

CHAPTER 234
Village Administrator

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| 234.01 | Appointment; removal; abolishment of position. | 234.03 | Powers and duties of Village Administrator. |
| 234.02 | Abolishment and re-establishment of Board of Public Affairs. | | |

CROSS REFERENCES

- Streets and public grounds - see Ohio R.C. Ch. 723
 - Sidewalks and sewers - see Ohio R.C. Ch. 729
 - Water works - see Ohio R.C. 743.01 et seq.
 - Water pollution - see Ohio R.C. 743.25
 - Gas, water and electricity - see Ohio R.C. 743.26 et seq.
 - Care, supervision and management of public institutions - see ADM. 220.13
 - Contracts by Village Administrator - see ADM. 226.03
 - Street Commissioner - see ADM. Ch. 242
 - Board of Trustees of Public Affairs - see ADM. Ch. 270
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234.01 APPOINTMENT; REMOVAL; ABOLISHMENT OF POSITION.

The Council may establish the position of Administrator by ordinance. The Administrator established under this section shall have those powers provided by Section 234.03. The Administrator shall be appointed by the Mayor, but shall not take office unless his or her appointment has been approved by a majority vote of the members elected to the Council. The Administrator need not be an elector or reside in the Municipality at the time of his or her appointment; however, he or she shall become a resident of the Municipality within six months after his or her appointment by the Mayor and confirmation by the Council, unless his or her residence outside the Municipality is approved by ordinance. The Administrator shall not be an elected official of the Municipality at the time of his or her appointment or during his or her tenure in office. The Administrator shall serve at the pleasure of the Mayor and Council and may be removed without cause by the Mayor with the consent of a majority of the members elected to the Council, or he or she may be removed without cause by the affirmative vote of three-fourths of the members elected to the Council, without the consent of the Mayor. The Council may abolish the position of Administrator by ordinance.

(ORC 735.271)

234.02 ABOLISHMENT AND RE-ESTABLISHMENT OF BOARD OF PUBLIC AFFAIRS.

(a) Upon the establishment of the position of Village Administrator, his or her appointment by the Mayor and confirmation by Council, as provided by Section 234.01, the Board of Trustees of Public Affairs, if such a Board has been created in accordance with Section 270.01, shall be abolished and the term of office of members of such Board shall terminate. All contracts entered into by such Board and rules and

regulations promulgated and other action taken by such Board shall continue in effect until they have terminated of their own accord or until they have been modified, changed, revised, amended or repealed in the manner provided by law.

(b) If Council abolishes the position of Village Administrator, as provided by Section 234.01, a Board of Trustees of Public Affairs shall be established by operation of law and the Mayor shall appoint three members of such Board, subject to the confirmation of Council, who shall serve until the successors of such appointed members have been elected at the next regular election of municipal officers held in the Municipality occurring more than 100 days after the appointment of such members by the Mayor, as provided by Section 270.01. Such Board shall have those powers and duties provided by Sections 270.01 and 270.02 and as otherwise provided by law.

(ORC 735.272)

234.03 POWERS AND DUTIES OF VILLAGE ADMINISTRATOR.

(a) The Administrator shall manage, conduct, and control the water works, electric light plants, artificial or natural gas plants, or other similar public utilities, furnish supplies of water, electricity, or gas, and collect all water, electric and gas rents.

(b) The Administrator may make such bylaws and regulations as it deems necessary for the safe, economical, and efficient management and protection of such works, plants, and public utilities. Such bylaws and regulations, when not repugnant to municipal ordinances and resolutions or to the Ohio Constitution, shall have the same validity of ordinances.

(c) The rates for service and charges for municipally owned utilities shall be determined by the Council.

(d) The Administrator shall have the same powers or perform the same duties as are provided in Ohio R.C. 743.05 to 743.07, 743.10, 743.11, 743.18, and 743.24, and all the powers and duties relating to water works in any such sections shall extend to and include electric light, power, gas plants, and other similar public utilities.

(e) The Administrator shall supervise the improvement and repair of streets, avenues, alleys, lands, lanes, squares, landings, market houses, bridges, viaducts, sidewalks, sewers, drains, ditches, culverts, streams, and water courses as well as lighting, sprinkling, and cleaning of all streets, alleys, and public buildings and places.

(f) The Administrator shall appoint officers, employees, agents, clerks, and assistants, provided such positions are first authorized by the Council, but such appointments shall be subject to approval by the Mayor. Such appointments and the Mayor's approval shall be in writing, and shall be filed with the Clerk.

