

2024

Iowa Municipal Policy Leaders' Handbook

***A Guide for Iowa
Mayors and
Council Members***

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Welcome

Congratulations on your election as a municipal policy leader in Iowa! One of the most challenging and exciting responsibilities a citizen can assume is to become a mayor or council member. The business of city government and local leadership presents a unique opportunity to resolve issues, accomplish goals and affect the future of your community. This *Iowa Municipal Policy Leaders' Handbook* is designed to assist you in carrying out these responsibilities.

This *Handbook* is intended to provide general guidance to assist in your job and serve as a reference tool throughout your time in office. Because a resource this size can only give you a glimpse of the many complex matters that you will face in your elected position, the *Handbook* refers you to other information sources when you need to know more about a particular topic.

As new laws are enacted, important court cases decided, or other events occur that significantly impact Iowa cities, updates to this *Handbook* may be distributed to subscribers to keep the information current and relevant.

The Iowa League of Cities prepared this edition of the *Handbook*. Previous editions, going back over 30 years, were produced by the Institute of Public Affairs at the University of Iowa. After the Institute's closure in 2018, the *Handbook* was assigned to the League for continued production and distribution. The League acknowledges and thanks those that served at the Institute for their contributions to the *Handbook* and their efforts to improve Iowa communities.

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We hope you will enjoy and benefit from this Handbook. Congratulations and best wishes in performing your duties as an Iowa municipal policy leader!

Disclaimer

The *Iowa Municipal Policy Leaders' Handbook*, 2024 edition, is a copyrighted publication of the Iowa League of Cities. Until 2020, previous editions of the *Iowa Municipal Policy Leaders' Handbook* were distributed by the Institute of Public Affairs at the University of Iowa.

This *Handbook* is designed to provide mayors, council members and other city officials information about the policy and legal requirements related to city government. As such, every reasonable effort has been made to ensure this publication is accurate and up-to-date. However, the publisher does not assume any liability for errors or omissions.

The contents of this *Handbook* are presented as a matter of information and guideline for operations based on local, state and federal laws. The information contained herein is not intended to be and should not be construed as legal advice or opinion. Please consult directly with your city attorney for any legal advice or opinion.

This *Handbook* regularly cites statutes that apply to various city topics. Because the Iowa Code is frequently technical in its meaning and not always easy to understand, you should consult with your city attorney when trying to interpret state laws. Do not rely solely on your own interpretations of these important and technical statutory provisions.

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Chapter 1

Getting Started

A. TIPS FOR GETTING STARTED

This chapter is intended to help you get started in learning the details of how your city government works. (Parentheses refer to chapters in this *Handbook* with more information about the topic.)

1. Prior to Taking Office

- Take the oath of office (Chapter 3, Section A1).
- Request that the city clerk send you the same packet of information that is sent to the current city council and mayor.
- Meet with the mayor, city manager, city clerk, appropriate staff and/or elected officials to:
 - o Review and discuss your city's key policies, procedures and processes.
 - o Learn about the basic functions of your city, such as public works, public safety, utilities, parks and recreation, library, finance and city administration.
 - o Learn about major ongoing or planned projects and initiatives.
- Request a copy of the current city budget.
- Request a detailed map of your city.
- Learn about the Iowa Open Meetings Law (Chapter 4, Section A), Open Records Law (Chapter 5, Section D) and ethics laws (Chapter, 3 Section G).
- Check with your city clerk about your city's public officials' liability insurance coverage (Chapter 7, Section C1).
- If you have been elected mayor, check with your city clerk and/or city attorney regarding the need to be covered by a bond (Chapter 7, Section C4 and Chapter 3, Section A3).

2. Your First 30 Days in Office

- Obtain key documents including:
 - o City Code
 - o City organizational chart
 - o Staff roster and phone/email directory
 - o Comprehensive Plan and other important planning documents
 - o Goals and priorities of your city (if they exist)
 - o Council rules of procedure (if they exist)
 - o Work programs and significant staff reports from the last 12 months
 - o Calendar of important upcoming events
- If you have been elected mayor, review your city code and consult your city attorney regarding appointment of a mayor pro tem and police chief (Chapter 3, Section B2). Also, determine the process and timing for appointment of committees, boards and commissions and similar positions.
- Review your city's ordinances and resolutions pertaining to your city's organizational structure, roles and responsibilities of the mayor, city council, city manager/administrator (if applicable), and key departments/staff, committees, and boards and commissions.
- Review the city council minutes from at least the previous six months.

B. SUGGESTIONS FOR NEWLY ELECTED OFFICIALS

Veteran elected officials have offered the following helpful hints for newly elected mayors and council members (excerpted with permission from *Mayor & Councilmember Handbook*, Association of Washington Cities and Municipal Research and Services Center):

- **Listen. Listen to Everyone.** Listen until your ears fall off. Soak it up. After six months in office, you will round out the picture of the complexities of city government and your role.
- **Ask questions.** Don't be afraid to ask questions. You are not expected to know all the answers immediately. Don't be reluctant to check with others – mayor, city manager/administrator, city clerk, city attorney, Iowa League of Cities, a nearby city or regional planning commission.
- **Don't be afraid to say “I don't know”.**
- **Don't make promises you can't deliver!** Most major decisions and actions require approval of the City Council.
- **Gear your mind to process** a tremendous amount of seemingly conflicting information.
- **Don't enter office with an unmovable set agenda.** Learn as much as you can before taking on a major program or effort. Don't be strangled by campaign promises that were made without sufficient information.
- **Network with others in the same boat.** Meet with elected officials from nearby communities, for example. They can provide support, new ideas, and give you an opportunity to vent.
- **Find an experienced mentor on the council.** Ask for advice when you need help. You'll get empathy and a clearer vision from someone who has been there.
- **Ask opinions, and listen.** Spend time with those individuals who have different opinions than yours (maybe even your opponent in the election). Listen, don't argue the points, then rethink your positions.
- **Legal restrictions.** Keep in mind that your city's adopted ordinances must be followed until the council takes action to amend them. And that's just the beginning – the number of federal and state laws and regulations that also govern your actions can be mind-boggling! If you are unsure of your responsibilities or authority in certain areas, be sure to seek clarification from your city attorney.
- **Value and respect your staff.** Recognize your staff as a valuable resource. They should be able to provide important historical perspectives and can help “fill in the gaps” for a new council member.
- **Don't reinvent the wheel** – someone has probably done it elsewhere. Use information from the Iowa League of Cities, have staff conduct research through their professional organizations, attend workshops and conferences.
- **Take it slowly.** Resist the urge to recommend drastic changes in the organization before you know how it really works. While some methods may appear to need an immediate overhaul, it pays to observe a while before trying new methods. Give yourself at least six months to learn the fundamentals of city operations.

C. BECOMING AN EFFECTIVE ELECTED OFFICIAL

Serving in elected municipal office is an exciting, challenging and humbling experience. What steps can you take to become an effective elected official? (Reprinted with permission from *Governing Body Handbook*, League of Kansas Municipalities)

- **Reading.** Familiarizing yourself with the issues before the city council is very important. It is frustrating for citizens to appear before the city council and realize some of the members have not bothered to read their application or supporting materials before the meeting. You will also find publications such as *Cityscape*, published monthly by the Iowa League of Cities, helpful in learning about issues and trends affecting municipal government.

- **Training and education.** Effective and efficient municipal governance requires officials to have the latest information at their fingertips. Some of the best training can be secured at training and education programs offered by the Iowa League of Cities and its affiliated regional leagues and organizations. Your city clerk, city administrator or other city staff may be members of various email groups and may have access to information on topics or issues of interest to your city council.
- **Observation.** General observation of the appearance and functions of your city is very helpful in pinpointing and sometimes preventing problems and really understanding the issues.
- **Consulting with citizens.** It is important that you be perceived as accessible by persons from various parts of your city and from different backgrounds. Attending community events is a good way to collect community input.
- **Interaction with citizen boards.** Community members serving on appointed boards and commissions play an important role in dealing with issues facing a city. Elected officials should keep in mind the tremendous investment of time by volunteers on these groups. Differences of opinion between the city council and boards or commissions may occasionally occur, but it is important to express your appreciation to these volunteers for their contributions to the community.
- **Attendance at and participation in council meetings.** Attendance at council meetings is, of course, an important responsibility of elected officials. In addition, elected officials need to engage themselves in the discussions and decisions before the city council.

D. ELEMENTS OF SUCCESS FOR ELECTED OFFICIALS

(Excerpted with permission from *Mayor & Councilmember Handbook*, Association of Washington Cities and Municipal Research and Services Center)

1. Leadership

- Lead by example. Be honest, consistent and flexible. Don't play games.
- Use common sense.
- Don't be stampeded into action by the strong demands of special interest groups. Your job is to find the long-term public interest of the entire community.
- Be clear on what you stand for.
- Have goals – things you want to accomplish. But don't act rashly and assume that only you know the best way to accomplish things. Every issue will benefit from additional discussion. Your perceptions may change.
- Sometimes we underestimate the potential impact of an elected official's leadership. Use the dignity of your office to help the community get past contentious issues.
- There is a tremendous amount of discomfort in making very public decisions. Sometimes the decisions feel like the end of the earth. It's easy to fear the political consequences. But it is important to look a little more long-term in perspective, weigh everything, and reach good decisions.
- You won't be able to satisfy everybody and you have to know that. Listen fairly...listen thoughtfully...and then do what's right.

2. The Team Concept

- Policy making is a team game. An individual council member only has power when the council gathers together as a group at an official council meeting and enacts legislation. Each council member sees issues differently and has his/her own concerns. A majority vote is needed to accomplish anything.
- City government is complicated. No city, whatever its size, is so simplistic that one person can master every phase of it. Individual council members have no choice but to look to their colleagues for counsel and support.
- Teamwork is a natural and necessary part of serving on the council. Teamwork does not mean that all council members need to agree on every issue or even like each other on a personal basis. But it does mean that they must respect each other's opinions and learn to deal with each other on the basis of mutual honesty.

- Staff is an important part of the team. Get to know your staff and what they do. Treat staff with respect – they are a valuable asset and can assist you in accomplishing your goals.

Some suggestions for promoting effective relationships between elected officials and staff include: (Excerpted with permission from the *Western City* magazine, the monthly publication of the League of California Cities®.)

- Encourage staff to provide their best assessment and professional recommendations on issues.
- Make sure everybody on the team has a clear understanding of the roles and responsibilities of elected officials and staff.
- Praise in public; criticize in private.
- Criticize the project or the process, not the person.
- Avoid scapegoating staff.
- Do not draw staff into disputes or conflicts between elected officials.
- Avoid playing “gotcha” with staff.

3. Goal-Setting

- Effective planning is essential to smooth operations in city government. The mayor and city council should take time to think about the future direction of the city.
- Policy-making can be simplified if the council defines the community’s basic goals, objectives and priorities.
- The goal-setting process establishes a basic framework for action. By setting goals, and then deciding which are most important, the council can define what the city will try to achieve over a given period of time. Without priorities, the council is likely to find itself drifting from issue to issue, crisis to crisis.
- Council goal-setting is valuable for staff. Council goals and priorities can provide direction to staff as to what the council is trying to accomplish. Without clearly defined goals, staff may get conflicting signals and not meet council’s expectations.
- Goal-setting is essential to other important functions. Effective goal-setting should be integrated into the city’s processes for developing the annual budget, capital improvements program, and implementing the Comprehensive Plan.

- Goal-setting can provide a useful evaluation tool. Once goals have been established, the city council will have a framework for determining how well staff is doing in achieving agreed-upon priorities.

E. SOURCES OF INFORMATION

There are many resources available to provide technical and other types of assistance to cities. The Iowa League of Cities is a key source for information and technical assistance for cities. The League website at www.iowaleague.org contains a “Resources” section that contains information and materials categorized on all sorts of municipal government topics. Their Membership Services Department is always available to answer your inquiries. The League also conducts annual training on a range of city topics. In addition, the League helps manage the Iowa Mayor’s Association, which provides education and networks to member mayors.

Another valuable resource is the *Iowa Handbook for City Clerks/Finance Officers*, published by the Iowa League of Cities and the Iowa Municipal Finance Officers Association. Your city clerk may have a copy of this *Handbook*.

A directory of other agencies, associations and organizations available to provide technical and other types of assistance to cities can be found in Appendix A.

You will find that most city officials are very willing to share information and expertise. There are formal and informal networks among mayors and council members, as well as city staff such as city clerks, city administrators, and utility directors. By attending regional and state meetings and workshops sponsored by the Iowa League of Cities and similar organizations, you will meet persons in similar positions from other communities and become a part of this “network”.

1. Jargon

As a newly elected official, you will undoubtedly encounter new jargon, terms and acronyms. Glossaries with some of the more commonly used terms are located in Appendix B and C of this *Handbook*.

Chapter 2

Local Government in Iowa

A. HOME RULE POWER

Cities in Iowa operate under what is known as Home Rule authority. This power was approved by the voters and incorporated into the Iowa Constitution in 1968 through the Home Rule Constitutional Amendment, which declares:

“Municipal corporations are granted home rule power and authority, not inconsistent with the laws of the general assembly, to determine their local affairs and government, except that they shall not have power to levy any tax unless expressly authorized by the general assembly. The rule or proposition of law that a municipal corporation possesses and can exercise only those powers granted in express words is not a part of the law of this state.”

Accordingly, an Iowa city is presumed to have the power to act in local affairs unless it can be shown that a law of the Iowa General Assembly or the Iowa Constitution clearly prohibits it from acting. As a result of these restrictions, Iowa’s form of Home Rule is frequently referred to as “Limited Home Rule”. In theory, “full” Home Rule would allow cities complete freedom to exercise initiative in solving their local problems without restricting the legislature’s authority to deal with matters of statewide concern.

Limited Home Rule recognizes the interdependence of the cities and the state. Iowa’s limited form of Home Rule depends not only upon the willingness of Iowa cities to exercise such power responsibly, but also upon the willingness of the legislature to exercise its limiting power wisely and sparingly. If a dispute arises, state courts have the job of interpreting the boundaries of the legislative limitations on cities.

1. Limitations of Iowa Home Rule

The Iowa Code establishes certain limitations on cities’ home rule powers. Within these limitations, cities can exercise these powers in many ways. The most significant limitations to Home Rule in Iowa are:

- Cities cannot act in a manner inconsistent with laws passed by the Legislature.
- The only taxes cities can levy are those “expressly authorized” by Iowa law.

In addition, legislation enacted in recent years prohibits cities from:

- Adopting minimum wage ordinances higher than the state level.
- Enacting any terms or conditions pertaining to public improvement projects that exceed or conflict with the requirements of state or federal law relating to hiring practices, employment benefits, scheduling practices and any form of employment leave.
- Adopting any local ordinances that differ from, or add to, any requirements established by state law regarding the sale or marketing of consumer merchandise.
- Restricting the authority to interfere in the application and deployment of small and micro wireless facilities in rights-of-way.
- Prohibiting the sale of fireworks.
- Regulating short-term rental properties.

Subject to these limitations, under Home Rule cities can pass any law that is not contradictory to state or federal law or constitution. Cities therefore have broad powers to:

- Enter into contracts.
- Employ persons.
- Acquire, manage and dispose of property.
- Regulate persons.

- Protect and preserve the rights, privileges and property of the city or of its residents.
- Preserve and improve the peace, safety, health, welfare, comfort and convenience of its residents.

Within these limitations, cities can exercise their powers in many ways. Consult with your city attorney regarding the limitations of Home Rule as they may apply to specific issues before your city council.

B. SOURCES OF AUTHORITY

City governments are required to comply with laws stemming from several different sources. In a rather complex way, these authorities combine to both grant and restrict the power of cities. The following state and federal sources of law apply to municipalities:

1. The Iowa Constitution

The Iowa Constitution contains several provisions that apply directly to municipal government and numerous provisions that apply indirectly.

- **Home Rule**
As discussed above, municipal Home Rule generally empowers cities to determine their own affairs and government, but the Iowa Constitution specifically provides that the exercise of Home Rule power cannot be inconsistent with state law.
- **Bill of Rights**
Iowa's Bill of Rights restricts local government insofar as it applies to government in general throughout Iowa. For example, Article I, Section 7 requires that no law shall be passed to restrain or abridge the liberty of speech or of the press. This restriction extends to municipal laws. Other constitutional limits and restrictions may be found under Article I and other articles of the Iowa Constitution.

2. The Iowa Code

The Iowa Code specifically addresses municipal government in many different provisions, including:

- Limiting the forms of city government.
- City finances, taxation and budgeting.
- Adoption of city legislation.
- Open meetings and open records.
- Procedures at council meetings.

- Municipal utilities.
- City development.
- Establishment and changing of city boundaries.

This *Handbook* will regularly cite statutes that apply to various city topics. Because the Iowa Code is frequently technical in its meaning, often unclear, and not always easy to understand, you should consult with your city attorney when trying to interpret the Iowa Code. Do not rely solely on your own interpretations of these important and technical statutory provisions.

3. Iowa Administrative Code

Rules and regulations adopted by state agencies have the power of statutory law. These rules and regulations are contained in the Iowa Administrative Code. You should consult your city attorney to determine whether such rules apply to a subject matter you are considering.

4. Judicial Decisions in Iowa

The Iowa courts interpret the state constitution, the statutes and administrative code. Iowa courts also apply what is called "common law" principles (precedents from former cases) when making decisions. The official opinions of these courts become part of the permanent law of our state and are applicable to your municipality. Your city attorney is trained to interpret these decisions and determine their applicability to your city.

5. Federal Law

Because federal law controls when in conflict with state law, cities must abide by all federal statutes, regulations and court cases which apply to the actions of state governments. Federal laws impact municipalities on issues such as employment, civil rights, labor relations, environment and human services. Federal courts can be called upon to apply the U.S. Constitution or federal statutes to Iowa laws.

C. LEGAL COUNSEL AND MUNICIPALITIES

1. The Role of Your City Attorney

Because complex laws affect multiple aspects of municipal operations, your city attorney should be very involved in all legal matters concerning your city, including:

- Providing regular advice to your mayor, city council and staff.

