qualification of bidders for major projects.

- A. In the case of contracts for the construction, reconstruction, alteration, repair, or refurbishing of real property where the estimated cost of the project is in excess of One hundred thousand dollars (\$100,000), a determination of the responsibility of interested contractors may precede the issuance of invitations to bid. Invitations to bid shall be issued only to firms who have, in the Purchasing Agent's sole determination, been pre-qualified.
- B. The pre-qualification process shall include the following:
 - 1) The ability, capacity, and skill of the bidder to perform the contract or provide the service required.
 - 2) Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference.
 - 3) The character, integrity, reputation, judgment, experience, efficiency of the bidder.
 - 4) The quality of performance of previous contracts or services.
 - 5) The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service.
 - 6) The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service.
 - 7) The quality, availability, and adaptability of the supplies or contractual services to the particular use required.
 - 8) The ability of the bidder to provide future maintenance and service for the use of the subject of the contract.
 - 9) The number and scope of conditions attached to the bid
 - 10) The amount of total direct and indirect costs which would accrue to the city on account of the bid.
 - 11) These rules and regulations may also include other special considerations not contrary to the law.

3-27 Negotiations after bidding

Comment [ABK29]: This section is new.

- A. The Purchasing Agent shall reserve the right to reject any and all bids together with the right to negotiate with the bidder submitting the bid most advantageous to the City for a lower price.

3-28 Professional services

Comment [ABK30]: This section is new. It permits, but does not require, pre-qualification of bidders. It is modeled after the Manchester Purchasing code.

In the purchase of accounting, architectural, auditing, engineering, legal and medical services and purchases of independent professional consultant services for personnel, data processing, insurance, actuarial, planning, management, and other comparable purchases the following procedures may be followed:

- A. An invitation shall be developed which will include a description of the scope of services and desired result and which shall request qualifications and an expression of interest.
- B. The invitation shall be given adequate public notice by posting in two public places, and by publication in a newspaper of general circulation.
- C. Depending on the scope of the project, up to six applicants shall be selected to submit formal proposals.
- D. The Purchasing Agent shall develop a request for proposals, including terms, conditions, and other requirements and identifying the purpose of the work, the result desired, the specific work components the consultant is expected to perform, and the responsibilities of the applicant and the City.
- E. Proposals shall be evaluated and selection made on the basis of demonstrated competence and qualification for the services required at a fair and reasonable price. In addition to price, and where applicable to a particular project, the following factors shall be used in awarding the contract:
 - 1) Specific experience with similar projects.
 - 2) Specific experience with earlier phases of the same project.
 - 3) Background and experience of staff members who would be assigned to the job.
 - 4) Availability.
 - 5) Locality of the firm.
 - 6) Ability to communicate ideas.
 - 7) Ability to supply all of the major disciplines necessary to perform the work.
 - 8) Qualifications of subcontractors.
 - 9) Conceptual designs.
 - 10) Accuracy of the firm in estimated time and cost requirements.
- F. Interviews may be a part of the selection process.
- G. On award, all contracts for professional services shall be formalized in a written agreement signed by the applicant and the City Manager.

Comment [ABK31]: This section conforms with former provision 3-36 with new portions added. New portions involve expansion of the ability to use cooperative buying programs, sole source, clarification of the use of Change Orders, extension of contract prices for subsequent years, group purchases and litigation support.

3-29 Exceptions to competitive bidding

Competitive Bidding shall not apply to the following:

- A. Emergency Purchases: The City Manager may waive the competitive bidding procedures when there exists an emergency as determined by the City Manager. All attempts shall be made to obtain the most competitive price within the time available. The City Manager shall report all such emergency purchases to the City Council at their next regular meeting.
- B. Purchases made through the State of New Hampshire, other governmental agencies, or cooperative buying groups: The Purchasing Agent may, with approval by the City Manager, waive bidding procedures when purchasing can be accomplished through the State of New Hampshire or at State bid prices, other governmental agencies or cooperative buying groups.
- C. Change orders: The Purchasing Agent is authorized to issue change purchase orders for changes in scope or quantity of an existing purchase. Changes orders for a vendor may be permitted up to the limits of the available appropriation when the services are within the original scope of services. A change order may also be issued up to a cumulative amount of Twenty-five thousand dollars (\$25,000) without further City Council approval.
- D. Requests for proposals (RFP): The Purchasing Agent may solicit competitive proposals if he/she determines that compiling detailed technical specifications is not feasible or advantageous. Solicitation and award of RFP's is subject to other provisions of the Purchasing Ordinance.
- E. Regional purchasing: The Purchasing Agent may participate in solicitations to bid conducted by the City of Dover or another city or town where the goal is to bid for goods and services for more than one city, town or other government entity subject to other provisions of the Purchasing Ordinance.
- F. Sole Source purchases where the proposed purchase is manufactured or provided by only one entity.
- G. Purchases under extensions of contracts when the same or lower price is extended for another year or part of a year.
- H. Purchases under intergovernmental agreements or contracts which require use of procurement procedures consistent with the provisions of this section
- I. Expert consulting for litigation

3-30 Reporting.

- A. The Purchasing Agent shall report exceptions to the bidding and award requirements to the City Manager.

Comment [ABK32]: This section conforms to former provisions 3-37.

B. All purchases of goods and services of Five thousand dollars (\$5,000) or more shall be reported to the City Council by the City Manager on a monthly basis following said purchases.

3-31 Other exemptions to bidding and approval requirements.

Comment [ABK33]: This section conforms to former provision 3-38.

Payments and purchases exempt from the bidding and City Council approval requirements due to their nature or other statutory provisions include:

- A. Utility consumption costs including electrical, natural gas, water and sewer.
- B. Telecommunication charges.
- C. Advertising.
- D. Postage.
- E. Federal, state and local taxes.
- F. Court judgments.
- G. Workers Compensation claims.
- H. Debt service payments.
- I. Police special investigative costs where disclosure may jeopardize an investigation.

3-32 City Council approval (\$25,000 or more)

Comment [ABK34]: This section conforms to former provision 3-39.

All purchases of goods and services of Twenty-five thousand dollars (\$25,000) or more shall be approved or rejected by majority vote of the City Council prior to the awarding of such purchases. The City Manager is authorized to sign a contract containing the terms and conditions of the bid award. The amount of the authorization shall be limited so as not to exceed available funding.

3-33 Re-bidding.

Comment [ABK35]: This section conforms to former provision 3-41.

The City Purchasing Agent is authorized to re-bid any or all items which have been noticed for bidding where less than three (3) bids have been received, or where no bid most advantageous to the City has been received.

3-34 Contract processing.

Comment [ABK36]: This section conforms to former provision 3-42 except the omission of the following language: "Execution of a contract or contract change order accompanying a purchase order or purchase change order greater than one thousand dollars (\$1,000) shall occur only after the contract has been reviewed as to form by the City Attorney and funding confirmed by the Finance Director."

The City Manager is designated as the contracting officer of the City. Purchases involving contracts are subject to all other provisions of the Purchasing Code.

3-35 Conditions of purchase.

All purchases which shall be made by the City shall be subject to the following conditions:

- A. All purchases shall be awarded on the basis of the bid most advantageous to the City;
- B. All purchases shall be subject to the reservation of the right by the City to accept or reject any or all bids.
- C. When an award of purchase shall be recommended to other than the low bidder, the Purchasing Agent shall submit such recommendation to the City Manager for approval or disapproval. Should the City Manager reject such recommendation, the award shall be made to the bid most advantageous to the City, unless all bids are rejected.

Comment [ABK37]: This section conforms for the most part with former 3-43 with some clarification about rejecting the low bidder. Clarification was also made that the standard for acceptance of a bid is the bid most advantageous to the City as a defined term.