(g) The Administrator shall be under the general supervision and control of the Mayor, and shall have such other powers and duties as are prescribed by ordinance or by law and which are not inconsistent herewith. The Administrator shall perform all duties and shall have all powers of Boards of Public Affairs and Street Commissioners as prescribed by law, except as otherwise provided by Section 234.01 and Section 234.02.

(ORC 735.273)

CHAPTER 226

Contracts

226.01	General restriction.	226.04	Bids and proceedings.
226.02	Contracts by Council.	226.05	Award to lowest responsive and responsible bidder.
226.03	Contracts by Village Administrator; central purchasing.	226.06	Alterations or modifications of contracts.

CROSS REFERENCES

Contracts for utility services without advertising for bids - see Ohio R.C. 9.30

Contracts for work on public buildings and improvements - see Ohio R.C. 153.50 et seq.

Service contracts with county - see Ohio R.C. 307.14 et seq.

Police protection contracts - see Ohio R.C. 505.43, 737.04; ADM. 248.15

Gas company monopolies prohibited - see Ohio R.C. 743.33

Fire protection contracts - see ADM. 252.12

Unlawful interest in contracts - see GEN. OFF. 608.10

226.01 GENERAL RESTRICTION.

The Council shall not enter into any contract which is not to go into full operation during the term for which all the members of such Council are elected.

(ORC 731.48)

226.02 CONTRACTS BY COUNCIL.

All contracts made by the Council shall be executed in the name of the Municipality and signed on its behalf by the Mayor and Clerk. Except where the contract is for equipment, services, materials or supplies to be purchased under Ohio R.C. 125.04, 713.23(D), or 5513.01, or available from a qualified nonprofit agency pursuant to Ohio R.C. 4115.31 through 4115.35, or required to be purchased from a qualified nonprofit agency under Ohio R.C. 125.60 through 125.6012, when any expenditure, other than the compensation of persons employed in the Municipality, exceeds twenty-five thousand dollars (\$25,000.00), such contracts shall be in writing and made to the lowest and best bidder after advertising for not less than two nor more than four consecutive weeks in a newspaper of general circulation within the Municipality. The bids shall be opened and shall be publicly read by the Clerk or a person designated by the Clerk at the time, date and place specified in the advertisement to bidders or specifications. The time, date and place of bid openings may be extended to a late date by the Council, provided that written or oral notice of the change shall be given to all persons who have received or requested specifications no later than 96 hours prior to the original time and date fixed for the opening. This section does not apply to the Municipality if an Administrator has been appointed pursuant to the provisions of Ohio R.C. 735.271, or a substantially equivalent municipal ordinance.

(ORC 731.14)

226.03 CONTRACTS BY VILLAGE ADMINISTRATOR; CENTRAL PURCHASING.

(a) If the Municipality has established the position of Administrator as provided by Ohio R.C. 735.271, or a substantially equivalent municipal ordinance, the Administrator shall make contracts, purchase supplies and materials, and provide labor for any work under the Administrator's supervision involving not more than twenty-five thousand dollars (\$25,000.00). When an expenditure, other than the compensation of persons employed by the Municipality, exceeds twenty-five thousand dollars (\$25,000.00), the expenditure shall first be authorized and directed by ordinance of the Council. When so authorized and directed, except where the contract is for equipment, services, materials, or supplies to be purchased under Ohio R.C. 125.04, 713.23(D), or 5513.01 or available from a qualified nonprofit agency pursuant to Ohio R.C. 4115.31 through 4115.35, or required to be purchased from a qualified nonprofit agency under Ohio R.C. 125.60 through 125.6012, the Administrator shall make a written contract with the lowest and best bidder after advertisement for not less than two nor more than four consecutive weeks in a newspaper of general circulation within the Municipality. The bids shall be opened and shall be publicly read by the Administrator or a person designated by the Administrator at the time, date and place specified in the advertisement to bidders or specifications. The time, date and place of bid openings may be extended to a later date by the Administrator, provided that written or oral notice of the change shall be given to all persons who have received or requested specifications no later than 96 hours prior to the original time and date fixed for the opening. All contracts shall be executed in the name of the Municipality and signed on its behalf by the Administrator and the Clerk.

(b) The Council may provide, by ordinance, for central purchasing for all offices, departments, divisions, boards, and commissions of the Municipality, under the direction of the Administrator who shall make contracts, purchase supplies or materials, and provide labor for any work of the Municipality in the manner provided by this section.