- Interpreting how the law applies to current or proposed city ordinances, policies, programs and activities.
- Prosecuting violations of city ordinances, such as zoning, nuisance or traffic laws.
- Drafting and reviewing ordinances, resolutions, contracts, agreements, administrative policies, and other legal documents for the city council and staff.
- Reviewing contracts, agreements and other legal documents submitted by other parties for city approval.
- Providing advice regarding human resources matters such as personnel policies, employee discipline, collective bargaining, civil service, unemployment claims and related issues.
- Attending city council meetings as needed and answering inquiries from council members, staff or citizens.
- Advising your city on lawsuits filed against the city, or the potential for lawsuits, and generally representing your city in lawsuits or other legal actions initiated by or against your city.
- Providing advice and working with your city's insurance carrier on claims made against the city and working with outside legal counsel hired by your city's liability carrier.
- Providing advice and preparing legal documents related to property acquisition or sale, eminent domain, street/alley vacations and related real estate issues.
- Providing advice to city council and staff regarding open meetings and public records laws.
- Providing advice on competitive bids, quotations and construction contracts.
- Working with city officials to provide appropriate responses to state and federal agencies.
- Advising your city council, planning and zoning commission, zoning board of adjustment and city staff regarding zoning and land use issues.

2. Benefits of a City Attorney

A knowledgeable city attorney is vital to your city's everyday operations. Take advantage of your city attorney's expertise by:

- Routinely consulting with your city attorney when you are making policy decisions that may have legal ramifications. This keeps your attorney informed of potential legal problems and ensures

that you receive his or her advice (preferably in writing), thus preventing mistakes.

- Providing your city attorney copies of council meeting agendas and other documents well in advance of any meeting while highlighting any issues that may require a legal opinion.
- Updating your city attorney on important municipal projects and activities as well as any contemplated changes to existing city policy.
- Developing a solid working relationship with your city attorney so that you feel comfortable when seeking legal guidance.

3. Ways to Obtain Legal Services

A city can obtain the services of a city attorney by either contracting directly with an attorney or law firm or hiring an attorney as a full- or part-time employee. Factors such as the type and amount of legal help needed and associated costs will certainly influence the arrangements a city makes with its attorney.

4. Specialized Legal Services

Unless your city attorney or firm has significant experience in these areas, your city should seek specialized legal assistance whenever your city is dealing with complex and highly technical matters such as the issuance of municipal bonds and other forms of debt, land acquisition, significant personnel actions (especially terminations, suspensions, demotions and layoffs), or complex environmental issues.

D. BASIC FORMS OF CITY GOVERNMENT

Your city government must be organized in accordance with one of the following eight possible forms of city government permitted under Chapter 372 of the Iowa Code:

Mayor-Council
 Council-Manager-At-Large
 Council-Manager-Ward
 Commission
 Home Rule Charter
 Special Charter
 City-County Consolidated
 Community Commonwealth

All forms of city government must include a city council and a mayor. The power of the city is vested in the city

council, unless a state law provides otherwise. This principle means that any power possessed by your city lies with the council except where a law grants a specific power to another individual or agency (for example, the mayor's special powers in an emergency). More information on council and mayor roles can be found in Chapter 3 of this *Handbook*.

The relationship between the city council and mayor varies with the different governmental forms. You should carefully review the provisions in the Iowa Code, your city code, and your city charter (if applicable) to more fully understand this relationship in your city. Consult with your city attorney if you have questions or are not clear about these issues.

1. Mayor-Council Form of Government

The Mayor-Council form of government is commonly used in Iowa. Mayor-Council cities are generally governed by a mayor elected at-large (that is, from among the entire population of the city) and a five-member council (although the number of council members may vary – see below). Under this form of government, cities may, by ordinance, create the position of city manager or administrator and delegate some or all of the administrative responsibilities from the mayor, council, and council-appointed officers to the city manager or administrator.

- **The Mayor**

In the Mayor-Council form of government, the mayor is elected at large and is not a member of the council. Therefore, the mayor is not entitled to vote on issues before the city council (including to break a tie vote of the council). However, the mayor can vote to break a tie only when there is an even number of permanent positions on the city council as established by ordinance and when the vote is not on an ordinance, resolution or appointment motion. (This exception does not apply when a vacancy temporarily reduces the council to an even number of members.)

Under the Mayor-Council form, the mayor appoints a council member as mayor pro tem (see Chapter 3, Section D). The mayor also appoints the police chief, subject to the consent of the majority of the city council, unless that appointment power has been delegated to the city manager or city

administrator. Whether the mayor or city manager/administrator appoints the police chief, the city council must ultimately approve the appointment. Supervisory authority of the police chief may also rest with the city manager or administrator – check your city code and local chain-of-command to determine the policies in your community.

- **The City Council**

Most city councils operating in the Mayor-Council form of government have five members elected at-large. In this form of government, the number of council members must be an odd number (there are certain exceptions for cities which had two council members elected at large and four from wards prior to July 1, 1975). The size of the city council can be changed per Iowa Code Section 372.4 depending on the population of the city.

- **The Mayor-Council Relationship**

The Iowa Code does not clearly set forth the divisions of responsibility between the mayor and council. As a result, this relationship varies from community to community.

- **Appointed City Manager or Administrator**

Cities operating under the Mayor-Council form of government can enact an ordinance creating the position of city manager or administrator and establish the duties and powers of that position (see Iowa Code Section 372.4). In this form of government, some cities designate the position as “city manager”, while many others use the term “city administrator”.

Regardless of nomenclature, the city manager or administrator in the Mayor-Council form is almost always the chief administrative officer of the city. You should review your city code and applicable job description to find out the specific responsibilities of this position in your community. Consult with your city attorney if you have questions or need clarification.

In some cities, the position of city manager or administrator is distinct from that of city clerk. In other cities, the city manager or administrator also holds the title of city clerk. In many cities where

the city manager or administrator also serves as city clerk, a deputy clerk frequently handles the routine administrative functions of the city clerk position.

2. Council-Manager-At-Large Form of Government

A city may adopt by popular election one of two forms of government which mandate a professional city manager position: Council-Manager-At-Large or Council-Manager-Ward form.

The Council-Manager-At-Large form (see Iowa Code Section 372.6) has five council members elected at large for staggered four-year terms. There are only a few cities in Iowa with this form of government, including Sioux City, Burlington, Chariton and Webster City.

- **The Mayor**

Under the Council-Manager-At-Large form, the mayor and mayor pro tem are elected by the city council members from amongst themselves. The mayor presides at council meetings and is a member of the council. The mayor votes on council agenda items but has NO veto power.

- **The City Manager**

As soon as possible after a new term begins following a city election, the council under the Council-Manager-At-Large form is required to appoint or reappoint a qualified person as city manager. State law specifies that the city manager is to be chosen on the basis of qualifications and fitness for the job, without regard to political affiliation. The manager is the chief administrative officer of the city and is directly responsible to the city council. Section 372.8 of the Iowa Code sets forth the duties and responsibilities of the city manager under this form of government.

3. Council-Manager-Ward Form of Government

The Council-Manager-Ward form of government varies somewhat from the Council-Manager-At-Large form. In the Council-Manager-Ward form, the council has seven members: four elected from wards and two at-large. The mayor runs specifically for that office and is elected at-large by the voters. The cities of Des Moines and Dubuque operate under this form.

- **The Mayor**

Under the Council-Manager-Ward form, the mayor presides at council meetings and is a member of the council. As a council member, the mayor votes on issues before that body but has NO veto power.

- **The City Manager**

The description of the city manager position under the Council-Manager-At-Large section described above also applies to Council-Manager-Ward cities.

4. Commission Form of Government

Under the Commission form, cities are governed by a council consisting of a mayor and four council members, all of whom are elected at large (see Iowa Code Section 372.5). Commission cities are organized into five departments: public affairs, accounts and finances, public safety, streets and public improvements, and parks and public property. A full-time mayor and council members (commissioners) head these departments. Commissioners both set policies (as a council) and administer them like department heads.

The mayor presides over the department of public affairs. Each of the four council members is elected to preside over one of the remaining four departments. The mayor supervises the general administration of all departments and reports to the council on all matters requiring the council's attention. The mayor is a member of the council and votes on issues before the council but has no veto power. The council member elected to administer the department of accounts and finances is the mayor pro tem.

No cities in Iowa currently operate under the commission form of government.

5. Home Rule Charter Form of Government

A city may develop and adopt a home rule charter to establish a "customized" form of government. In these forms, the voters must approve a charter document that defines the organization and structure of the city (see Iowa Code Section 372.9). Some Iowa communities operating under Home Rule Charter are Cedar Rapids, Clinton, Fort Dodge, Iowa City and Marion. If you are an elected official in a Home Rule Charter city, you should carefully examine your city's charter.

6. Special Charter Form of Government

During Iowa's early history, cities were allowed to incorporate under special charters. In 1857, the general incorporation law no longer permitted special charters but did not rescind existing ones. Only four special charter cities remain in Iowa: Davenport, Muscatine, Wapello and Camanche. If you are a city official in one of these four communities, you should carefully examine your city's special charter provisions and Iowa Code Chapter 420.

7. City-County Consolidated Form of Government

A charter commission established pursuant to Section 331.233A of the Iowa Code may propose a form of government under which a county and one or more cities within a county may create a unified government. Adoption of the consolidated form requires approval of a majority of the votes cast in the entire county and a majority of the votes cast in one or more cities named in the ballot.

There are currently no city-county consolidated forms in Iowa. For further information regarding this form, consult Iowa Code Sections 331.247 – 331.252 and your city attorney.

8. Community Commonwealth Form of Government

A charter commission may also propose a form of government under which a county and one or more cities or townships within the county, a contiguous county, and a city or township within a contiguous county may unite to establish a community commonwealth to provide delivery of regional services.

There are currently no community commonwealths in Iowa. For further information about this form of government, refer to Iowa Code Sections 331.260 – 331.262 and your city attorney.

9. Changing a City's Form of Government

Under Iowa law, cities may not change their form of government more than once every six years. Iowa Code Section 372.2 outlines the process of changing government forms. A special election is ultimately required to change forms. You should contact your city attorney if you are considering making such a change.

10. Discontinuance of City Government

Chapter 368 of the Iowa Code describes the process by which a city can be discontinued and its government dissolved. A petition for discontinuance can be filed with the state City Development Board by the city council, county board of supervisors, a regional planning commission or five percent of the registered voters of the city. Majority approval of the eligible voters who cast a ballot is required for discontinuance. If discontinuance is approved by the voters, the county assumes jurisdiction and the residents are entitled to the same services provided to other unincorporated areas of the county. Discontinuance can be done by more methods than outlined here and does not always have to go to election (see Iowa Code Section 368.3).

Chapter 3

Mayor & Council Roles

A. BASICS ABOUT TAKING OFFICE

1. Term of Office

In many cities, council terms are for four years and are staggered so that the entire council is never up for election at any single time. Some cities have two-year council terms. If not specified in your city code, the term of office is two years. Unless your city has an ordinance to the contrary, there is no limit on the number of terms an elected official can serve.

Terms may be changed from two to four years, or from four to two years, by a process of petition and election (see Iowa Code Section 364.2 for petition requirement and Section 376.2 for changing council terms). If approved by a majority of the persons voting, the change becomes effective for terms beginning after the next regular city election. If defeated, the proposal cannot be resubmitted for four years.

Regular terms of office usually begin at noon on the first day of January that is not a Sunday or legal holiday following a regular city election. Elected officials must take the oath of office before your term begins (even if you have been re-elected). Oaths of office can be given any time after the election results have been certified by the county, but they must be administered no later than noon on the first working day following January 1 that is not a Sunday. Persons elected or appointed to fill a vacancy must take the oath within ten days from the election or appointment.

Oaths of office are usually given by the city clerk but may also be administered by a judge or magistrate, a clerk or deputy clerk of court, a notary public, or a certified shorthand reporter (see Iowa Code Section 63A.1). The mayor may also administer the oath of office to city council members (per Iowa Code Section 63A.2). The

elected official must sign a written copy of the oath and have it certified by the person administering it. The wording of the oath of office is found in Iowa Code Section 63.10.

2. Ward versus At-Large Representation

Election to the council can either be at-large or by ward. At-large council members are chosen by the voters of the city as a whole, while ward council members are elected from specific districts. Some cities have a combination of at-large and ward representatives. Cities that elect officials by ward must comply with the “one-person, one-vote” requirement, which means that wards must be roughly equal in population. Ward boundaries usually need to be re-drawn every ten years after cities have received the official results of the federal decennial (every ten years) U.S. Census (see Iowa Code Section 372.13(7)).

3. Public Official Bonds

Mayors may be required to post a bond. Bonds are intended to protect the city from liability and to safeguard the integrity of public funds. They are to ensure the faithful performance of mayoral duties and are executed in favor of the city (see Iowa Code Chapter 64 and Chapter 7, Section C4 of this *Handbook*).

4. Compensation

The amount of your compensation as an elected official is set by your city ordinance. Changes in the compensation of mayors do not become effective during a mayor’s current term of office (see Iowa Code Section 372.13(8)). Changes to the compensation of council members become effective for all council members at the beginning of the term following a regular city election. As a result, if a change is made and you have two years remaining in a four-year term, you will receive the same pay as newly elected council members. Any changes

to the compensation of any elected officer must be made prior to November 1 of the year of the regular city election.

B. ROLE OF THE MAYOR

Under Iowa Code Section 372.14, a mayor has two primary roles in city government: chief executive officer of the city and presiding officer of the city council. This section of the *Handbook* discusses the executive role of the mayor. (The mayor's duties as presiding officer of the city council are covered in Chapter 4, Section D2 of this *Handbook*).

Section 372.14 of the Iowa Code provides that the mayor supervises all city officers and departments "except for the supervisory duties which have been delegated by law to a city manager." As chief executive officer, the mayor should carefully balance policy making and administrative responsibilities. Policy making involves addressing the broader problems and issues facing the city, considering alternative actions, and determining or recommending action. Administrative responsibilities may include overseeing organizational operations, directing and managing specific activities, and carrying out organizational policies.

Mayoral duties vary considerably from city to city. Cities with a city manager, city administrator or other administrative-type officer most likely have ordinances that assign duties to that position that might otherwise be held by the mayor. City councils may also retain duties for themselves or delegate additional duties to the mayor. It is important that all members of the team – elected and appointed officials – have a clear understanding of the duties and responsibilities of the various positions in your city. The more common executive powers and duties of Iowa mayors are:

1. Legislation

The mayor generally has the opportunity to sign, veto or take no action on legislation adopted by the council. However, if the mayor is entitled to vote on a measure at the time of passage, the mayor does not have the authority to veto legislation.

- **Signing Legislation**

Once the mayor signs a resolution, it becomes effective immediately. Ordinances or amendments to ordinances become law after publication (see

Chapter 4, Section C7 of this *Handbook*), unless a later date is specified in the measure itself. If the mayor has vetoed a measure and the council re-passes it, the legislation becomes effective upon the date of re-passage.

- **Veto**

In most forms of city government, the mayor may veto an ordinance, amendment or resolution within fourteen days after passage by city council. (In those cities where the mayor has a vote on the city council, the mayor does not have veto authority).

If a mayor vetoes an ordinance, amendment, or resolution, state law requires the mayor to explain the reasons for the veto in a written message to the council at the time of the veto (see Iowa Code Section 380.6). Although not required by law, some city attorneys suggest as good policy that a veto should not be exercised during the regular course of a council meeting in which the item is voted on by the council. This allows for a more attentive reflection of positions offered by the council during their final deliberations.

- **Override**

A council may override the mayor's veto by passing the same legislation again within thirty days after the mayor's veto. To override a mayor's veto, the legislation must be passed by a two-thirds vote of all the members of the council – not just of the members present at the meeting (see Iowa Code Section 380.6(2)).

- **No Action**

If, for any reason, the mayor does not want to take a position on an ordinance, amendment, or resolution, he or she may simply do nothing. The mayor is not required to sign or veto legislation. If the mayor takes no action within fourteen days after passage of a resolution, it becomes effective at that time. An ordinance normally becomes law when published, but not before fourteen days after its passage (see Iowa Code Section 380.6(3)). The city clerk will make a notation on each measure indicating whether the mayor signed, vetoed, or took no action on the measure and whether it was re-passed over a mayoral veto.

- **Voting by Mayor**

As discussed in Chapter 2 of this *Handbook*, the mayor in most cities has no vote on the city council. Under certain forms of government, the mayor has a vote on the city council the same as council members but then does not have any veto authority. If a city's charter or ordinance authorizes an even number of members on the council on a permanent basis, the mayor may vote on motions, but not on resolutions or ordinances. In special charter cities with ten council members, the mayor may vote to break a tie on all measures.

2. Mayoral Appointment of Officials

Mayors have varying appointive powers. Certain state laws and city ordinances expressly authorize some mayoral appointments, while others appointments are delegated to the city council. In many instances, mayoral appointments must be confirmed by the city council. You should check your city code to determine the full scope of mayoral appointive powers in your city. For more information regarding appointment and removal of city officials, refer to Sections F1 and F2 of this Chapter.

3. Supervision

Mayors are responsible for supervising all city officers and departments unless that authority has been delegated by your city's ordinances to a city manager, city administrator or other administrative position. You should check the ordinances of your city to understand the full scope of the supervisory powers of the mayor and other city officials in your community.

Supervision of employee activities may require administering discipline. Refer to Chapter 8 Section B of this *Handbook* for more information on this topic.

4. Law Enforcement

Law enforcement is generally the responsibility of your police department or designated law enforcement agency. It is not the job of the mayor. Mayors are not peace officers and do not have the power to arrest people.

Mayors have certain special powers during declared emergencies (see Iowa Code Section 372.14(2)). A mayor may take command of the police and govern the city by proclamation if a state of emergency or public danger is declared.

5. Informal Duties and Powers

Mayors are typically involved in numerous civic activities, such as representing the city at various community organizations, speaking at public events or community groups, and participating in ribbon cutting and other local ceremonies. These informal responsibilities can frequently be quite time-consuming but are considered an important part of the mayor's job.

C. ROLE OF THE CITY COUNCIL

Section 364.2(1) of the Iowa Code provides that "the power of a city is vested in the city council, except as otherwise provided by state law". By virtue of this and other statutory provisions, the city council has broad responsibilities and powers.

1. Summary of Duties and Responsibilities of City Councils

- City councils are the lawmakers of a city. They pass ordinances, resolutions, amendments and motions.
- City councils establish city policies by:
 - o Setting goals and priorities.
 - o Approving programs and projects.
 - o Approving/amending budgets.
 - o Approving land use plans and zoning changes.
 - o Approving expenditures and payments.
 - o Approving contracts.
- City councils oversee the administration of city government by:
 - o Evaluating, monitoring and reviewing city programs, services and performance.
 - o Monitoring the city budget.
 - o Providing direction to the city manager/administrator and/or city staff.
 - o Hiring, evaluating and firing certain city officials, such as the city clerk, city attorney, city manager/administrator and other city employees for which the city council has such responsibility.
- City councils provide community leadership by:
 - o Making community decisions by systematically studying issues, reviewing alternatives and choosing courses of action.
 - o Establishing a vision for the community.
 - o Sensing and transmitting community needs, desires and comments.
 - o Arbitrating conflicting interests.

