

One-rdg. \_\_\_\_\_  
P. Hrngs. \_\_\_\_\_  
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Filed: 10-11-16

Sponsored by: Fulnecky

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

COUNCIL BILL NO. 2016- 233

GENERAL ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE

1 AMENDING the Springfield City Code, Chapter 98, Streets, Sidewalks and Public  
2 Places, Article VI, Improvements, Division 1, generally, by repealing  
3 Sections 98-224, 'Authority to suspend or debar bidders'; 98-225,  
4 'Procedure for suspension or debarment of bidders'; and 98-226, 'Grounds  
5 for suspension or debarment of bidders'; in their entirety, and reserving  
6 these sections for future use.

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9 BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SPRINGFIELD,  
10 MISSOURI, as follows, that:

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12 NOTE: Language being added is underlined and language being removed is  
13 ~~stricken~~.

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15 Section 1 – The Springfield City Code, Chapter 98, Streets, Sidewalks and Public  
16 Places, Article VI, Improvements, Division 1, Generally, is hereby amended by repealing  
17 Sections 98-224, Authority to suspend or debar bidders; 98-225, Procedure for  
18 suspension or debarment of bidders; and 98-226, Grounds for suspension or debarment  
19 of bidders; in their entirety, and reserving these sections for future use:

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21 ~~Sec. 98-224. – Authority to suspend or debar bidders.~~

22  
23 ~~—The purchasing committee established pursuant to chapter 4 of the city~~  
24 ~~purchasing manual shall have authority to suspend or debar a person from~~  
25 ~~consideration for bid awards involving any public works improvement project of the~~  
26 ~~city, including boards and agencies. A suspension may be for up to six months. A~~  
27 ~~debarment may be from six months to two years in length.~~

28  
29 ~~Sec. 98-225. – Procedure for suspension or debarment of bidders.~~

30  
31 ~~(a) Notice of suspension or debarment under section 98-224 shall be given by~~  
32 ~~certified mail from the city manager or the chairperson of the board or agency at~~  
33 ~~least 14 days prior to the effective date of the suspension or debarment.~~

- 34 (b) ~~The person to be suspended or debarred has a right to a hearing, if requested,~~  
35 ~~within 14 days after mailing of notice.~~
- 36 (c) ~~The hearing shall be held promptly thereafter before the hearing officer. A~~  
37 ~~hearing officer will be appointed by the city manager for this purpose. The~~  
38 ~~hearing officer shall have all powers necessary to conduct the hearing.~~
- 39 (d) ~~The city attorney, on behalf of the city, or any party to the proceeding may~~  
40 ~~request that the hearing officer issue subpoenas for witnesses or subpoenas~~  
41 ~~duces tecum. The hearing officer shall cause a record of the case to be kept, and~~  
42 ~~copies shall be made available to any interested person upon the payment of a~~  
43 ~~fee. The hearing need not be conducted according to the rules of evidence. Any~~  
44 ~~relevant matter may be admitted and considered by the hearing officer if it is the~~  
45 ~~sort of evidence on which reasonable persons are accustomed to rely in the~~  
46 ~~conduct of serious affairs. Objections to evidence shall be noted, and the hearing~~  
47 ~~officer may rule on such objections.~~
- 48 (e) ~~The decision of the hearing officer shall be in writing and shall be subject to~~  
49 ~~appeal under RSMo ch. 536. All decisions of the hearing officer shall be final~~  
50 ~~decisions 30 days after the mailing of personal service of the decision.~~
- 51 (f) ~~Suspension or debarment will not be stayed during the pendency of any hearing~~  
52 ~~or appeal except by an order of the circuit court.~~

53  
54 ~~Sec. 98-226. – Grounds for suspension or debarment of bidders.~~

55 ~~The causes for suspension or debarment under section 98-224 include the following:~~