(ORC 731.141)

226.04 BIDS AND PROCEEDINGS.

Each bid on any contract under Section 222.02 or Section 222.04 shall contain the full name of every person interested in such bid. If the bid is for the construction, demolition, alteration, repair, or reconstruction of an improvement, it shall meet the requirements of Ohio R.C. 153.54. If the bid is for any other contract authorized by Section 222.02 or Section 222.04, it shall be accompanied by a sufficient bond or certified check, cashiers check, or money order on a solvent bank or savings and loan association that, if the bid is accepted, a contract will be entered into and the performance of it properly secured. If the bid for work embraces both labor and materials, it shall be separately stated, with the price thereof. The Council or Administrator, in the event an Administrator has been appointed as provided by Ohio R.C. 735.271, or a substantially equivalent municipal ordinance, may reject any and all bids. The contract shall be between the Municipality and the bidder, and the Municipality shall pay such contract price in cash. When a bonus is offered for completion of a contract prior to a specified date, the Council or Administrator, in the event an Administrator has been appointed as provided in Ohio R.C. 735.271, or a substantially equivalent municipal ordinance, may exact a prorated penalty in like sum for each day or delay beyond the specified date. When there is reason to believe there is collusion or combination among bidders, the bids of those concerned therein shall be rejected.

(ORC 731.15)

226.05 AWARD TO LOWEST RESPONSIVE AND RESPONSIBLE BIDDER.

- (a) (1) If the Municipality is required by law or by an ordinance or resolution adopted under division (c) of this section to award a contract to the lowest responsive and responsible bidder, a bidder on the contract shall be considered responsive if the bidder's proposal responds to bid specifications in all material respects and contains no irregularities or deviations from the specifications which would affect the amount of the bid or otherwise give the bidder a competitive advantage. The factors that the Municipality shall consider in determining whether a bidder on the contract is responsible include the experience of the bidder, the bidder's financial condition, conduct and performance on previous contracts, facilities, management skills, and ability to execute the contract properly.
- (2) For purposes of this division, the provision of a bid guaranty in accordance with Ohio R.C. 153.54(A)(1) and (B) issued by a surety licensed to do business in this State is evidence of financial responsibility, but the Municipality may request additional financial information for review from an apparent low bidder after it opens all submitted bids. The Municipality shall keep additional financial information it receives pursuant to a request under this division confidential, except under proper order of a court. The additional financial information is not a public record under Ohio R.C. 149.43.
- (3) An apparent low bidder found not to be responsive and responsible shall be notified by the Municipality of that finding and the reasons for it. The notification shall be given in writing and by certified mail.

(b) Where the Municipality has adopted an ordinance or resolution under division (c) of this section and determines to award a contract to a bidder other than the apparent low bidder or bidders for the construction, reconstruction, improvement, enlargement, alteration, repair, painting or decoration of a public improvement, it shall meet with the apparent low bidder or bidders upon a filing of a timely written protest. The protest must be received within five days of the notification required in division (a) of this section. No final award shall be made until the Municipality either affirms or reverses its earlier determination. Notwithstanding any other provision of the Ohio Revised Code, the procedure described in this division is not subject to Ohio R.C. Chapter 119.

(c) The Municipality may, by ordinance or resolution, adopt a policy of requiring each competitively bid contract it awards to be awarded to the lowest responsive and responsible bidder in accordance with this section.

(ORC 9.312)

226.06 ALTERATIONS OR MODIFICATIONS OF CONTRACTS.

When it becomes necessary in the opinion of the Council or Administrator, in the event an Administrator has been appointed as provided in Ohio R.C. 735.271, or a substantially equivalent municipal ordinance, in the prosecution of any work under contract, to make alterations or modifications in such contract, such alterations or modifications shall be made only by the Council by resolution or by the Administrator in writing, in the event an Administrator had been appointed as provided in Ohio R.C. 735.271, or a substantially equivalent municipal ordinance, but such resolution or written modification shall be of no effect until the price to be paid for the work and material, or both, under the altered or modified contract has been agreed upon in writing and signed by the contractor, and by the Mayor or Administrator in the event an Administrator has been appointed as provided in Ohio R.C. 735.271, or a substantially equivalent municipal ordinance, on behalf of the Municipality. No contractor shall recover

anything for work or material because of any alteration or modification unless such contract is made as provided in this section, nor shall the contractor recover for such work or material, or either, more than the agreed price. The law relating to requiring bids and the awarding of contracts for public buildings, so far as they apply, shall remain in effect. A duplicate copy of each contract shall be filed in the office of the Treasurer.

(ORC 731.16)