2. General Legislative Powers

Your city council exercise its powers when acting as a group (quorum) in official open session and by adopting legislation (ordinances, resolutions, motions). Individual council members have no authority of their own. The process of adopting legislation is discussed in Chapter 4, Section C of this *Handbook*.

3. Council Appointment of Officials

The authority for appointing city officials overlaps between the mayor and council. Unless otherwise provided in state or local law, the council has the power to appoint city officials. The council by ordinance may delegate some of this power to the mayor, city manager or city administrator. See Section F1 of this Chapter for more information regarding appointment of city officials.

4. Setting Wages and Terms of Employment

The council is responsible for setting the wages of city officers and employees. It is required to fix by ordinance the terms of office of all appointed officials whose terms are not set by state law. See Section F1 of this Chapter for more information regarding term lengths of city officials.

City councils usually establish the powers and duties of municipal officers by ordinance. If responsibilities have been established by state statute, your council cannot take them away (but may add to them). The council may also remove city officers and employees it appointed (see Section F2 of this Chapter).

5. Division of Powers

As previously discussed, powers may be divided between the city council, mayor and city manager/administrator. To avoid confusion, the powers and duties of the mayor, council and city manager/administrator should be established by ordinance or a resolution and reviewed by all parties on a regular basis.

D. CITY COUNCIL ORGANIZATION

1. Mayor

The mayor is the presiding officer at city council meetings. As presiding officer, the mayor has the following functions:

- Calls the meeting to order.
- Announces the order of business as provided on the agenda.

- States motions on “the table”.
- Calls for votes, when appropriate, and then announces the result of the vote.
- Generally prevents irrelevant or frivolous debate or discussion.
- Maintains order and decorum.
- Enforces the council’s rules of procedures.

Most of these procedures should be outlined in some type of council rules of procedure. A more detailed discussion of council meetings and their procedures is found in Chapter 4 of this *Handbook*.

2. Mayor Pro Tem

Under the Mayor-Council form of government, the mayor appoints the mayor pro tem and the council as a whole is not required to approve this appointment. Under other forms of government, the council may be directly involved in the selection of the mayor pro tem. You should check your city code or consult with your city attorney to determine how the mayor pro tem is selected in your city.

The mayor pro tem performs the duties of the mayor when the mayor is absent or unable to act. The mayor pro tem has no authority to appoint, employ or discharge officers or employees without the approval of the council. The mayor pro tem cannot veto legislation. Any official action taken by the mayor pro tem during the mayor’s absence is legal and binding to the same extent as if the mayor had done it. The mayor pro tem can vote as a regular council member and retains all powers as a council member.

If both the mayor and mayor pro tem are absent at a council meeting, the council should select one of its members to preside over the meeting. The council’s rules of procedure should set forth the process by which a presiding officer is to be determined under these circumstances.

In the event of the resignation or death of a mayor, the mayor pro tem only serves as mayor until the vacancy has been filled. The mayor pro tem does not automatically become the permanent mayor. Chapter 12, Section F8 of this *Handbook* provides information regarding the filling of mayor/council vacancies.

If the mayor pro tem performs the duties of the mayor for fifteen days or more, the council may provide a salary to that person. The salary should reflect both the mayor's salary and the extent of the mayoral duties actually being performed by the mayor pro tem.

3. City Council Members

City council members have the duty to responsibly govern their city. This duty generally includes attending meetings regularly and punctually, actively participating in debate, carefully reviewing materials prior to meetings, respecting fellow council members, citizens and staff, and following democratic procedures. Outside of council meetings, council members' responsibilities usually involve meeting with constituents, keeping informed about the city and its activities, taking advantage of training opportunities, and conducting everyday affairs in a dignified and proper manner. It is important to remember that the business of government must take place in open session at official meetings of the city council.

4. Committees of the Council

Many city councils have some form of committee structure. A city council may have as many committees as it chooses, or it may operate without committees. Likewise, city councils may create or do away with any committee at any time. All council committees are responsible to the city council and may be required to report to that body.

- **Appointments**

As creator of committees, the council determines who appoints members to committees and the process for doing so. The council may appoint committee members or it may delegate that responsibility to the mayor.

- **Written Policies**

Your council should have written policies or rules regarding your committee system. The policies should include each committee's responsibilities, number of members, and specify who is responsible for appointment of committee members. The rules should also identify who is responsible for establishing and appointing special or ad hoc committees.

- **Types of committees**

Council committees are generally divided between standing committees and special (sometimes called "ad hoc") committees. Standing committees continue indefinitely until terminated by the council. Standing committees may be assigned to develop recommendations and/or exercise oversight over designated city departments or functions.

Special or ad hoc committees are established on a temporary basis to study and make recommendations on specific issues. Special committees should terminate after they have completed their assignments. An example would be a committee to investigate sites and make recommendations for a proposed new public facility.

- **Open Meetings**

A committee of the council which has the authority to develop and make recommendations on public policy issues or which deliberates upon a matter within the scope of the council's decision-making is in all probability subject to the Iowa Open Meetings law (see Chapter 4, Section A of this *Handbook*).

E. THE CITY CLERK

The city council is required to appoint a city clerk. The city clerk handles a wide range of city business as set forth in Section 380.7 of the Iowa Code. With respect to council meetings, the city clerk is responsible for performing numerous duties including:

- Taking minutes of council meetings and publishing the minutes within timelines set by state law.
- Authenticating ordinances and resolutions and recording all council measures.
- Where applicable, indicating whether the mayor signed, vetoed or took no action on council measures (and if the measure was re-passed after a veto).
- Publishing a summary of all ordinances and amendments.
- Maintaining for public use copies of all effective ordinances and codes.

City clerks are also very involved in many other aspects of city operations, including preparing various reports

and documents for submittal to state and county officials, issuing licenses and permits, helping to develop the budget, dealing with the public, and many other duties. The *Iowa Handbook for City Clerks/Finance Officers* published by the Iowa Municipal Finance Officers and Iowa League of Cities provides a detailed list of the duties and responsibilities of city clerks.

Some cities have a deputy city clerk position to help with the workload, particularly in cities where the city administrator is also the city clerk, cities that operate a municipal utility, or larger cities.

F. APPOINTMENT AND REMOVAL OF CITY OFFICIALS

1. Appointment of City Officials

Iowa Code Section 362.2(15) provides that appointed city officials are to have a “fixed term”. However, the Iowa Code does not identify specific term lengths. Consequently, cities can determine the length of terms for specific appointed positions in their communities. Some cities designate specific term lengths for certain positions (such as appointment for one or two years), while other cities consider the appointment to be ongoing until the council makes a change or the individual terminates employment with the city.

The appointment power overlaps between the mayor, city council and city manager/administrator (if your city has that position). Certain state laws and city ordinances expressly authorize some mayoral appointments, while other appointments are delegated to the city council. In many instances, mayoral appointments must be confirmed by the city council. Unless stated otherwise in the Iowa Code or your city code, the city council has the power to appoint municipal officers. The council can delegate some of this power to the mayor or city manager/administrator by ordinance. You should check your city code and consult with your city attorney to determine the responsibility and authority for appointments in your city.

- **City Clerk, City Attorney, City Manager/Administrator**

The positions of city clerk, city attorney and city manager/administrator are appointed by the city council. The mayor does not appoint these positions.

- **Police Chief**

If your city operates under the Mayor-Council form of government, the mayor typically is responsible for the appointment and dismissal of the police chief, subject to the consent of the city council. In some cities with the Mayor-Council form of government, the city manager/administrator may have been delegated the authority to appoint or dismiss the police chief, subject to council consent. In those cities with forms of government other than the Mayor-Council form, the city manager/administrator may have the authority to appoint or dismiss the police chief, with or without council consent. Consult your city code and city attorney to determine the status in your community.

- **Fire Chief**

The appointment of the fire chief varies considerably among cities, depending upon the structure of the fire department. Consult your city code and city attorney to determine the process in your community.

Regardless of who has the appointment authority, certain legal considerations may need to be taken in to account, such as veteran’s preference and civil service laws, when appointing or removing certain city staff positions (see Chapter 8, Section B of this *Handbook*).

2. Removal of City Officials

The power to remove persons from appointive office rests with the officer or body who made the appointment (see Iowa Code Section 372.15). If the mayor alone appoints a city official, he or she then has the power to remove that official, unless that power has been delegated by city ordinance. The power to remove an appointed official from office is exercised by a written order sent by certified mail to the person to be removed, with a copy filed with the city clerk (see Iowa Code Section 372.15 for more information regarding this process).

A removed employee may have a right to a post-termination “name clearing” hearing before the council. To do so, the employee must file a request with the city clerk within thirty days of the mailing of the dismissal order. The hearing must be held within thirty days of when the request is filed unless the appointee requests a later date. The purpose of this hearing is to give the

person removed an opportunity to give that person's side of the story. Neither the mayor nor the city council is obligated to review or reconsider their decision to remove the person based on information or testimony provided at the hearing.

Your city may have ordinances, employment policies or employment agreements imposing additional requirements for removal of officers and employees. As with appointments, certain legal considerations may need to be taken into account, such as civil service and veteran's preference laws, when removing certain city appointed positions. Consult your city attorney or human resources professional if you are contemplating removal of a city official to make sure you comply with all applicable requirements.

3. Appointment of Boards and Commissions

As with the appointment of city officials, appointments of members of boards and commissions vary by community. In most instances, appointments to boards and commissions are made by the mayor and subject to confirmation by the city council. Certain state laws and city ordinances expressly authorize some mayoral appointments to specific boards and commissions.

- **Gender Balance**

The Iowa Code requires all appointive boards, commissions and committees identified by state code be gender-balanced. The statute provides for an exception to this requirement if the city has made a good faith effort to fill a vacancy for a period of three months but has been unable to make a compliant appointment. This law also requires cities to use a "fair and unbiased method for selecting the best qualified applicants" for these appointments (See Iowa Code Section 69.16A).

G. ETHICS FOR MUNICIPAL OFFICIALS

For public officials, ethics may be defined simply as "upholding the public trust". You were elected to perform your job in a responsible manner and to ensure the fair and equitable delivery of services to your community. As an elected official, you need to be aware of the following Iowa laws:

1. State Ethics Laws

Chapters 68B and 71 along with Sections 362.5 and

362.6 of the Iowa Code govern the acceptance of gifts, conflicts of interest, hiring of relatives and transacting of private business with a public entity.

2. Acceptance of Gifts by City Officials

Under Iowa law, public officials, employees, candidates and their immediate family members are not permitted to accept any gifts with a value of more than \$3.00 per calendar day from a "restricted donor", unless one of the limited exceptions described below applies. "Restricted donors" are generally defined in the Code as any person who would be affected by the performance or nonperformance of a recipient's official governmental duties. Examples of restricted donors include (see Iowa Code Section 68B.2 for the full definition of "restricted donor"):

- Those doing business or seeking to do business with the city.
- Those engaged in activities which are regulated or controlled by the city.
- Those who could be directly and substantially financially affected, in a manner greater than the effect on the general public, by a recipient's performance or non-performance of a task.

The Iowa Code allows acceptance of gifts from restricted donors under the following circumstances:

- Contributions to political candidates or candidates' committees.
- Informational material relevant to a public servant's official functions, such as books, pamphlets, reports, documents or periodicals.
- Gifts from relatives or inheritances.
- Anything distributed to the public generally.
- Expenses for food, beverage, travel or lodging in return for a speaking engagement or panel presentation.
- Plaques or things of negligible resale value which are given as recognition for the public services of the recipient.
- Non-monetary items with a value of \$3.00 or less received from any one donor during one calendar day.
- Items or services solicited by or given to a state, national or regional organization in which the State of Iowa or a political subdivision of the State is a member for purposes of a business or educational conference, seminar, or other meeting.

- Items or services solicited by or given to a state, national or regional governmental organization whose memberships and officers are primarily composed of state or local government officials or employees for purposes of a business or educational conference, seminar or other meeting.
- A contract involving a city official or employee if the contract was made before the time the official or employee was elected or appointed, but the contract may not be renewed.

For more information, refer to Iowa Code Section 68B.22 and consult with your city attorney.

3. Transacting Private Business with the City

Section 362.5 of the Iowa Code prohibits city officials from participating in any contract work for their municipality. Specifically, that section states:

“A city officer or employee shall not have an interest, direct or indirect, in any contract or job of work or material or the profits thereof or services to be furnished or performed for the officer’s or employee’s city. A contract entered into in violation of this section is void.”

The Iowa League of Cities has noted on its website: “This provision is very broad. It not only prohibits the city from doing business with a company in which a city officer has a direct interest, it would also apply if the officer or employee had an indirect interest in such a company, such as if the officer’s or employee’s spouse or dependent child has an interest in a company doing business with the city. The prohibition also applies to any kind of work performed for the city, and to the provision of goods or services to the city, whether there is a formal contract or not.”

The Iowa Code in Section 362.5 lists several exceptions to this provision, including:

- Contracts made by a city upon competitive written bidding, publicly invited and opened.
- Contracts for the purchase of goods or services involving a city official or employee if the cumulative total of purchases does not exceed \$6,000 in a fiscal year.
- The designation of a bank or trust company as a depository, paying agent, or for investment of funds.
- A contract with a corporation in which a city official owns stock if the official or his/her direct family owns or controls less than 5 percent of the outstanding stock of the company.

The League cautions on its website: “It is very important for city officers or employees to carefully review any connections or interests they, their spouse, or dependent children have with a company doing business with or seeking to do business with the city. City officers or employees who find themselves in that position should immediately consult with their attorney to determine if there is a violation or potential violation. The officer or employee should then advise the city attorney of the situation and follow the city attorney’s advice to prevent or resolve the conflict.”

4. Conflicts of Interest and Voting

State law addresses conflicts of interest for city officers under Section 362.6 of the Iowa Code. As a general rule, a conflict of interest exists when a mayor or council member has a personal or pecuniary (that is, a reasonable likelihood or expectation of financial gain or loss to the member or another person with whom the member is associated) interest in a measure under consideration.

If a city official has a conflict of interest, he or she should declare that conflict and refrain from discussion and voting on that item. For the purposes of Iowa Code Section 362.6, the statement by a city council member that he or she declines to vote by reason of conflict of interest is conclusive and must be entered of record in the council minutes.

A majority of all members of the governing body is required for a quorum. However, a majority or unanimous vote as required by statute must be computed on the basis of the number of officers not disqualified by reason of conflict of interest. If a city official has voted on an item and it was later found that there was a conflict of interest, that vote would not invalidate that measure unless it was determined that the vote in question was decisive to the passage.

Iowa Code Section 68B.2A also provides that city officials and employees cannot engage in outside employment or activity that creates an advantage or financial benefit for them or their immediate family (spouse/dependent children). The law sets out several specific examples:

- City officials cannot use government resources to further their outside employment or activity.
- City officials cannot receive compensation from anyone other than the city for doing work that is part of their official city duties.
- If the outside employment or activity is subject to the control, inspection, review, audit or enforcement of the city official or city employee, then the official or employee must publicly disclose the conflict and abstain from taking any official action that would create a benefit or detriment on the outside employment or activity.

City officials may be subject to additional governmental regulations if they engage in outside employment or activity that is related to or within state government (see Iowa Senate or House codes of ethics, the Ethics and Campaign Disclosure Board's administrative rules, and Iowa Code Chapter 68B).

5. Nepotism

Nepotism for city officials means appointing or hiring a person related by blood or marriage to a job financed by public funds. Hiring relatives is prohibited by Chapter 71 of the Iowa Code. Generally speaking, this prohibition covers the hiring of immediate relatives (defined as within three degrees of consanguinity or three degrees of family relationship), unless the appointment is first approved by the officer, board, council or commission, whose duty it is to approve the bond of the principal. For example, a mayor would not be able to hire a relative unless this action was approved by the city council.

6. City Ethics Ordinances and Policies

City councils may adopt additional standards or policies related to ethical conduct in their communities. You should check with your city attorney or city manager/administrator to find out if your city has such additional standards and obtain a copy of them.

7. Advice on Ethics Issues

If you believe you may have a situation that could be considered a conflict of interest or other ethics-related issue, you should consult with your city attorney prior to voting or taking any action at a city council meeting. In addition, city officials and employees can obtain advice from the Iowa Ethics & Campaign Disclosure Board. Information posted on the Board's website can help you work your way through gift and conflict of interest questions under Iowa law. The website also provides

information regarding the various campaign finance and ethics laws, local ballot issues, use of public funds and other items that apply to city officials.

H. PERSONAL LIABILITY

Provided that you act within the scope of the authority of your position, your liability as an elected official is generally restricted to instances where your behavior can be characterized as malicious, reckless or willful misconduct. All in all, you should be protected from legal liability if you carry out your official duties with due care and in good faith. The city must defend you against any tort claims that arise from your acts within the scope of your position.

An elected official who acts outside the scope of the authority of his or her position might be found liable in a court of law. If you act outside the authority of your position, you will be held to the same standard of responsibility as any private citizen. In this way, the law prevents you from using your elected position as a shield for committing otherwise illegal acts. You do not have absolute immunity from libel or slander suits while you are acting as mayor or council member.

You may also be liable for punitive damages for actions outside the scope of your authority, or actions without your authority where your actions are found to be committed with actual malice or willful, wanton and reckless misconduct. Punitive damages are special damages generally sought in response to malicious, reckless or willful conduct.

If you are sued, the city will generally provide you with a defense. However, your city is not obligated to defend you from punitive damages claims. The council has the right to compromise, settle or adjust any tort claims brought against you.

To protect you and your city from legal claims brought against individual elected officials:

- Consult your city attorney whenever you are unsure about possible liability resulting from an action or non-action that you are considering.
- Make sure your city has an insurance program to protect it financially from these types of lawsuits and also protects the mayor, council members, and city employees on an individual basis.