- 56 (1) ~~Conviction within the last ten years for commission of a criminal offense as an~~  
57 ~~incident to obtaining or attempting to obtain a public or private contract or~~  
58 ~~subcontract, or in the performance of such contract or subcontract.~~
- 59 (2) ~~Conviction within the last ten years under state or federal statutes for~~  
60 ~~embezzlement, theft, forgery, bribery, falsification or destruction of records,~~  
61 ~~receiving stolen property, or any other offense indicating a lack of business~~  
62 ~~integrity or business honesty which affects responsibility as a contractor.~~
- 63 (3) ~~Conviction within the last ten years under state or federal statutes arising out of~~  
64 ~~the submission of bids or proposals.~~
- 65 (4) ~~Violation within the last two years of contract provisions, as follows, of a~~  
66 ~~character which is regarded by the director of the contracting department or~~  
67 ~~board to be so serious as to justify debarment action:~~
- 68 — a. ~~Deliberate failure without good cause to perform in accordance with the~~  
69 ~~specifications or within the time limit provided in the contract; or~~
- 70 — b. ~~A record of failure to perform or of unsatisfactory performance in accordance~~  
71 ~~with the terms of one or more contracts, provided that failure to perform or~~  
72 ~~unsatisfactory performance caused by acts beyond the control of the~~  
73 ~~contractor shall not be considered to be a basis for debarment.~~

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~~(5) Violation of general ethical standards in relation to gratuities or kickbacks involving city contracts.~~

~~(6) Any other cause the director of the contracting department, board or agency determines to be so serious and compelling as to affect responsibility as a contractor.~~

Section 2 – Sections 98-224, 98-225 and 98-226 shall be reserved for future use.

Section 3 – Savings Clause. Nothing in this ordinance shall be construed to affect any suit or proceeding now pending in any court or any rights acquired or liability incurred nor any cause or cause of action occurred or existing, under any act or ordinance repealed hereby. Nor shall any right or remedy of any character be lost, impaired, or affected by this ordinance.

Section 4 – This ordinance shall be in full force and effect from and after passage.

Passed at meeting: \_\_\_\_\_

\_\_\_\_\_  
Mayor

Attest: \_\_\_\_\_, City Clerk

Filed as Ordinance: \_\_\_\_\_

Approved as to form: J Kelly, Assistant City Attorney

Approved for Council action: Greg Burt, City Manager

**EXPLANATION TO COUNCIL BILL NO: 2016- 233**

FILED: 10-11-16

ORIGINATING DEPARTMENT: Finance

PURPOSE: Amending the Springfield City Code, Chapter 98, Streets, Sidewalks and Public Places, Article VI, Improvements, Division 1, generally, by repealing Sections 98-224, Authority to suspend or debar bidders; 98-225, Procedure for suspension or debarment of bidders; and 98-226, Grounds for suspension or debarment of bidders; in their entirety, and reserving these sections for future use.

BACKGROUND: The City Purchasing Manual addresses suspending and debarring bidders and is available for all City contracts, regardless of the department that issued the bid or contract. In conjunction with this Ordinance, the City Purchasing Manual is being amended and, as such, Chapter 98, Streets, Sidewalks and Public Places, Article VI, Improvements, Division 1, generally, by repealing Sections 98-224, Authority to suspend or debar bidders; 98-225, Procedure for suspension or debarment of bidders; and 98-226, Grounds for suspension or debarment of bidders, are no longer needed and would be duplicative. Sections 98-224, 98-225 and 98-226 are being added to Sections 98-227 - 98-240 as Reserved for future use.

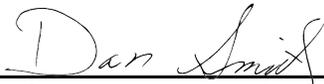
RECOMMENDATION: The Departments of Finance, Public Works, and Environmental Services recommend approval of the proposed amendments.

Submitted by:



Interim Director of Finance

Recommended by:



Dan Smith, Director of Public Works

Approved by:



City Manager



Steve Meyer, Director of Environmental Services