3-36 Bid protests

- A. Any actual or prospective bidder who is aggrieved in connection with the solicitation or award of a bid or contract may protest and seek resolution of complaints with the Purchasing Agent. A protest with respect to an invitation for bids or request for proposals shall be submitted in writing prior to the time for the opening of bids on the closing day for proposals, unless the aggrieved person did not know and should not have known of the facts giving rise to such protest prior to bid opening or the closing date for proposal. In that event, the protest shall be submitted within three (3) calendar days after the aggrieved person knows or should have known of the facts giving rise thereto.
- B. If a satisfactory resolution of the protest is not achieved by submitting a complaint with the Purchasing Agent, the person submitting the protest shall submit a written appeal to the City Manager within three (3) calendar days of a decision by the Purchasing Agent.
- C. Purchasing procedures shall be stayed pending a decision of the City Manager unless the City Manager decides that the award of a contract is necessary to protect substantial interests of the City.

Comment [ABK38]: This section is new . It is based on language in the Laconia Purchasing Code Section 5-71.

3-37 Duties of department heads for Purchasing Code.

All department heads shall:

- A. Determine acceptable quality of good and services to be purchased.
- B. Cooperate with the Purchasing Agent in establishing lists of approved specifications and vendors.

Comment [ABK39]: This section conforms to former provision 3-44.

- C. Share knowledge of special factors which will implement a policy designed to enable the City to minimize cost and maximize quality.
- D. Supply the Purchasing Agent with a list of estimated annual requirements of frequently used supplies, thereby fostering group purchasing.
- E. Prepare requisitions with a view toward group purchasing and keep corresponding records to facilitate debiting on city financial records.
- F. Be empowered to reject any good or services on grounds of high cost or low quality, and provide the Purchasing Agent with a detailed written report explaining the reasons for such rejection.
- G. Report to the Purchasing Agent obsolete and excess assets, including:
 - 1) Items beyond use.
 - 2) Items being replaced or to be replaced.
 - 3) Items no longer of use to the departmental operation.
- H. Foster regular purchasing procedures to minimize direct purchases.

3-38 Exchange for goods and services.

Comment [ABK40]: This section conforms with former provision 3-45.

Any transfer of City assets, waiving or abatement of fees, or performance of City services in exchange for goods and services to be received by the city shall be deemed a purchase and shall be subject to the provisions of the Purchasing Code as determined by the fair market value of the City assets, fees, and/or services being exchanged.

3-39 Environmental concerns, required language

Comment [ABK41]: This section is new.

A. Solicitations utilized by the City or any agency thereof for the purpose of soliciting bids, proposals, price quotations, or providing instructions to bidders shall contain the following language: “The City of Dover supports the concept of purchasing products that are biodegradable, can be or have been recycled, or are environmentally sound. Due consideration will be given to the purchase of such products. If you are bidding on any such products which qualify, please so indicate in a cover sheet by item number and description.

3-40 Conflicts of interest.

Comment [ABK42]: This section conforms to former provision 3-51.

No employee, officer, agent of the City shall participate in the award or administration of a contract in which he or she, or any member of his or her immediate family has an interest. No such employee, officer, or agent shall participate in the award or administration of a contract with any person, firm,

partnership, or corporation in which he or she or any member of his or her immediate family is an officer or employee or is about to become an officer or employee.

3-41 Pecuniary benefit

Comment [ABK43]: This section is new. See Manchester Code

No employee, officer, or agent of the City who is participating or is about to participate in the award or administration of a contract shall either solicit or accept any pecuniary benefit from any firm, person, partnership, or corporation involved in such contract. For the purpose of this section, the definition of “pecuniary benefit” shall mean any advantage in the form of money, property, commercial interest, or anything else, the primary significance of which is economic gain.

3-42 Public access to procurement information

Comment [ABK44]: This section is new. It is modeled after the Laconia Purchasing Code 5-36.

Procurement information shall be a governmental record to the extent provided in New Hampshire RSA 91-A:4 and RSA 91-A:5 and shall be available to the public. Proprietary information shall be considered a governmental record.

3-43 Savings provision

Comment [ABK45]: This section is new. See Manchester Code.

Nothing in this Purchasing Code is intended to invalidate or in any way limit the term of any contract or special service agreement lawfully made prior to the effective date of this subchapter.