I. STRATEGIES FOR COUNCIL EFFECTIVENESS

Considerable research has identified the following strategies by which city councils can improve their effectiveness:

- **Work toward council improvement**
 - o Take advantage of educational/development opportunities.
 - o Cultivate leadership in the community.
 - o Develop a method for feedback on performance.
 - o Obtain assistance as needed.
- **Exercise appropriate authority**
 - o Act in accordance with defined roles.
 - o Build mayor-council-manager/staff team.
 - o Emphasize mutual expectations and performance assessment.
- **Connect to the community**
 - o Structure community involvement.
 - o Obtain citizen input.
 - o Explain your actions.
 - o Facilitate information flow.
 - o Connect to your internal community (staff, boards, commissions, committees).
- **Enhance teamwork**
 - o Make clear that mayor, council and staff are working together to achieve common objectives.
 - o Develop agreements/understandings/processes for handling common issues.
 - o Honor confidentiality.
 - o Invest time and effort to review materials and participate in meetings.
 - o Show respect.
- **Develop effective decision-making**
 - o Access and use relevant information.
 - o Develop and use effective processes for handling common issues (A checklist of typical policies and procedures that your city may wish to consider adopting is found under Appendix D of this *Handbook*).
 - o Give adequate time for decision-making.
- o Put aside personal differences.
- o Hear all sides.
- o Consider alternative actions.
- o Allow council members to explain their rationale for their decisions.
- o Work toward consensus – but reach decision even without consensus.
- o Commit to implement the action approved.
- **Act strategically**
 - o Address critical issues.
 - o Identify priorities.
 - o Develop plans to accomplish priorities.

Chapter 4

Council Meetings

A. IOWA OPEN MEETINGS LAW

1. Intent

Iowa's Open Meetings Law, Chapter 21 of the Iowa Code, applies to meetings of your city council, council committees, city boards and commissions, as well as other local government bodies supported in whole or in part by tax dollars. With few exceptions, these meetings must be open to the public, no matter where the meeting is held or whether it is a formal or informal meeting. Meetings must be held in a place and at a time reasonably accessible to the public. Public notices of meetings are required to be posted at least 24 hours in advance of the meeting (see Section B1 below). The statute points out that open meetings allow the opportunity for information to be made available to the public. Denying the public this information is serious and should only occur under very specific and limited situations.

The definition of "governmental body" includes "an advisory board, advisory commission, advisory committee, task force, or other body...created by an executive order of a political subdivision of this state to develop and make recommendations on public policy issues." It also includes a "multimembered body formally and directly created by one or more boards, councils, commissions" and boards, commissions, committees and other bodies created by an entity under Chapter 28E. (The full definition of a governmental body is found in Iowa Code Section 21.2).

However, under the Iowa Supreme Court's holding in *Mason v. Vision Iowa Board*, a gathering of such an advisory body may not be considered a "meeting" subject to open meetings requirements if the gathering does not involve "deliberation or action on upon any

matter within the scope of the governmental body's policy-making duties".

A "meeting" is defined in the state code as "a gathering in person or by electronic means, formal or informal, of a majority of a governmental body where there is deliberation or action upon any scope of the governmental body's policymaking duties." Gatherings of members of a governmental body for "purely ministerial or social purposes" are not considered meetings as long as there is no discussion of policy or no intent to avoid the purposes of the Open Meetings Law. However, caution should be exercised in these situations so as not to create the appearance of violating the Open Meetings Law.

An unanswered question in Iowa is whether electronic communications (emails, text messages, etc.) involving a quorum of council members regarding agenda items would constitute a "meeting" under the law. Although the Iowa Supreme Court has yet to rule on this issue, council members should be extremely cautious under such circumstances. The Iowa Public Information Board views "reply all" emails as likely being a "meeting". Such communications could be considered violations of open meeting rules, unless for ministerial reasons such as choosing a meeting date. Furthermore, such communications would undoubtedly be considered public records under Iowa law (see Chapter 5D of this *Handbook*).

2. Closed Sessions

In general, the Iowa Open Meetings Law heavily favors openness. The decision to close a meeting should be carefully considered to avoid future lawsuits that could void the council's action and impose penalties on those participating. No final action can be taken in closed session unless another code section permits otherwise.

Part or all of a council meeting can be closed to the public only if the subject matter to be discussed qualifies as one of the exceptions specified in Section 21.5 of the Iowa Code, and if two-thirds of the total members of the council, or all of the members of the council present at the meeting, vote to close the session. Section 21.5 of the Iowa Code sets out the situations under which a council meeting can be closed:

- Discussion of strategy with legal counsel in matters that are presently or will likely be in litigation. This exemption applies only when public discussion would prejudice or disadvantage the city's position in that litigation. Legal counsel must be present for this type of closed session.
- Discussion of the purchase or sale of particular real estate only where premature disclosure could be reasonably expected to increase the price the governmental body would have to pay for that property or reduce the price that would be received (lease agreement discussions are not eligible). The minutes and recording of sessions closed for this purpose must be available for public examination when the transaction in question is completed.
- Evaluation of the professional competency of an individual whose appointment, hiring, performance, or discharge is being considered, when necessary to prevent needless and irreparable injury to that individual's reputation, and that individual requests a closed session.
- Review or discussion of records which are required or authorized by state or federal law to be kept confidential.
- Discuss a decision to be rendered in a contested case conducted according to the provisions of Chapter 17A of the Iowa Administrative Code.
- Avoiding disclosure of specific law enforcement matters, such as current or proposed investigations, inspection or auditing techniques or schedules, which, if disclosed, would enable law violators to avoid detection.
- Avoiding disclosure of specific law enforcement matters, such as allowable tolerances or criteria for the selection, prosecution, or settlement of cases, which, if disclosed, would facilitate disregard of requirements imposed by law.
- Governing bodies of a municipal utility (for example, a telecommunications system utility) may conduct closed meetings to discuss

marketing and pricing strategies or proprietary information if its competitive position would be harmed by public disclosure (this is allowed under Section 388.9 of the Iowa Code).

- Legislation adopted in 2015 allows the city council to exclude one of its members or mayor from a closed session if that person has a conflict of interest. (See Iowa Code Section 21.5(4)).
- Note: Negotiation, labor strategy and mediation sessions related to public employment bargaining are exempt from the Open Meetings Law, except for the initial sessions when the employee organization and public employer present their initial proposals (see Iowa Code Section 20.17).

The specific reason for closing a meeting must be placed on the agenda and notice as well as noted in the minutes of the meeting. The minutes must also indicate each member's vote on whether to close the meeting. Closed sessions must be audio recorded and detailed notes must be taken. After the closed session, the recording and notes must be kept secure. In addition, it is required that the meeting agenda indicate that the council intends to conduct a closed session with a reference to the purpose and applicable section of the Iowa Code for closing the meeting.

Always remember: *final action must be taken in open session* unless another code section permits otherwise.

3. Role of the City Attorney

An elected official could be held personally liable for voting to go into closed session if the city council did not comply with the Open Meetings Law. It is therefore highly recommended that your council consult with and seek the opinion of your city attorney prior to going into closed session. If you reasonably rely on such a formal opinion (or an opinion from the Attorney General or Iowa Public Information Board) and it is later found to be wrong, you may be insulated from liability for closing the meeting (see Iowa Code Section 21.6(3)(a)(3)).

Before the city council votes to go into closed session, while still in open session your city attorney should be specifically asked whether the proposed closed session is authorized under Iowa law. The city attorney's response should be included in the minutes. It also recommended to contact the city attorney prior to the meeting and to obtain an opinion in writing that the reason for closing the meeting is authorized under Iowa law.

4. Iowa Public Information Board

The Iowa Public Information Board has rules-making and enforcement authority over open meetings and public records laws (Chapters 21 and 22 of the Iowa Code). They also have the authority to investigate complaints, request and review records, determine facts, issue subpoenas and hold contested case proceedings. They can impose penalties for violations of these laws – including increased fines for “knowingly” or “willfully” violating the laws. The Board’s jurisdiction is limited to sixty days in most cases. The Board may also issue advisory opinions when requested and provide advice to local governments. More information can be found at <https://ipib.iowa.gov/>.

5. Violations of the Open Meeting Law

Members of a governmental body who participate in a violation of open meetings law are to be assessed damages of \$100-\$500. However, members who knowingly participate in such a violation can be assessed damages of \$1,000 to \$2,500. Such penalties must be paid by the individual and not by the city. Attorney costs must also be paid by the offending member.

A council member of a city council which violates the open meetings law has a defense if the member:

- Voted against the closed session.
- Had good reason to believe and did believe facts which, if true, would have indicated compliance with the law.
- Reasonably relied on a court decision or a formal attorney general’s opinion or opinion of the city attorney. (See Iowa Code Section 321.6(3)(2)).

B. COUNCIL MEETING BASICS

1. Meeting Agendas

• Posting and Notification

The Iowa Open Meetings Law requires cities to develop and post a public notice for each council meeting (including work sessions or informal meetings) at least 24 hours prior to the meeting. The notice must include the time, date, place and agenda for the meeting. The public notice must be posted on a bulletin board or other prominent place easily accessible to the public at the city’s principal office and preferably in the building where the meeting is to take place. This

notice requirement applies regardless of where the meeting is held. The city must also provide notice to the news media and others who have specifically requested such notification. Although it is certainly a good practice to place meeting notices and agendas on the city website or through social media, such electronic notification does not substitute for posting on the bulletin board or other designated location.

The meeting notice requirements also apply to reconvened meetings, unless the meeting is reconvened within four hours of the recess, the time and place of the reconvened meeting has been announced at the start of the meeting which is recessed, and there is no change in the agenda. Your city clerk is usually responsible for complying with the posting and notification requirements.

• Agenda Preparation and Format

The city council has the authority to determine how the meeting agenda will be set. Most cities have an established procedure by which agendas are prepared. Check with your city clerk, city manager or mayor to find out the process for placing items on your council agenda.

The format for the agenda is typically a listing of the items to be considered at a particular meeting. Some agendas can be more elaborate and include detailed explanations of the items on the agenda. The agenda helps assure that items will be considered in an orderly sequence at the meeting. Council members should receive the agenda and supporting materials (council packet) several days before the meeting to be properly prepared.

• “Tentative” Agendas

If an agenda is prepared several days before the meeting, it should be considered “tentative” in case a new subject comes up before the 24 hour deadline. In this way, the item can be added to the agenda already posted and submitted to the media (as long any change occurs at least 24 hours in advance of the meeting).

- **Emergency Matters**

Occasionally situations may arise, such as a natural disaster or a water main break, that may require the city council to take action without being able to meet the 24-hour notice requirement. Section 21.4(2) of the Iowa Code provides for such emergency meetings, subject to the following conditions:

- o If 24 hour notice is impossible or impractical, then as much notice as is reasonably possible must be given.
- o A special effort should be made to make certain that the news media or others who have filed a request for notice be notified as soon as possible.
- o If your city hall or regular meeting place is inaccessible for the emergency meeting, every effort should be made to select an alternative meeting place that is reasonably accessible to the public.
- o If the city is unable to comply with the 24-hour notification requirements, the minutes of the city council meeting must state the good cause justifying such action.

You should consult with your city attorney as quickly as possible if a true emergency occurs and you are considering holding an emergency meeting or adding an item to the agenda without providing the 24-hour notice to be sure you comply with all statutory requirements.

2. Homework

As an elected official, you have a responsibility to prepare for each meeting. This responsibility requires you to do some homework.

- **Informational Materials**

Carefully review informational materials provided in council packets before the meeting.

- **Staff**

It is recommended that council members contact appropriate city staff consistent with your city's chain-of-command before a meeting if you have specific questions or need information regarding an agenda item. In this way, time is not spent responding to questions that could have been answered before the meeting. It also allows staff the opportunity to conduct the appropriate

research and provide accurate information in advance of the meeting. To assure all council members have access to the same information, it is recommended that staff include all council members and the mayor when responding to such questions and requests for information.

- **Public Opinion**

As discussed in Chapter 1 of this *Handbook*, it is very important to solicit opinions from the public, especially from those who have different perspectives than you. Try to stay informed about the public's opinions on issues you are considering. Some topics generate enough controversy that people come directly to you and tell you what they think. Other subjects do not get much attention, so you may need to approach people to find out their opinions. However, council decisions should be based on what is in the best overall interests of the community, not necessarily what seems to be the popular sentiment at any given time.

- **Site Visits**

You may find it beneficial to visit the site of an item on the agenda (for example, a street where changes in parking regulations are being proposed or a site for a proposed city construction project) to familiarize yourself with the area before the meeting. In such cases, be careful to avoid visiting such locations with a quorum of the council, even if no discussion takes place, as it may create the appearance of a violation of the Open Meetings Law. You should not meet or communicate with any interested party regarding a rezoning matter or any other quasi-judicial matter outside of the formal public hearing process. If you have a question as to whether a particular matter is quasi-judicial, or whether a proposed meeting or communication is inappropriate, you should consult your city attorney.

3. Meeting Schedules

City ordinances generally establish when and where council meetings are held. Your council rules of procedure should also designate the process for calling special meetings. Such policies should identify who can call special meetings, grounds for calling special

meetings, and meeting notification requirements. Of course, you must always comply with the Open Meetings Law.

4. Quorums

A quorum is the number of council members who must be present at a meeting before the council can transact business. A majority of the number of city council members established under your city's form of government is a quorum. You must include vacant positions when calculating whether a quorum is present. If your council has five members, it takes three members present to have a quorum even if one or two positions are vacant.

5. Minutes

The Iowa Code sets forth a variety of requirements that must be followed regarding publishing or posting city council minutes. Your city clerk is responsible for complying with these requirements. Some of the more significant requirements include:

- Council minutes must show the date, time and place, members present and actions taken at each council meeting.
- Minutes must show the results of each council member's vote taken at the meeting.
- The minutes must be signed by the person who prepared the minutes (usually the city clerk or deputy clerk).
- Once the minutes have been written, they become public records open to public inspection (even if they have not been formally approved).
- The minutes of all council meetings must be published in a newspaper of general circulations as defined by Iowa Code within fifteen days of the meeting. This publication must also include a list of all claims allowed and a summary of receipts.
 - Cities with populations of less than 200, in which no newspaper is published, may meet the publishing requirement by posting the minutes in three public places that have been permanently designated by ordinance.

6. Committee and Departmental Reports

A common item on city council agendas is committee and/or departmental reports. For practical reasons, the council might only request that certain committees or departments report at a given meeting. The mayor and council might also limit these reports to specific topics.

Remember that under the Open Meetings Law, the city council cannot deliberate or take action on any matter unless or until that item or issue is specifically listed on the agenda.

7. Old and New Business

Some city councils have a section on their agendas listed as "old" and "new business". Old business addresses matters that have been previously discussed by the city council. New business includes just about anything important to the city. Old and new business are not considered appropriate headings for specific city council agenda items, because those terms cannot reasonably let the public know of the nature of an item being considered by the council as required by the Iowa Open Meetings Law.

8. Public Participation

The Open Meetings Law gives the public the right to attend council meetings, but it does not require cities to allow public participation at such meetings unless a public hearing is required by state or local law (see Chapter 5, Section A1 of this *Handbook* for more information regarding public hearings).

However, most councils include on their agendas a time either at the beginning or end of the meeting to allow citizens the opportunity to make presentations or submit written statements or petitions to the council. The council can receive public comments or information under this portion of the agenda but should refrain from taking any action or engaging in deliberation on that issue at that meeting (other than referring the matter for review to a committee or staff or directing the matter be placed on the agenda for a subsequent meeting). Council action or deliberation on this matter should not occur until an item has been placed on an agenda for discussion or action at a subsequent meeting, in accordance with the Iowa Open Meeting Law requirements.

In some cities, citizens are permitted to comment on agenda items at the time they are being considered by council. In those cases, persons speaking during the "citizen presentation" portion of the agenda should be limited to commenting about items or issues not on the printed agenda.

Some councils establish specific time limits for public comments, whether during the citizen presentation

portion of the agenda, at public hearings, or when commenting on other topics on the agenda (if so allowed by the council). The mayor has the responsibility for controlling the meeting and in so doing can hold citizens to the time allowed. Caution should be exercised when limiting comment during public hearings due to the statutory requirement of public hearings in many contexts, but reasonable limits may be imposed.

It's also important to note Section 21.7 of the Iowa Code permits anyone from the public to record open, public meetings.

Cities are encouraged to adopt council meeting rules of procedure that address public comments that can help avoid claims of unfair treatment. Many cities have found it beneficial to distribute such rules, or a summary of the public comment policy, at meetings to help members of the public understand how the meeting will be run.

9. Consent Agendas

Routine items of business that require a vote, but not expected to generate discussion or explanation, are often placed on a “consent agenda”. The consent agenda is a specific item on the regular meeting agenda (usually one of the first items). Items on the consent agenda typically include approval of previous meeting minutes, approval of itemized non-controversial expenditures, and approval of permits, licenses and financial reports. Most council rules of procedure provide that any council member can ask to remove an item for individual consideration from the consent agenda. The entire contents of the consent agenda are voted on as one item.

10. Council Work Sessions

Many councils have found that holding occasional work sessions can be quite beneficial and productive, especially when the council is considering a major policy issue, significant project or complicated ordinance. Work sessions are also frequently held in conjunction with budget review, since regular meetings may not provide enough time to consider the budget in detail. Some cities have regularly scheduled work sessions, while others only hold work sessions on an as-needed basis. The Open Meetings Law applies to all council meetings – including work sessions. Minutes of council work sessions are also required to be taken and published.

C. CITY LEGISLATION

City councils exercise their powers when acting as a group (quorum) in official session and by adopting legislation:

- Adopting ordinances
- Adopting resolutions
- Approving motions

1. Ordinances

An ordinance is a city law of general application and permanent nature. An ordinance governs the conduct of the city, its officials, employees and residents. In most cases, ordinances become part of the city code (codification).

Ordinances can cover a wide variety of topics, such as defining the powers and duties of administrative officers, designating speed limits, establishing regulations regarding solid waste collection, or setting fees for municipal services.

Passage of an ordinance requires approval by a majority vote of the total number of seats on the council by a recorded, roll call vote. Iowa law requires each ordinance to be considered and voted on three times (called the “three considerations” or “three readings” requirement). These votes must take place at three separate meetings. If the proposed ordinance fails to obtain a majority approval of the total number of council members during any of these three votes, it is defeated and will not become law.

- **Suspension of the Rules**

The city council can vote to suspend the three reading requirement by approval of not less than three-fourths of the council members by recorded vote (see Iowa Code Section 380.3).

Passage of an ordinance requires a majority of votes based on the number of council members specified under your form of government, not on the number of council members present at that meeting or the number of council members currently serving in office. In effect, vacancies or absences act as a “no” vote towards the passage of an ordinance.

Certain ordinances may require a “super-majority” for council approval. For instance, if a “remonstrance” against a rezoning request is filed per Section 414.5 of

the Iowa Code, at least three-fourths approval is required. Your city attorney should advise when such super-majority situations arise.

An ordinance may be subject to the mayor's right to veto or to take no action (see Chapter 3, Section B of this *Handbook*).

After passage, an ordinance must be published. The ordinance becomes effective upon publication unless a subsequent effective date is specified in the ordinance.

2. Resolutions

Iowa Code Section 362.2(21) defines "resolution" as "a council statement of policy or a council order for action to be taken". Councils can make administrative decisions and establish city policies and procedures by resolution. Resolutions can cover a wide variety of topics ranging from the awarding of construction contract bids to the approval of contracts. Resolutions are required by statute for certain council actions, including:

- Approval of subdivision plats.
- Approval of the sale of city property.
- Approval of contracts to construct public improvements.
- Expenditures in excess of \$100,000 on a public improvement project.
- Acceptance of a public improvement or facility upon its completion.
- Adoption or amendment of the annual budget.
- Approval of bank depositories.

Resolutions are presented in written form for council consideration. Resolutions are approved after one consideration or reading. Thus, resolutions may be passed at the same meeting in which they are proposed.

Like ordinances, resolutions require majority approval by all members of the council taken by a recorded, roll call vote and not simply a majority of those present (Iowa Code Section 380.4). Certain resolutions may require a "super-majority" for council approval. For instance, under certain circumstances, a special assessment resolution may require a super-majority vote for approval. Your city attorney should advise when such super-majority situations arise.

A resolution becomes effective upon being signed by the mayor and is subject to the mayor's right to veto or to

take no action (if the mayor has such authority under your city's form of government). (See Chapter 3, Section B of this *Handbook*).

A resolution does not require notice and publication. Resolutions do not become part of a city's municipal code, although they are commonly compiled in a separate volume called a Book of Resolutions.

3. Motions

Motions are used to handle the routine business of the city and are recorded in the minutes of the meeting. A motion is often used to give simple direction to a city officer or employee, especially when the action to be taken is of a one-time or transitory nature. Motions are typically presented orally for council consideration, although they can be presented in writing to aid their accurate inclusion in the meeting minutes.

Passage of a motion requires a favorable majority vote by a quorum of the council taken by a recorded, roll call vote. Motions are not subject to mayoral veto. Motions are effective upon passage by the council.

4. Preparation of Ordinances and Resolutions

An ordinance or ordinance amendment can address a variety of different subjects so long as they all are closely related. State law requires that the subject matter of a given ordinance or amendment must be generally described in its title. Your city attorney should assist you in drafting ordinances and resolutions to make sure they meet legal requirements.

5. Comparing and Contrasting Resolutions and Motions

In the absence of a controlling statute, the decision whether to use a resolution or a motion to take a particular action may be determined by what is most practical under the circumstances, by what constitutes good housekeeping, or as a matter of legislative tactics.

• Practical Considerations

As previously stated, a motion is often used to give simple direction to a city officer or employee. An example of a motion is: "Motion to call a special council meeting for 7:00 p.m. on July 24 and to direct the clerk to publish notice of the meeting".

In contrast, a resolution may be preferred to take action to change a longstanding practice or policy of the city and put in writing exactly what the new practice or policy will be. The resolution lends more precision to the council action than an oral motion. An example would be a resolution adopting city personnel policies.

An ordinance is adopted when a practice or policy is sufficiently important that it must have the force of law and be enforceable by judicial means. An example would be an ordinance establishing requirements pertaining to solid waste collection.

- **Housekeeping Considerations**

Housekeeping considerations may make a resolution preferable to a motion. A properly drafted resolution should have a very descriptive heading, which in turn can be included in the council meeting index maintained by the city clerk. This will make it easier for city staff and the public to research the index to find a particular item. In contrast, the only record of a motion is what is included in the minutes of a council meeting.

- **Tactical Considerations**

If there is a vacancy on the council, or one or more members are likely to be absent from a meeting, a motion may be easier to pass. Also, the mayor cannot veto a motion or cannot hold it up for 14 days by not taking action to sign it.

6. Reconsideration of Actions

The council can legally reconsider its vote on a measure and do and undo, consider and reconsider, a measure as often as it wants. To limit and control such occurrences, councils can adopt their own rules of procedure or parliamentary practice (see Section D1 below). Such rules can control the right and method of reconsideration of legislation.

Reconsideration of actions previously acted upon or decided are typically done through “motions to reconsider”. Although the process may vary significantly from city to city, most council rules of procedure regulating motions to reconsider provide that a council member who voted in the majority (that is, voted “no” if the motion failed) can move to “reconsider” the earlier

motion. Motions to reconsider typically have specific time limitations as to when they can be made. Consult your city’s rules of procedure as to whether motions to reconsider are permitted and, if so, under what conditions, time frames and voting requirements may apply.

7. The Mayor’s Role in Legislation

The mayor’s role in legislation is described in Chapter 3B of this *Handbook*.

8. Authentication and Publication

Ordinances, amendments to ordinances and resolutions passed by your council are officially recorded in special books. The city clerk records passed measures in this book and signs them. This process is the official authentication. The clerk must also certify the time and manner of the ordinance’s publication. Each ordinance that is passed or amended must be published or posted in the manner prescribed by state law. Your city clerk is responsible for this publication or posting (see Chapter 3E of this *Handbook*).

9. Codification of Ordinances

Cities are required to maintain their code of ordinances (also known as the city code or municipal code) in one of three ways:

- The city may compile an annual supplement to the code of ordinances. This supplement consists of all new ordinances and amendments to ordinances that became effective during the previous year. The supplement must be adopted by resolution by the council and placed in the code of ordinances.
- The city may insert new ordinances or amendments to ordinances directly into the code itself. This must be done at least annually. This works especially well for cities that maintain a copy of their city code in electronic format, allowing for quick and convenient updating. This service may also be available to cities that use a private codification company.
- If the city does not take either of the actions described above, it must codify the code of ordinances at least once every five years. If there have been no substantive changes to the city code, the city may simply adopt the code by ordinance. However if the city has made additions, amendments or intends to change any

code provision, it must hold a public hearing on the proposed code prior to its adoption. Iowa Code Section 380.8 sets forth the various notice and hearing requirements pertaining to this process.

If new ordinances or amendments are contained in your codification, you must hold a public hearing before its adoption. The council may adopt the proposed codification within thirty days after the hearing. If the council substantially amends the proposed code after the hearing, there must be a second hearing before the revised code may be adopted. The codification becomes law upon publication of the adopting ordinance.

Regardless of which process you use to meet the requirements for maintaining your city's code of ordinances, it is usually beneficial to go through the codification process periodically to make sure your city code does not contain obsolete provisions or conflicts with recent legislation.

10. Adopting Codes by Reference

A city council can adopt by reference the provisions of any statewide or nationally recognized standard code, such as complete building, fire prevention, housing, plumbing, mechanical or electrical codes. The ordinance must identify the code to be adopted by subject matter, source and date. In addition, the ordinance must state that the code's provisions are being incorporated by reference. A public hearing is required before adopting a code by reference.

11. City Staff Role at Council Meetings

Most council meetings are attended by one or more city staff members, depending on the nature of the business discussed. Staff can greatly assist the council in making good decisions by providing helpful information and advice and responding to questions that may arise. Staff may prepare various reports and present background material on agenda items.

Providing staff advice and information without engaging in decision making is a delicate balance for both staff and council. Effective communication between elected officials and staff can help maintain the distinction in roles between these two groups.

D. GENERAL PROCEDURAL MATTERS

1. Council Rules of Procedure

City councils have the authority to determine their own rules for the conduct of their meetings (see Iowa Code Sections 372.13 and 21.7). Such rules have proven to be beneficial in maintaining order and decorum in city council meetings. Your rules should allow for participation in a democratic manner, yet structure meetings so that discussion will remain civil and not get "out of hand" or unduly protracted. The rules of procedure must be approved by the council and should be made available to council members and members of the public. If your city has adopted rules of procedure, make sure a copy is available at your meetings.

Although some cities have adopted standardized rules such as Robert's Rules of Order, it should be noted that Robert's Rules were not originally designed or intended to apply to law-making bodies such as city councils. Roberts Rules are not law and are not required by law to be followed. The Iowa Supreme Court has held that failure by the city council to conform to a procedural rule of the council, or parliamentary procedure, will not invalidate a vote of the council that otherwise conforms to Iowa law.

The Iowa League of Cities has several excellent examples of city council meeting rules of procedure if you would like to review what other cities utilize.

2. Presiding Officer

As presiding officer at council meetings, the job of the mayor (or in his/her absence, the mayor pro tem) is to conduct each meeting in accordance with the rules of procedure adopted by the council and ensure decorum at meetings. During meetings, the presiding officer is in charge of debate. Before being allowed to speak, council members, staff or audience members should be acknowledged by the presiding officer. The presiding officer may be asked to rule on procedural motions. Immediately after a vote is taken by the city council, the presiding officer should state the results of the vote.

3. Main Motions

Some council rules of procedure require motions to be made before an item can be discussed. A motion is the formal way by which a council member submits a proposed measure for the consideration and action of the

council. A council member makes a motion by saying “I move that...”

Motions can be classified as main motions or procedural motions. Ordinances, resolutions and amendments to ordinances or resolutions are initially presented to the council in the form of main motions. They are called “main motions” because they address substantive business concerns of the city council. Main motions are generally oral, although complex motions may be accompanied by a written version as well.

A motion may be debated, amended or have another procedural motion applied to it. Most rules of procedure prohibit having two main motions “active” at the same time. The council must complete business on its current main motion before it can address a new one.

- **Seconds**

Main motions and many procedural motions must be “seconded”. This is done by a person, other than the one who made the motion, who says “I second that motion” or just “second”. A council member may second a motion even if he or she does not support it. If a motion does not receive a “second”, it should not be debated and cannot be considered for a vote.

- **Withdrawing Motions**

Under most council rules of procedure, the person who has made a main motion may withdraw or change the motion simply by making a request to do so before the proposal is considered. If the matter is already under consideration and the author wishes to withdraw or change the motion, the presiding officer may announce that the motion has been withdrawn or changed. If anyone objects to the presiding officer’s action, the council must vote on the withdrawal or change.

- **“Clearing the Table”**

In addition to withdrawal by the author, most rules of procedure provide for two other ways a main motion may be handled to “clear the table” for discussion of other business:

- o **“Calling for the vote” or “calling the question”**

This is a procedural motion to determine whether the council wants to vote on the

main motion. It is easy to be confused whether a vote is on the main motion or a procedural motion. Make sure you fully understand the specific motion under consideration before voting.

- o **“Tabling the motion”**

This is a procedural motion to defer action on a motion until some indefinite time. Once a main motion has been tabled, the council can proceed to other matters. An item that has been tabled can only be brought back into debate by approving a motion to “remove it from the table”. A related, but distinct, motion is a motion to “postpone (or table) until a date certain” in which the member making the motion states a particular meeting or time for the matter to be reexamined. A motion to postpone (or table) until a date certain also requires approval by council vote.

4. Other Procedural Motions

Procedural motions may also be used to ask the presiding officer to declare a recess, call for a vote, close debate or related matters. These motions are almost always oral. Dealing with procedural motions can be challenging, especially for newly elected officials. If you become confused, ask for clarification as to what is taking place.

5. Engaging in Debate

Most council rules of procedure provide that once a main motion is “on the floor” (moved and seconded), council members may debate the issue. Unless the council has established time limits for debate, council members may talk as long as they want. However, speaking for an unreasonable amount of time is both rude to your fellow members and to the audience.

Only council members may take part in debate, unless an outside party (audience or staff) is specifically invited to participate by the presiding officer. (Note: In some cities, council rules provide for public comment on agenda items.)

6. Voting Procedures and Requirements

The council’s business is accomplished by voting on both substantive and procedural motions. Voting finalizes the action of the council. Because voting is so important, it must be done in accordance with fair and

public procedures. Many city councils have established procedures for tallying and announcing votes. The following are some typical council procedures regarding voting. Check to find out whether your city has adopted different procedures.

- **Voting on a Main Motion**

Generally, a vote on a main motion takes place under one of two conditions:

- o The mayor may call for a vote when debate on the matter has stopped.
- o During debate, a council member may call for a vote by making a procedural motion to vote on the measure on the floor. Another council member must second that motion, and then the council takes a vote on whether to vote on the motion. If a majority votes “yes”, then the main motion (with any of its accepted amendments) will be voted upon. Main motions pass with a majority of the votes in their favor.

Voting ends debate. Whether the main motion passes or fails, the debate on that matter should be terminated unless a council member makes another main motion on the subject.

7. Abstaining From a Vote

A council member must abstain from a vote if he or she has a conflict of interest (see Chapter 3, Section G4 of this *Handbook*). If you abstain from voting for reasons of a conflict, you are required by Iowa Code Section 362.6 to state the nature of the conflict and have it recorded in the minutes. You should not participate in the discussion if you have declared a conflict of interest.

You should not abstain just to avoid voting on an issue. By abstaining under these circumstances, you would not be fulfilling your elected responsibility to make decisions and would also be unfair to the other members of the council and the public.

E. MORE EFFECTIVE MEETINGS GUIDANCE

Consider these suggestions to make your council meetings more productive and efficient:

- Start meetings on time and end at a reasonable hour.
- Stick to the agenda.
- Do not try to engineer “how-to” details at the meeting.
- Do not dominate the discussion.
- All members participate.
- Do not engage in side conversations during the meeting.
- Set up procedures for staff to handle routine requests.
- Use your committees wisely.
- Establish rules for debate, especially on controversial issues.
- Actively listen during the meeting.
- Do your homework.

Chapter 5

Dealing with the Public

A. INTERACTING WITH THE PUBLIC

Government is a public matter. A basic tenet of our political system is that informed citizens make the best citizens and responsive government makes the best government.

Mayors and council members should have personal contact with the public for two fundamental reasons:

- To inform the public directly about what their government is doing.
- To gather the public's opinions on matters involving city government.

1. Public Hearings

A public hearing provides citizens the opportunity to present their views and opinions verbally or in writing directly to the city council regarding the subject matter of the hearing. Public hearings provide excellent opportunities to obtain the public's response to major projects or proposals.

The Iowa Code requires public hearings before city councils may take action on certain items, including:

- Adopting or amending the annual budget.
- Approving a capital improvements program.
- Approving plans, specifications and form of contract for public improvement projects.
- Establishing zoning regulations or rezoning property.
- Approving legislation regarding special assessment projects.
- Establishing a sewer or water connection fee district.
- Approving or denying voluntary annexations to a city.
- Granting a franchise.
- Vacating city streets or public lands.

- Approving a proposal to sell city-owned real property.
- Issuing General Obligation Bonds and certain other forms of municipal debt.
- Establishing an urban revitalization district or urban renewal/TIF (Tax Increment Financing) area.
- Establishing ward and/or precinct boundaries.
- Withdrawing from application of the state building code.
- Adopting a code of ordinances if it contains a new or amended ordinance.
- Adopting a standard code (such as a building code) or portions of the Iowa Code.

Your city attorney should advise you as to whether specific items you are considering require public hearings. Prior to public hearings, a legal notice must be published in compliance with applicable state law. The notice must include the date, time and location of the public hearing and a description of the purpose of the hearing. State statutes also specify timelines when certain legal notices must be published. Consult with your city attorney to assure compliance with all the various legal requirements. For cities 200 and less in population, the hearing notice can be posted at three public places in lieu of publishing the notice in a newspaper.

Suggestions to make public hearings productive:

- **Select a time and place convenient for the public**
If a project under consideration affects a particular neighborhood, holding the hearing at a school or other neighborhood location may help citizens feel more welcome to participate.
- **Hold the hearing at an appropriate location**
Be conscious of seating capacity, accessibility for people with disabilities, acoustics, etc.

- **Open the hearing with a clear statement of the subject being considered**

In many cases, a brief presentation may be helpful to make sure that everyone understands the proposal or issue at hand.

- **Establish clear procedural rules at the beginning of the hearing and then follow those rules.** Rules may include time limits for speakers, registration of speakers, order of testimony, or provision for closing the hearing.
- At the end of the hearing, the presiding officer should **identify follow-up action** that will be taken. The council may take the hearing issue “under consideration” or request more information before making a decision at a later date. If so, the presiding officer should advise the audience as to the process and when a decision is expected to be made.
- When closing the hearing, the presiding officer should **thank everyone** for attending and participating.

2. Citizen Advisory Committees/Task Forces

Citizen advisory committees or task forces are often used for conducting in-depth studies of special issues or as sounding boards for specific city proposals. Advisory committees are usually created by council resolution, which sets forth a specific task for the committee. Advisory committee members are generally appointed by the mayor or council. Many advisory committees include council members, citizens (often with special expertise), and city staff. The committee is usually dissolved when the task is completed. Committee members should be provided clear information as to their duties and responsibilities, authority, term, removal and any other special instructions and directions.

3. Neighborhood Associations

Neighborhood associations are groups of citizens organized to work on matters such as public services, social issues, housing, law enforcement or recreational facilities that affect their specific neighborhood. In some cities, neighborhood associations are established by the council, while in other cities such associations are unaffiliated with city government.

Neighborhood associations can be both helpful and challenging for city government. On one hand, they can help citizens get involved and provide

assistance for projects benefiting their part of the city. On the other hand, neighborhood associations can sometimes become so focused on their own local concerns they do not recognize the council’s responsibilities for the entire city. These associations can sometimes demand a disproportionate amount of city attention or resources for their concerns.

If you have neighborhood associations in your city, you may face the delicate task of trying to draw on the advantages of these groups without encouraging the disadvantages. To achieve this balance, it is beneficial to interact personally with representatives from these associations.

4. Community Surveys

Community surveys are an effective means to systematically determine public opinion on various city programs, services, projects and issues. Community surveys require careful planning, preparation and a clear focus. Questions should be carefully worded to assure validity and reliability. Surveys can be conducted by mail, telephone, internet or door-to-door using city staff, volunteers or private firms. Costs of conducting and tabulating surveys can vary considerably depending on the method chosen.

5. Public Appearances

As an elected official of your city, you will probably have opportunities to participate in various public functions. You may attend community events, give speeches to service clubs or appear in parades. At such public appearances, you represent the city itself. You will generally be seen and heard as an elected official, even when you only intend to give a personal opinion. Be careful about clearly distinguishing your personal opinions from official city positions. Take advantage of these opportunities to explain what is happening in your community, ask for help with a project, respond to citizen concerns, or test new ideas.

6. Electronic Communication

The number of technological opportunities available for cities to communicate and do business with its residents is constantly growing and changing. Some of these features include:

- Email to and from citizens, council, and staff
- City websites
- Social media

- Text message notifications and alerts
- Smart phone apps
- 24-hour voice mail
- Online bill payment and account management
- Electronic distribution of council packets
- Online permit and registration forms and information
- Government access channels on cable television and social media
- Live or taped broadcast of council meetings on cable television, streaming or podcast
- Remote access for meter reading

In response to the rapid changes in technology and telecommunications, cities should consider the following:

- Develop written technology and communications policies addressing such issues as city official use of internet, social media, computers, tablets, cell phones, and similar devices.
- Consider emails, text messages, social media communications and other forms of electronic communication to be subject to the open records law.
- A majority of the council members in an email thread or social media conversation at the same time could be considered a meeting that would be subject to the open meetings law.
- Implement regular data back-up procedures.
- Include technology as part of your city's disaster recovery planning.
- Take into account electronic, as well as written, records as part of your city's retention schedule.
- Remember that not all of your residents have computers or internet access. Do not totally rely on the internet or social media to communicate with your residents.
- If holding a virtual council meeting via Zoom or some other platform, establish electronic meeting guidance and note that the open meetings laws apply.

B. DEALING WITH CITIZEN QUESTIONS AND COMPLAINTS

As a public servant, you can expect to receive questions and complaints from the public. By answering these inquiries promptly, courteously and frankly, you can demonstrate that your city government is open and responsive to those you serve.

1. Follow Up

In many cases, you can personally give a satisfactory answer to a citizen's inquiry or complaint. Other times, the question or complaint needs to be passed on to some other official. When you do this, make sure the other official handles the matter promptly and notifies you and the citizen as to the disposition of the matter.

Personal follow-up is very important when dealing with citizen questions and complaints. The citizen is relying on you – make sure to keep the citizen informed as to the status of his/her concern.

Sometimes you will receive requests that should be directed to city staff. In these cases, it is usually advisable to take the matter from the citizen, but advise them that similar future inquiries could be more effectively handled directly with city staff.

2. Requests to Council

If a citizen's concern requires council action, you should suggest that the citizen submit the request in writing to the council. This will provide the entire council with specific information as to the nature of the citizen's concern.

3. Complaint-Handling Process

You should welcome citizen questions, suggestions and complaints. They can help improve the quality of your municipal services. While you may occasionally be tempted to dismiss or ignore some complaints, it is almost always in your city's best interest for you to remain calm, attentive and professional in these interactions.

Many cities have developed effective processes to track citizen complaints or requests for service and ensure follow up. If your city does not have such a system, you may want to consider establishing a complaint-handling process.

The four basic steps of the process are:

- The complaint is received by phone, letter, electronically or in person and then recorded on a written or electronic form.
- The complaint is referred to the proper department or city official.
- The complaint is acted upon.
- The resident is notified of the disposition of his or her complaint.

4. Public Incivility

With the rise of social media and other forms of public interaction, city officials may occasionally be faced with incivility, hostile accusations or other vexing comments in public forums. It is important to remember that responses in these forums can be shared widely and rapidly and be available for view practically forever.

When faced with such situations, keep the following suggestions in mind:

- Assess the post for factual inaccuracies or falsehoods and consider calmly providing correct information.
- Don't get defensive and be baited into reacting poorly.
- If you choose to respond, stay on topic and don't get pulled into a debate.
- If there is no reasonable response – or you cannot respond calmly – don't respond.
- Don't respond when you are angry or emotional. Carefully consider your options. If necessary, take the conversation offline, invite them to call you or come to the office.

C. WORKING WITH THE MEDIA

The news media are a vital component in your city's relationship with your citizens. The job of the media is to report the news you are making and disseminate it to the community. Remember that you have a professional relationship with the news media – they are helping you do your job and you are helping them do their job. Together, you can cooperate and communicate so that both objectives are accomplished.

Establishing good relations with your local newspapers, radio and TV stations is a big step towards this goal. You will be serving the public by welcoming reporters to city hall and sharing relevant public information.

At the same time, you need to realize that reporters are not your “friends.” As professionals, they have an obligation to report the news. The media does not have a responsibility to make you look good. In fact, there may be times when the media will look hard to see if you are doing something improper. At these times you need to be extremely patient. Remember that ordinary citizens expect the media to keep them informed about local government.

1. Some Tips for Working with the Media

• Provide Necessary Information

When you talk with reporters, make sure they fully understand the details of what you are saying. Some city matters can be very complex. Do not expect a reporter to grasp the nuances in a brief conversation. Do not expect the reporter to have detailed information or background on the issue. It can also be helpful to provide the reporter referrals to additional interview subjects, including city employees or local advocates.

• Familiarize Yourself with Local Media

Be familiar with local editors, reporters, feature writers and news directors, and what they produce. Be proactive in keeping reporters up to date on issues, even if they are not calling you with questions.

• Follow Up When Appropriate

Do not feel awkward volunteering to review an article before it goes to print to check its correctness. Most journalists are trained to refuse to give you a pre-publication draft of their article, but they may read back a critical quote or allow you to review a few sentences of a particularly technical explanation.

• Use News Releases Regularly

These written summaries often provide reporters with valuable information for articles or background and may lead to other stories. News releases can be used for many purposes, such as announcing a public ceremony, providing the text or abstract of a speech, explaining changes in city functions/procedures, summarizing city reports or publicizing projects and initiatives.

News releases can help a reporter ask better questions and investigate more effectively. Each reporter is different and you should adapt to different reporting styles. Remember your goal – to get city information to the public.

When you prepare news releases, make sure the information is conveyed in simple, direct terms. Remember your release can have an effect on how a story is reported. Regardless

of how polished you may consider your news release, do not expect the media to use what you have given them word for word. Journalists will publish and/or announce what they think is relevant and what they have time or space to use. Provide contact information for someone well-suited to answer questions.

- **Use the Various Media Effectively**

Newspaper, radio and TV journalism are all different. It is important to be aware of and accommodate their different procedures and requirements.

- o Newspapers are especially effective in keeping the general public informed about the details of city government. Newspapers may be published daily, weekly or biweekly. Regardless of the publication schedule, you need to know and appreciate:
 - The “press time” for a paper when materials have to be submitted.
 - The time and day when the papers are distributed to the public.
 - Deadlines for particular information, such as a community calendar, may be well in advance of the actual press time.
- o Social media, electronic messages and radio can be some of the best ways to convey urgent information to citizens. Many stations rely heavily on telephone interviews, news releases and wire service reports, but some stations assign reporters to cover city hall and give in-depth coverage.
- o Television news conveys images and action and can broadcast these pictures live. TV news operates on schedules centered on standard airing times. When you work with TV media, keep in mind that complex issues and situations have to be accurately compressed into a few words. Visual images may help clarify your message to the viewing public.

- **Let the Media Know About Inaccuracies**

You rely on the media to provide accurate information to the public, but sometimes messages get confused in the process of

gathering and relaying news. When something has been stated incorrectly, let the media know. Most newspapers, radio stations and TV channels have a regular procedure for correcting errors and inaccuracies. Remember that an incomplete report can be just as harmful as an inaccurate one. It is reasonable to contact reporters to point out key facts they may have omitted.

Some public officials are fearful of reporting inaccuracies, often believing that a reporter or editor will be angry about having attention called to their mistake. By failing to report the error, you often compound the misinformation. Many media outlets have comprehensive archives to which reporters will refer when researching stories in the future. An uncorrected mistake could yield more misinformation a week, a month or even years from the time of the first story.

- **Stay Cool in the Hot Seat**

Answering a reporter’s questions can be a challenging experience. Here are some tips to make the interview successful:

- o Be prepared. Make sure you know the interview topic in advance. Then gather data, frequently asked questions, graphics and other relevant information about the topic.
- o Anticipate tough questions. Before the interview, think of questions you don’t want the reporter to ask – and then make sure you are prepared to give good answers.
- o Remember your audience. Use simple language rather than technical terms or jargon. Consider working out clear, concise ways to explain complexities in advance.

D. OPEN RECORDS LAW

Your city must comply with the Open Records Law as set forth in Chapter 22 of the Iowa Code. All persons, including non-residents of your city, have the right to examine your city’s public records during normal business hours without charge. Public records generally include all records, documents, tapes, electronic media or other information stored or preserved in any medium that are in the custody of the city. People also have the right to obtain copies of public records for a reasonable charge.

As with all local government documents, electronic records are subject to the Open Records Law. All electronic records that are created, received or stored by a city are the property of the city and not the property of the employees, officials, vendors or customers. City officials – elected and appointed – who conduct city business electronically (using personal computers, smart phones or similar devices regardless of whether such devices are owned by the city, their employer, personally owned, or owned by others) should be aware that any records created while doing city work are considered public records.

City officials should have no expectation of privacy when using the city’s computers and electronic equipment. Any email or text message sent to or from a council member, or between council members, relating to city business could be subject to disclosure if a public records request is made.

Some city records are defined as “confidential records” per Section 22.7 of the Iowa Code and are not open to the public for examination. Confidential records include:

- Certain law enforcement information.
- Confidential personnel records.
- Tentative, preliminary, draft or research materials prior to completion in form submitted for use or used in the actual formation, recommendation, adoption or execution of any official policy or action by a public official.
- Some library records.
- Some real estate appraisals or appraisal information.
- Driver’s license and non-operator’s identification card for use by law enforcement, EMS or other medical personnel responding or assisting with an emergency.
- The identity of the owners of bonds or obligations.
- Personal information contained in electronic personnel records.
- Physical, infrastructure, cyber-security and critical infrastructure.
- Information indicating how or whether a public employee voted in a collective bargaining-related certification, retention and recertification, or decertification election.

The following are considered open records:

- Names and compensation of employees, including any written agreements.
- Dates of employment with the city.
- Positions employees hold or have held.
- Educational institutions attended by employees, including diplomas and degrees earned.
- Names of previous employers, positions held and dates of employment.
- Any final disciplinary action taken that resulted in discharge (including those that resigned in lieu of termination or were demoted) and the documented reasons for such decisions. (Note: Prior to taking disciplinary action, the employer must notify the employee in writing that the information placed in the employee’s personnel file as a result of the disciplinary action may become a public record.)

The status of municipal water, gas and electric utility customer account records is more complex. Cities may choose to protect or release this information (see Iowa Code Section 388.9A and consult your city attorney). Customer social security numbers are confidential under federal law and should not be maintained in customer account records.

The Open Records Law requires the city to delegate the responsibility for implementing its public records policy to particular officials or employees and the city must publicly identify those individuals. In many cases, the city clerk is delegated this function. In larger cities, the responsibility may be divided among several individuals, such as department heads. It is recommended that your city adopt a Records Management Policy that identifies who is assigned responsibility for maintaining the records and establishes schedules for destroying records that are no longer required to be kept.

1. Iowa Public Information Board

The Iowa Public Information Board has rule-making and enforcement authority over the Open Records Law. This Board may investigate complaints, request and review records, determine facts, issue subpoenas, hold contested case proceedings and impose penalties for violations. The Board also issues advisory opinions and gives guidance on the Open Records Law to local governments.

Persons who participate in a violation of the Open Records Law may be assessed damages of \$100-500. However, if they knowingly violate such laws, damages of \$1,000-\$2,500 can be assessed. Defenses to the open records law are similar to those for the open meetings law (see Section A of this Chapter). Questions regarding whether or not a record is considered confidential should be referred to your city attorney.

Chapter 6

Financial Administration

A. OVERSEEING YOUR CITY'S MONEY MATTERS

Overseeing your city's finances and budget is one of the most important and challenging aspects of your job as an elected city official. You and your fellow elected officials are responsible to make sure your city's money is handled correctly and carefully. This obligation is called your "fiduciary responsibility". By doing your homework, staying informed, asking probing questions, engaging in intelligent debate, and making logical decisions, you will be serving your community and upholding your fiduciary responsibility.

You are not expected to become a municipal finance expert. Your city's finance officer (often, the city clerk), city manager/administrator, or veteran council members can help you understand and deal with financial matters. Considerably more information about city financial administration, reporting, record keeping, and related matters is available in the *Iowa Handbook for City Clerks/Finance Officers* published by the Iowa League of Cities and the Iowa Municipal Finance Officers Association. Your city clerk may have a copy of this book.

Note: In this chapter, the terms "revenues"/"receipts" and "expenditures"/"disbursements" are used interchangeably. Revenues and expenditures are generally recognized terms in accrual basis accounting; receipts and disbursements are the equivalent terms in a cash-basis accounting. (See Appendix C of this *Handbook* for explanation of these terms; most cities report on the cash basis.)

B. CITY FINANCIAL OPERATIONS

1. Municipal Accounting

Your city clerk or finance officer keeps track of city revenues and expenditures and handles the city's accounting work. This person should be able to give you financial information about the city and respond to your questions about the city's budget and financial operations.

City accounting is a public matter. After each council meeting, the city clerk is required by law to publish a list of disbursements from city funds, including a list of all claims allowed, total disbursements from each fund, a summary of all receipts, and a statement of the gross amount of each claim. A summary of revenues and expenditures must also be published at least monthly. (Cities with a population over 150,000 must publish a detailed itemized statement of all receipts and disbursements.)

Certain boards and commissions, such as utility boards of trustees, may keep custody of their own records. If a board is financed from the city's general fund, a city official (typically the city clerk or finance officer) should document and file evidence of all its transactions. This city official should also write out all of that board's checks. Under Iowa Code Chapter 392, the council can adopt an ordinance to require boards to provide them an annual financial report.

2. City Revenue Collecting

The responsibility for collecting the city's revenues is usually delegated to the city clerk or finance officer. In many cities, the city clerk or city hall staff receives water, sewer, solid waste and other utility payments, as well as fees for permits, licenses and charges for products or services.

Other parties are involved in the collection of certain types of city revenues. The county treasurer collects property taxes and then remits the city share to the city clerk. The Iowa Department of Revenue collects any local option sales or hotel/motel taxes and transfers them to the city. The Iowa Department of Transportation collects Road Use Taxes and cities receive a portion of the funds based on a distribution formula.

Your city should have a safe, reliable and fiscally sound system for the collection of revenues. Common methods for enhancing the security and efficiency of your collection system include making prompt deposits of city funds, maintaining accurate records, providing adequate separation of duties (also referred to as “segregation of duties”), collecting past due accounts, and protecting the city’s funds from theft or loss.

3. Depositing and Investing Public Money

The deposit of public funds is governed by Chapter 12C of the Iowa Code. This statute requires your council to adopt a written investment policy based on the following priorities (listed in order of priority):

- Safety of the principal.
- Liquidity to match expected needs.
- Obtaining a reasonable return.

Cities may only invest in the list of options specified in Iowa Code Section 12B.10(5a). A model investment policy is available in the Resources section of the Iowa League of Cities website (www.iowaleague.org) and in the *Iowa Handbook for City Clerk/Finance Officers*.

Your city treasurer (or other financial officer as designated by the council) makes your city deposits. The council must either approve each investment decision or delegate the decisions to a specific individual.

Your city’s money may only be deposited in a bank, savings and loan, or credit union approved by the state and located in your city’s county or adjoining county. The city council must pass a depository resolution naming each approved institution and the maximum of city funds allowed in each institution. All public fund investments must be secured according to the strict provisions of Iowa Code Section 12C.16.

As an elected official, you oversee the deposit and investment activities of your city. Take time to inform yourself about these activities. As long as your city makes

its transactions in accordance with Iowa Code Chapter 12C, you are exempt from personal liability for any monetary loss of city funds that may result.

4. Financial Reports

Your city must prepare and publish an annual financial report detailing all revenues and expenditures. A copy of that publication must be sent to the state auditor before December 1 of each year. The Iowa Department of Transportation requires each city to annually report on all street-related expenditures including the usage of Road Use Tax funds by December 1 of each year. In addition, if your city uses Tax Increment Financing (TIF), the city council must review and approve an Annual Urban Renewal Report. Your city clerk or finance officer usually prepares these documents.

You should carefully review the monthly financial reports prepared by your city clerk or finance director, such as the Treasurer’s Report and Budget Comparison. The Treasurer’s Report provides important information regarding the city’s cash balances and investments in the various city funds (such as General, Road Use Tax, Capital Projects, Sewer and Water Funds, etc.) The Budget Comparison shows revenues and expenditures of the previous month and provides year-to-date comparisons with your adopted budget.

You should also receive regular and timely reports from your staff and consultants (such as engineers) on capital projects and other major activities. In addition to providing financial reports, you should also keep informed as to whether the project is on schedule, any significant issues or concerns that have been encountered, and other important project information.

5. Audits/Examinations

Chapter 11 of the Iowa Code requires that city financial records must be periodically audited by the Office of the Auditor of State or a certified public accountant. Cities with populations over 2,000 must be audited every year.

Cities with populations of less than 2,000 and having less than \$1 million in annual budgeted gross expenditures are subject to periodic examination by the auditor. Cities in this examination pool must pay an examination fee to the State Auditor’s Office and must be examined at least once every eight years. Cities with less than 2,000 in population but greater than \$1 million in budgeted gross expenditures for two consecutive years do not

pay the examination fee but are required to complete an annual financial examination and pay the full cost of an examination and a filing fee.

- An audit is also required if a city receives and expends \$750,000 or more in federal awards in a fiscal year.
- Pursuant to Iowa Code Section 11.6(2)(a), “A city desiring to contract with or employ certified public accountants shall utilize procedures which include a written request for proposals.” Cities are required to contract with certified public accountants on the basis of competence and qualification for the services required and for a fair price. This chapter of the Iowa Code also sets out the standards to be used by the accounting firm in conducting the audit.

6. Fund Accounting

City finances are required by state law and generally accepted accounting principles to operate under a fund and program accounting system. All city revenues and expenditures must be classified and assigned to a specific fund for tracking purposes. Your city’s financial accounting system has a Chart of Accounts which reflect those various city funds. The state’s City Finance Committee develops a recommended Chart of Accounts to be used for this purpose. The following funds are commonly used by cities:

- **General Fund**
The General Fund is used for many of the essential operations of the city including police, fire, parks, library and general city administration. As described in Section D1 of this chapter, the primary revenue source for the General Fund is property tax. The General Fund also receives all other income not required by law or contractual agreement to be deposited elsewhere, such as hotel/motel tax, licenses and permits, and earnings from investments.
- **Special Revenue Funds**
These funds are typically required by law to be accounted for separately and used for specific designated purposes. Examples of such funds include the Road Use Tax, Tax Increment Financing (TIF), Employee Benefits Property Tax Levy, and (under most circumstances) Local Option Sales Tax funds.

- **Enterprise Funds**

Enterprise funds are used for those city operations for which the revenues generated by such activities (usually in the forms of fees) are intended to cover the expenses of those operations. Examples of Enterprise Funds include Water, Sanitary Sewer, Storm Water, and Solid Waste Funds, or other types of municipal utilities.

- **Debt Service Fund**

This fund is used to pay the principal and interest on the city’s long-term debt.

- **Capital Projects Fund**

This fund is used to account for the receipts and disbursements related to large capital projects. When cities issue general obligation bonds to finance such capital projects, the proceeds of the bond sales are typically deposited in this fund.

- **Fund Transfers**

Transfers between funds can be made by cities but generally must be authorized during the budget or budget amendment process and/or by council resolution. Special rules regarding transfers may apply to certain specific funds.

More detailed information regarding fund accounting and other matters related to municipal financial operations can be found in the *Iowa Handbook for City Clerks/ Finance Officers* published by the Iowa League of Cities and the Iowa Municipal Finance Officers Association.

7. Financial and Budgetary Terms

When you first deal with your city’s financial affairs, you will undoubtedly come across many words and phrases that may be unknown to you. Appendix C contains some brief definitions of common city financial and budgetary terms.

C. BUDGET MATTERS

The budget is your city’s plan for using available funds during a fiscal year to accomplish certain goals and objectives. Your budget serves to:

- Provide your citizens with a financial plan describing the activities to be undertaken during the next fiscal year and the types and extent of specific services to be provided.

- Establish priorities among city programs.
- Define the financial framework that will be used to periodically check the status of city operations
- Establish the level of taxation to finance city operations.

Every city must produce an annual budget document for certification and submission to the county auditor and the state.

1. The Budget Process

There are many different ways for cities to develop their budgets. State law does not specify which city official or officials prepare the budget. In some cities, one person (such as the city manager/administrator, finance director, city clerk, or mayor) has the overall responsibility of budget preparation, while in other cities this duty is delegated to a group (such as a finance committee). Regardless of who prepares the budget, Iowa Code Section 384.16(3) says the council has responsibility for approving the budget after first holding two public hearings and publishing legal notices regarding the proposed tax rate and overall budget.

Staff is usually responsible for providing information on current and potential revenue sources and the estimated cost of providing city services. Estimates are typically based on a projection of current trends, a forecast of the effect of new programs, and an estimate of satisfying unmet objectives. Although an optional step, some cities forecast projected revenues and expenses for the upcoming two to five year period to help identify longer-term needs and determine whether corrective actions may be necessary.

In budget preparation, expenditures are generally categorized as either operating or capital:

- Operating expenditures cover the costs of “doing business” of providing municipal services such as police and fire protection, snow removal, minor street repairs, library, swimming pool, parks and recreation, etc. They include such items as wages and benefits, supplies, utilities and insurance.
- Capital expenditures are one-time expenses related to public improvements and major facilities and equipment. The capital budget covers construction of streets, buildings, and water and wastewater facilities. The capital

budget also covers major equipment purchases such as snowplows, trucks, furnishings, computers, etc.

The budget document required by the state contains five parts:

- A detailed showing of anticipated expenses by program and activity with comparisons to last year’s estimated and prior year’s actual activities.
- A detailed showing of anticipated revenue from all sources.
- The adopted budget summary which summarizes the revenues and expenses.
- Public Hearing Notice.
- Certification of taxes.

2. Budget Calendar

Your budget must be completely prepared, reviewed, adopted and submitted to the county auditor and Iowa Department of Management by April 30. In the late fall of each year the Iowa League of Cities makes available a sample budget calendar as a guide for cities to follow.

3. Budget Goal Setting

Budget goal setting should reflect and focus resources on your city’s strategic goals and priorities. It is also an effective way of evaluating programs and services. With a “big picture” view of your city, the council can direct city time and money more wisely. This process will also provide your staff with a clearer indication of what the elected officials want to accomplish.

4. Citizen Input

Citizen input is an important component of the budgetary process. There are several ways to encourage citizen engagement in the budget process:

- Ask for citizen comments before the budget is proposed.
- Invite the public to meetings during budget preparations.
- Go to the people. Talk to them on the street. Hold neighborhood meetings.
- Use the news media and social media. Discuss more than budget numbers – translate the policy into programs and speak directly to the media about what you are doing and why. Give them examples of how your city’s money is used.

5. City Council Consideration/Budget Hearing

After the proposed budget has been developed, it is presented to the city council for review. Some cities use a finance committee to review the proposed budget prior to its submittal to the entire council. Some councils hold meetings with department heads to review budgetary requests.

State law requires cities to hold a public hearing on its proposed tax rate. The hearing must be preceded by a public notice that must detail the city's proposed tax rate using a form provided by the Department of Management. Cities must also post an electronic link to the notice on its website and social media sites.

The hearing regarding the proposed tax rate must be held separately of any other meeting. Your city staff will assist in the process.

A second public hearing and notice is also required by the Iowa Code, which must include the proposed city budget. Once the notice of the proposed budget has been published, a city council may not increase expenditures or tax levies above the amount specified in the notice.

6. Budget Amendments and Revisions

Conditions and circumstances can change between the time the city council approves the budget and the end of the fiscal year. As a result, the council may need to amend the budget to reflect changes such as:

- Expenditures related to grants and loans received after the budget was approved.
- Expenditures due to natural disasters or other emergencies.
- Sudden and unexpected increases in the city's basic cost of operation such as fuel, insurance, supplies or utility costs.
- Unforeseen expenses to the city such as settlement of a lawsuit.

If additional expenditures will cause your city to exceed a budget activity or function total, a budget amendment must be approved prior to the actual payment for the services or products.

The budget amendment process is set forth in Iowa Code Section 384.18 and involves:

- A notice of the proposed amendment must be

published using forms prescribed by the Iowa Department of Management.

- The council must conduct a public hearing and notice in much the same manner as the initial budget public hearing.
- The council can amend the budget at any time during the fiscal year, but the entire budget amendment process should be completed by May 31. The purpose of the deadline is to provide citizens with an adequate amount of time to appeal the amendment to the state. It is lawful to amend the budget after May 31, but if a protest is filed the amendment will be rejected due as there is not enough time to settle the appeal.

7. Major State Law Requirements

The state government has placed a number of controls over your city's budget and finances. The state of Iowa's supervisory power over your city's financial matters is vested in the State Appeal Board (see Chapter 24 of the Iowa Code). Some major state law requirements concerning city budgeting and finance are:

- All monies received by the city are credited to the general fund, except for certain specified funds or as otherwise required or authorized by state law.
- Beginning with fiscal year 2025, cities are required to use a combined general fund levy. However, the state has established additional levies which can be authorized for specific expenses.
- You must prepare a budget each year showing all the money your city government plans to take in and pay out for the next fiscal year (including projections for every city board, commission, and agency, whether self-supporting or not). The budget and its amendments are adopted, following required notices and hearings, by a resolution that constitutes the appropriation.
- No public money may be expended except under an appropriation by the city council.
- The council must approve all expenditures, except certain specified categories such as for an airport, hospital, library, or a utility under a statutory board, and may designate a method of payment, either by check or other system.
- The amount of city debt payable from property taxes cannot exceed five percent of the assessed value of taxable property in your city.
- Cities may impose no taxes without direct authority in state law.

- You must publish or post the following items (cities 200 and less are not required to publish):
 - o A summary of your proposed budget.
 - o A list of expenditures (claims) approved at each council meeting, including the name of the person or firm making the claim, the reason for the claim and the amount of the claims.
 - o Summary of receipts.
 - o Your annual financial report.
- Your budget must be prepared in accordance with guidelines set by the City Finance Committee. Cities are encouraged to prepare budgets for one to two-year periods following the next fiscal year and to prepare a capital improvements plan for a five-year period.
- The City Finance Committee has rule-making authority over your city relating to budget amendments, transfers of money between funds, and other matters concerning city finances. It also has responsibility for preparation of program budgeting and accounting requirements. It reviews the form of city budgets and conducts studies of municipal revenues and expenditures.

The property tax levy for your general fund is limited by state law as cities must use the combined general fund levy, which can be restricted according to the formula in the law.

Other significant property tax levies available to your city are:

- **Employee Benefit Levy**
A city may levy for its contributions under Social Security/Medicare (FICA), Iowa Public Employees' Retirement System (IPERS), Municipal Fire and Police Retirement System of Iowa (MFPRS), and certain other specified employee benefit costs.
- **Tort Liability Levy**
A city may levy for the cost of general insurance premiums and the costs of self-insurance or risk pools.
- **Debt Service Levy**
Cities can authorize a debt service levy to pay annual principal and interest payments on general obligation debt that has been certified by the council (including lease-purchase or loan agreements if proper procedures were followed).

D. MUNICIPAL REVENUE SOURCES

Most cities have three primary sources of revenue:

- Property taxes and payment for services through fees.
- Grants from state and federal agencies or nonprofit and private foundations.
- Borrowing money from various lending institutions or individuals.

Cities commonly use a combination of all three sources to generate the funds necessary to provide governmental services for its citizens. A few communities also have access to gaming revenues or payments-in-lieu-of-taxes from large tax-exempt organizations such as universities or other governmental entities.

1. Property Taxes

Of all your city's revenue sources, you will probably find that your general fund relies on property tax for the greatest share of its revenue. The Iowa Constitution and state law limits a city's ability to impose property tax.

You will probably receive comments from your constituents regarding the property taxes they pay. Remember that the property tax bill property owners receive includes tax levies not only for your city budget but also for your local school district, county, community college and other taxing entities.

2. Rollbacks

State law determines how much taxable valuation is available to your city for budget purposes. Residential and agricultural properties are limited to 3 percent annual growth in taxable property values.

In addition, residential, multi-residential, commercial, industrial and railway properties are subject to assessment limitation orders or "rollbacks" that limit the values of such properties for property tax purposes. Since the law's inception in 1978, residential property has been significantly "rolled back" from its full valuation. The rollback is determined on an annual basis. Residential property values are currently rolled back at approximately half of their full assessed valuation.

In 2013, the Iowa Legislature enacted a number of significant changes to the state property tax system, especially with regard to rollbacks. Commercial, industrial and railway properties receive a 10 percent rollback, meaning these types of property are taxed at 90 percent of valuation. The legislation provided for some partial backfill funding from the state for “lost” revenue from these commercial and industrial property sources to local government (no backfill was provided related to reduced revenues due to further limiting growth of residential and agricultural property, nor for the rollbacks on multi-residential property or railroad properties). Likewise, changes were made to telecommunications property taxation without backfill to local governments. The backfill funding for commercial and industrial property was capped at a frozen dollar amount in FY17. However, in 2020, the Iowa Legislature enacted a law to phase out and eliminate this funding to local governments on a schedule of up to eight years, depending upon the city growth rate.

Much more information and guidance on the rollback system and its impact to property taxes can be found on the Iowa League of Cities’ website.

3. Local Option Taxes

The Iowa Code provides for two forms of local option taxes: hotel/motel tax (Chapter 422A) and local option sales tax (Chapter 422B). Both of these revenue sources are subject to voter approval.

- **Hotel/Motel Tax**

A local hotel and motel tax may be imposed or increased to a rate not to exceed 7% after approval by a vote of the people in your community. At least 50% of the proceeds from the Hotel/Motel Tax must be used for purposes set forth in Chapter 422A. The Iowa Code requires that the hotel/motel tax be credited to the city’s general fund.

- **Local Option Sales Tax (LOST)**

A local sales and service tax of not more than 1% may be imposed by county ordinance. The sales tax is imposed only in those cities in which a majority of voters approved the tax. If approved, cities receive a pro rata allocation from the county based on population and property tax dollars.

Additional information about local option taxes is available from the Iowa League of Cities and the Iowa Department of Revenue.

4. Franchise Fees

Cities may impose up to a 5 percent franchise fee on the gross revenues generated from sales of a franchised gas and/or electric utility within the city. Such franchise fees are to be deposited to the city’s general fund. If a city implements a new increased franchise fee after adoption of the 2009 legislation that clarified Iowa’s utility franchise law, the franchise fees must be credited to a franchise fee account within the general fund.

Funds deposited in a city’s franchise fee account can only be used for purposes specifically identified in Section 384.3A of the Iowa Code and included in a revenue purpose statement that the city is required to adopt before it approves the ordinance imposing the franchise fee. A public hearing is required before a franchise fee can be adopted. Money in the franchise fee account must first be used for inspecting, supervising and otherwise regulating the franchise.

Money in the franchise fee account in excess of the amount required for the inspection/supervisory/regulatory purposes described above may be used for any purpose listed in the adopted revenue purpose statement, which may include:

- Property tax relief.
- The repair, remediation, restoration, cleanup, replacement and improvement of existing public improvement and other publicly owned property, buildings and facilities.
- Projects designed to prevent or mitigate future disasters as defined in Iowa Code Section 29C.2.
- Energy conservation measures for low-income homeowners, low-income energy assistance programs and weatherization programs.
- Public safety, including the equipping of fire, police, emergency services, sanitation, street and civil defense departments.
- The establishment, construction, reconstruction, repair, equipping, remodeling and extension of public works, public utilities and public transportation systems.
- The construction, reconstruction or repair of streets, highways, bridges, sidewalks, pedestrian underpasses and overpasses, street lighting

fixtures, and public grounds, and the acquisition of real estate needed for such purposes.

- Property tax abatements, building permit fee abatements and abatement of other fees for property damaged by a disaster as defined in Iowa Code Section 29C.2.
- Economic development activities and projects.

State code requires cities to notify the Iowa Department of Revenue if the city adopts, amends or repeals an ordinance imposing a franchise fee.

The Iowa League of Cities has developed a resource describing the process for implementing franchise fees. If your city is considering adopting a franchise fee, or modifying an existing franchise fee, some very helpful information can be found on the League website.

- **Cable Franchise Fees**

Chapter 477A of the Iowa Code allows cities to receive a fee up to 5 percent of the gross sales of cable providers. The revenues generated by these fees are deposited in the General Fund and may be used for any lawful purpose. There is no required revenue purpose statement.

5. Intergovernmental Revenue

Another city revenue source is funding from state and federal governments. Examples of intergovernmental revenue include:

- **Road Use Tax**

Payments are distributed to cities monthly by the state. These are funds derived from gasoline and use taxes, motor vehicle license fees and other motor vehicle charges. The funds are apportioned to cities on the basis of population. These revenues can only be used for construction, maintenance and supervision of public streets.

- **State Grants and Loans**

The State of Iowa has a number of programs and activities for which grants and/or loans may be available to cities for specific purposes. There is an online resource for all state government grant programs that provides details on grants currently available, deadlines, award announcements, eligible applicants, and application requirements. Some of the more widely used programs include

(the state agency administering the program is listed in parentheses):

- o Community Development
 - Day care facilities, senior centers and related facilities - Community Development Block Grants – for cities with less than 50,000 population (Iowa Economic Development Authority)
 - Deconstruction or renovation of derelict buildings – (Keep Iowa Beautiful, Iowa Department of Natural Resources, Iowa Economic Development Authority)
 - Rural development grants for various purposes from the Iowa Economic Development Authority
 - Funding building renovation through the Community Catalyst program at the Iowa Economic Development Authority
- o Downtown Revitalization
 - Downtown Revitalization Community Development Block Grants for cities with less than 50,000 population (Iowa Economic Development Authority)
 - Historic preservation, economic development, Main Street Iowa (Iowa Economic Development Authority)
- o Economic Development
 - Economic development set-aside grants and loans for businesses creating new job opportunities (Iowa Economic Development Authority)
- o Housing
 - Safe and affordable housing projects (Iowa Finance Authority)
 - Support of local housing trust funds (Iowa Finance Authority)
 - Housing Rehabilitation Community Development Block Grants for cities with less than 50,000 population (Iowa Economic Development Authority)
 - Funding to support housing development through the Empower Rural Iowa initiative
- o Infrastructure
 - Water, sanitary sewer, storm water,

- waste water treatment improvement projects - Community Development Block Grants for cities with less than 50,000 population (Iowa Economic Development Authority)
 - Grants and revolving loans for sewage and water treatment works and facilities construction (Iowa Department of Natural Resources)
 - Street, bicycle, pedestrian or freight projects that reduce transportation-related emissions under Iowa Clean Air Attainment Program (Iowa Department of Transportation)
 - Street construction related to economic development projects (Iowa Department of Transportation)
 - Bridge Construction Fund (Iowa Department of Transportation)
 - Sidewalks, Safe Routes to Schools (Iowa Department of Transportation)
 - Grade Crossing Surface Repair, railroad grade crossing improvements (Iowa Department of Transportation)
- o Parks and Trails
 - City parks, open spaces, recreational trails, multi-purpose recreational developments under Resource Enhancement and Protection (REAP) program (Iowa Department of Natural Resources)
 - Acquisition and/or development of land for outdoor recreation, renovation of existing facilities under Land and Water Conservation Program (Iowa Department of Natural Resources)
- o Recreational, Cultural, Educational and Entertainment Attractions
 - Community Attraction and Tourism (CAT) and River Enhancement Community Attraction and Tourism (RECAT) grants (Iowa Economic Development Authority)
- o Other
 - Public Transit Systems (Iowa Department of Transportation)
 - Airport development (Iowa Department of Transportation)

- **Federal Grants and Loans**

The federal government also offers a number of programs for local governments, including:

- o Grants and loans for water and sewer facilities as well as for certain other public facilities, such as fire stations, fire trucks, and public libraries (U.S. Department of Agriculture Rural Development Office).
- o Transportation infrastructure (U.S. Department of Transportation)
- o Brownfield assessment and remediation (Environmental Protection Agency).
- o Homeland security planning, and equipping and training fire, police, and emergency management departments (Department of Homeland Security).
- o Airport development (Federal Aviation Administration).

The status of funding for state and federal grant programs is always subject to budgetary allocations and may significantly fluctuate from year to year. It is advisable to regularly monitor the status of these programs. You can obtain more information on these programs from the agency involved, your regional planning commission, area extension office, or local office of your United States Senator or Representative.

6. Licenses and Permits

Revenue from the issuance of licenses and permits varies from one city to the next. Examples of such revenues include:

- Permit fees for building construction, electrical, plumbing and mechanical installations (used to cover the cost of inspections).
- Revenue from cigarette permits, alcoholic control licenses and amusement licenses.
- Licenses and permits for businesses and activities such as ambulances, bicycles, peddlers, solicitors, transient merchants and pets.

You should periodically review your city's fees and charges for licenses and permits to assure that revenues generated are sufficient to cover the costs of administering the applicable program and services.

7. Charges for Utility Services and Fees

A significant portion of your city's total revenues may be derived from charges for utility services. Most cities operate one or more of the following services: water, sanitary sewer, storm water management systems, solid waste collection, electric, natural gas, cable television, telephone and internet service.

It is generally recommended that cities financially account for each of these utilities as stand-alone operations (commonly referred to as "enterprise" or "proprietary" funds). In this way, the revenues and expenditures associated with the utility can be accounted for and evaluated.

Depending upon the type of utility, your city may also receive revenue for such services as meter testing, connection or reconnection fees, non-metered services and other miscellaneous charges for city utilities.

Your city should review your utility rates and charges on a regular basis. Many cities conduct such reviews during budget preparation or when a major facility or improvement project is being considered. Some cities establish depreciation funds or capital improvement funds for each of their utilities to finance future improvements or replace expensive equipment.

8. Other Possible Revenue Sources

Other sources of income your city may receive are listed below. Each city's circumstances are different and the amounts of revenue from these sources differ in each city.

- Charges for cemetery, library, parks and swimming pool operations.
- Charges for municipal enterprises such as ambulance, airport, transit system, low income housing, etc.
- Court and parking fines.
- Gaming fees from casinos.
- Park and recreation registration fees.
- Parking lot or parking meter revenues.
- Payments from other local governments for use of your city's services such as fire, police, parks, recreation and library facilities.
- Pool and recreation concessions.
- Sale or rental of real or personal property.
- Right-of-way permits.
- Tax Increment Financing (TIF) revenues.

E. MUNICIPAL DEBT FINANCING

Major capitals projects typically require more money than the city currently has available. Cities can borrow money from other sources to meet these capital needs. This process of borrowing is called debt financing. Cities generally finance debt by selling and issuing bonds or notes. There are three basic kinds of municipal debt financing:

- General obligation debt is backed by the "full faith and credit" of the city. The city promises to pay the annual debt service (principal and interest) on that indebtedness through annual property taxes. General obligation bonds usually have the lowest rate of interest and typically carry the least risk to the investor.
- Revenue debt financing is backed by payments received by the city for specific services or users or specific revenue sources (such as electric, water, or sewer utility payments, parking lot revenues, etc.).
- Special assessment bonds are paid back from assessments charged against the owners of property who benefit from the improvement.

1. General Obligation Debt Limitation

The Iowa Constitution requires that no city may become indebted in any manner, or for any purpose, in an amount exceeding five percent of its total assessed valuation. By statute, your city's debt capacity is calculated against the pre-rollback 100% "actual valuation" (sometimes referred to as the "100% valuation"). Examples of city debt that count against the debt limitation

- General obligation debt
- Tax increment or urban renewal revenue debt
- Local option sales tax revenue debt

Examples of city debt that do not count against the debt limitation:

- Utility revenue debt – water, sewer, electric, gas, etc.
- Special assessment debt
- Road use tax revenue debt

2. Types of General Obligation Bonds

There are two categories of "general obligation bonds" – essential corporate purpose and general corporate purpose bonds.

- **Essential Corporate Purpose Bonds**

Bonds issued for basic or necessary city functions are termed “essential” corporate purpose bonds and do not require a public election for approval.

These essential city functions are spelled out in Iowa Code Section 384.24(3) and include:

- o Street repair and construction, traffic control devices and street lighting fixtures.
- o Dead or diseased tree removal.
- o Sidewalks, underpasses and overpasses.
- o Sewage, solid waste collection and disposal and storm drainage.
- o Bridge, culvert, retaining wall, viaduct, underpass, grade crossing construction and repair.
- o Refunding, adjustment, renewal, extension, or settlement of legal indebtedness of the city, whether the debt is general obligation bonds, warrants or judgments.
- o Joint projects with another government, which, if undertaken by your city alone, would be for an essential corporate purpose.
- o Air, noise or water pollution control construction and repair.
- o Flood control protection.
- o Equipping of fire, police, sanitation, street and civil defense departments.
- o Emergency communication equipment.
- o Cemetery acquisition and improvement.
- o Ambulance and ambulance equipment acquisition.
- o Geographic computer database systems.
- o Urban renewal programs (except that an election can be petitioned).
- o Reconstruction and improvement of dams, airports, parks and TV translator systems already owned.
- o Water works and water main construction and repair.
- o Insurance, self-insurance or a local government risk pool.
- o Acquisition, restoration or demolition of abandoned, dilapidated or dangerous buildings, structures or properties or the abatement of a nuisance.
- o Funding of programs for purposes authorized by the municipal housing law.
- o Remediation, restoration, repair, cleanup, replacement and improvement of

property, buildings, equipment and public facilities damaged by a disaster or the reimbursement of the city’s general fund for expenditures made for these purposes.

Before essential corporate purpose bonds may be issued, a notice must be published stating the amount and purpose of the bonds and announcing the time and place of a hearing at which the council will receive oral and written objections. The council may vote to issue the bonds after this hearing by a simple majority vote.

- **General Corporate Purpose Bonds (Voter Approval)**

The primary distinction between essential and general corporate purpose bonds is that general corporate purpose bonds require voter approval (referendum) (see Iowa Code Section 384.24). The ballot proposition must receive a favorable vote from at least 60 percent of those voting in order to be approved (Iowa Code Section 384.26). The initial construction and any subsequent improvements to city buildings or recreation facilities per the list below may not be financed without this direct voter approval, except under the circumstances noted below. General corporate purposes include the following:

- o Any utility, enterprise or other public improvement which does not meet the definition of essential corporate purpose.
- o Community center houses, recreation grounds, recreation buildings, juvenile playgrounds, swimming pools, recreation centers, parks and golf courses.
- o City halls, jails, police stations, fire stations, garages, libraries and hospitals.
- o Tree removal or planting other than on the public right of way.
- o Greenhouses, conservatories, horticultural centers.
- o Projects undertaken jointly with another government body which, if undertaken by your city alone, would be for a general corporate purpose.
- o Dams at the time of acquisition.
- o Airports at the time of establishment.
- o Any other purpose which is necessary for the operation of the city or the health and welfare of its citizens which is not an essential corporate purpose.

The council must determine the maximum amount of debt to be incurred and the exact purposes of the project to schedule a referendum on a general corporate purpose bond issue. It is recommended to consult your city attorney and county auditor to schedule any needed referendums in a timely fashion.

The ballot proposition must receive a favorable vote from at least 60 percent of those voting in order to be approved (Iowa Code Section 384.26).

- **“Reverse Referendums”**

As an alternative to calling an election on bonds for general corporate purposes, state law gives city councils the option to use the so-called “reverse referendum” approach, within certain dollar limits.

Using this method, the public is notified by a published notice of the council’s intent to issue bonds for a general corporate purpose, up to a specified amount. The notice must be published at least ten days prior to the date set for a hearing on the bond issue. The notice must state that voters have the right to file a petition with the council demanding an election be held on the question. To be valid, the petition must be signed by a number of persons equal to ten percent of the number of voters at the last regular city election. If such a petition is filed, the council must either set a date for election or drop the proposed financing.

If a petition is not filed, the council may proceed with the bond issue, provided the amount of bonds does not exceed the following limitations:

- o In cities with populations of 5,000 or less, up to \$400,000.
- o In cities with populations of more than 5,000 but less than 75,000, up to \$700,000.
- o In cities with populations above 75,000, up to \$1,000,000.

The thresholds in each category increase 30% on July 1, 2024.

3. Revenue Bonds

If your city wants to issue revenue bonds for an improvement, the council must first hold a bond hearing and pass an authorizing resolution. Revenue bonds may

be issued without a vote of the citizens. Revenue bonds may be issued for such municipal projects as:

- Utility operations
- Parking facilities
- Civic centers
- Recreation facilities
- Airports
- Solid waste facilities
- Bridges
- Hospitals
- Bus systems
- Stadiums
- Childcare centers
- Housing for the elderly or physically handicapped

There must be adequate revenue from these enterprises to pay off these bonds, because the debt is not secured by the property tax base of your city. Revenue bonds typically have an interest rate slightly higher than general obligation debt.

Sometimes you may want to issue both general obligation and revenue bonds for a project. If this is done, the procedures required for both types of bonds must be followed. Be careful not to combine purposes when issuing revenue bonds.

4. Special Assessment Bonds

Some public improvements projects can be financed through charges to the owners of properties that benefit directly from the improvements. Improvements financed in this way are called special assessment improvements. Before setting up a special assessment program consult carefully with your bond counsel and engineer.

5. Bond Sale

When your city sells bonds, you must follow the provisions of Chapter 75 of the Iowa Code. If you are planning a project which may be paid in whole or in part with proceeds from tax-exempt bonds, notes or other obligations, you may be able to reimburse eligible project expenditures (such as architectural or engineering fees, survey and soil testing) that your city paid from other city funds prior to the closing of the bond sale. To do so, the city council must adopt a reimbursement resolution at the appropriate time. There are numerous rules and requirements that apply to such reimbursements, so it is especially important to consult with qualified bond counsel early in the process if you are considering such action.

6. Loan Agreements

In addition to the public sale of bonds, cities are authorized under Iowa Code Section 384.24A to negotiate loans by entering into loan agreements with banks or other lenders. A loan agreement may be approved for any public purpose for which bonds may be sold by following the provisions of Section 384.24A and other appropriate provisions of Chapter 384.

The procedures that must be followed before entering into a loan agreement are virtually identical to those that govern the authorization for issuing bonds. For example, to authorize a loan agreement payable from the debt service fund, and for which a debt service levy may be imposed, your city must follow the same authorization procedure required for the issuance of bonds for the same purpose: a hearing for essential corporate purposes and a referendum for general corporate purposes. For loan agreements payable from revenues of a city utility or enterprise, the same process must be followed as required for authorizing the issuance of bonds for the same revenue purposes.

A unique feature of the loan agreement statute is the ability of your city to borrow against your general fund. Instead of levying debt service taxes, your city may pay principal and interest out of the city's general fund. Hearings are required in order to finance essential corporate purposes, and the "reverse referendum" process applies to financing general corporate purposes. Annual payments on all general fund loan agreements may not exceed ten percent of the city's last certified general fund budget amount.

All loan agreement debt payable either from a debt service levy or general fund must be counted against your city's constitutional debt limit, unless the documents include annual appropriation language.

7. Leases and Lease Purchase Agreements

Another alternative to the sale of bonds or the use of loan agreements, especially for the acquisition of equipment, is a lease purchase agreement. Under a lease purchase agreement, as authorized in Section 364.4 of the Iowa Code, a city makes annual lease payments. Upon completion of the lease term, the city generally takes ownership of the equipment.

Lease purchase agreements may be used for all the

same purposes and activities for which bonds or loan agreements are available. The same basic rules apply with respect to holding hearings or elections if property taxes are to be used to make the payments. There is also a "general fund" provision for lease purchase agreements comparable to that for loan agreements.

Most lease-purchase agreements contain annual appropriation language, which means only the annual payment amount, and not the total payments, must be counted against your city's constitutional debt limit.

8. Tax Increment Financing (TIF)

Tax Increment Financing (TIF) is a tool cities can use to finance certain types of infrastructure, development/redevelopment or economic development projects. Under Chapter 403 of the Iowa Code, property tax revenues generated from increased property values within a specified area can be directed to finance the costs of designated improvements made in that area.

Per Chapter 403, most property taxes levied on behalf of the city, as well as the county and school district, against new or "incremental" valuation are allocated to the city's tax increment account. The city receives these "extra" revenues under certain statutory conditions, including a requirement that the funds must be spent within the boundaries of the city's urban renewal area and must be used to repay debt of various types. The city may access the tax revenues generated by the increment or the city may choose to release some or all of this revenue back to the other taxing jurisdictions. The tax revenue generated by the "base" valuation remains with the other taxing jurisdictions.

Cities may use TIF revenues to repay debt issued to finance development activities such as land acquisition, demolition, construction of new infrastructure, or to make economic development grants or loans to private enterprise as an incentive to locate within a tax increment financing area. State law places a maximum twenty-year life on the collection of TIF revenues for most projects (ten years for housing projects).

A tax increment financing area must be located within an approved Urban Renewal Area. Chapter 403 of the Iowa Code sets forth the requirements for establishing an Urban Renewal Area. Of particular importance, an urban renewal plan must be prepared which outlines

the objectives to be accomplished and specific projects to be undertaken within the area. The urban renewal plan must be reviewed by the city's planning and zoning commission before consideration by the city council. The city must also hold a "consultation session" with the county and school district in which the urban renewal area is located before taking action on the urban renewal area. The city council must hold a public hearing on the urban renewal plan or plan amendment before considering the ordinance designating the TIF area. The urban renewal plan must be amended whenever a city proposes to undertake a project that is not already listed or specifically identified in a previously approved urban renewal plan (for example, location and estimated costs of infrastructure improvements and recipient and estimated cost of TIF rebates or other economic development agreements).

A tax increment financing area is established by the city council through adoption of a city ordinance following approval of the urban renewal plan or plan amendment. Although the city does not need to receive permission from the state, county or any other city before establishing a TIF district, the Iowa Code requires that before a city can use TIF as an incentive for a business to move from one city to another in the same county or contiguous county, the city must enter into an agreement with the other city or county or meet other conditions that relate to the moving of the business.

TIF projects can be financed through various types of debt, including general obligation debt, pure tax increment debt, internal loans between governmental funds and "rebate agreements", in which all or a portion of annual tax increment revenues are paid back to developers.

The rules and regulations governing TIF, including significant reporting and filing requirements, debt limit considerations and numerous other issues, are quite intricate and complex and should be reviewed carefully with qualified bond counsel if your city is considering establishing or amending a TIF/Urban Renewal area. The Iowa League of Cities website has a number of helpful documents and reports that explain TIF in much more detail. Additional information regarding TIF and other economic development assistance programs can be found under Chapter 11 of this *Handbook*.

9. Legal Advice

If your city is considering using any form of municipal debt discussed in this Chapter, it is very important that an experienced bond attorney is consulted very early in the process.

F. CITY PURCHASING AND BIDDING

1. Overview of Iowa Laws

Although the Iowa Code give cities considerable discretion when it comes to purchasing decisions, the following provisions of the Iowa Code apply:

- No public money may be expended except under an appropriation by the city council. An appropriation is an authorization to spend. Generally, when the budget is passed, funds are appropriated.
- Section 28E.18 of the Iowa Code encourages cities to join together with other communities and government entities when making some major purchases.
- Sections 73.1 to 73.14 of the Iowa Code relate to the preference for Iowa products. When everything else about a product and its price is the same, the state prefers your city spend its money in Iowa. This provision does not mean that you have to buy an Iowa product even if its price is lower. The council may have any number of reasons for preferring to buy from one company over another. The bottom line on making such a decision is what is best for the community, as determined by the city council.
- As an elected official, you could have a conflict of interest if you personally sell goods or provide services to the city. If you are in this situation, refer to Section 362.5 of the Iowa Code (see also Chapter 3 of this *Handbook*).
- While Chapter 26 of the Iowa Code sets out competitive bidding requirements related to construction of public improvements, and highways, streets, bridges and culverts, (discussed below), there are no state-imposed requirements for city procurement of goods, equipment, supplies or services (including consulting services).

In addition to state laws, many cities have established their own purchasing and procurement policies.

2. Public Improvement Bidding Procedures

Chapter 26 of the Iowa Code establishes two sets of construction bidding procedures applicable to cities: one set of procedures for “vertical infrastructure public improvements” (such as buildings, sanitary and storm sewers, water distribution systems, parks facilities and the like) and another for “horizontal infrastructure public improvement” (city streets, bridges and culverts).

- **Vertical Infrastructure Public Improvement Projects**

When a city constructs or reconstructs a vertical infrastructure public improvement, or uses a contractor to repair or maintain a public improvement, it is required to follow the competitive bidding procedure to procure a contractor to do the work if the estimated cost of the project exceeds the current threshold as established by the Iowa Department of Transportation (IDOT). “Public improvement” is defined as building or construction work under the control of the city. Street, bridge or culvert projects are not included under this definition but fall under the category of horizontal infrastructure (see below).

If the estimated cost of a public improvement project is less than the bid threshold, but more than a lower dollar competitive quotation threshold that varies depending on the population of the city, the city would be allowed to use the competitive quotation procedure to procure a contractor to do the work. This is a simpler, less time-consuming and less expensive process than competitive bidding.

Competitive quotation thresholds for vertical infrastructure improvement projects vary depending on city population and are subject to annual adjustment by the IDOT. The competitive quotation thresholds for vertical infrastructure projects are available on the IDOT and Iowa League of Cities websites.

If the cost of the project is less than the applicable competitive quotation threshold, or if the city is repairing or maintaining a public improvement with its own workforce, the city may contract to have the work done without following either the

competitive bidding or the competitive quotation procedure, or it may have its own workforce perform the work. In 2020, the Iowa Legislature passed legislation exempting work performed by municipal utility employees from being required to accept and award bids on projects when the work relates to existing utility infrastructure or establishing a connection to existing infrastructure.

If emergency repair of a public improvement is necessary to avoid serious loss or injury to the city, and an independent architect or engineer so certifies, the city may contract for emergency repairs without following either the competitive bidding or the competitive quotation procedure.

- **Horizontal Infrastructure Public Improvement Projects**

Chapter 314 of the Iowa Code regulates the “construction, reconstruction, improvement, repair or maintenance of highways (streets), bridges and culverts”. When a city constructs or reconstructs a street, bridge or culvert, it is required to follow the competitive bidding procedure outlined in Chapter 26 of the Iowa Code if the estimated cost of the project will exceed the competitive bidding threshold that applies to such work.

The competitive bidding threshold for street, bridge or culvert work (horizontal infrastructure) is subject to annual adjustment by the IDOT. The current thresholds for horizontal infrastructure projects are available on the IDOT and Iowa League of Cities websites.

When a city repairs or maintains a highway, bridge or culvert, it can perform that work with its own workforce, or it can engage a contractor to perform the work without following the competitive bidding procedure.

A more detailed explanation of the competitive bidding and competitive quotation processes applicable to public improvement projects, and a more detailed explanation of the competitive bidding process applicable to highway, bridge

and culvert projects, is available in the *Iowa Handbook for City Clerks /Finance Officers*. Legislation adopted in 2017 prohibits Project Labor Agreements (PLA's) on construction projects financed by local or state governments. Requirements that a bidder on a public improvement project use union labor to complete the project is prohibited. Cities may not turn down a bid because the bidder has made an agreement to use union labor to complete the project.

3. Purchasing and Procurement Tips for Cities

• Purchase Orders

Cities typically procure goods or equipment by purchase order when the goods or equipment are of a minor or routine nature and are commonly available at competitive pricing at stores or businesses in the community.

- o Whenever practical, request price quotations from a number of vendors and take advantage of discounts.
- o Keep the number of persons who make purchases by purchase order to a practical minimum.
- o Solicit sealed bids whenever you think the city can receive better quality goods or equipment at a better price by doing so.

• Solicitation of Bids

Under this procurement method, the city develops a set of bid specifications describing in detail the equipment, goods or services it desires to obtain and the qualifications which bidders must possess in order to submit a bid. This procurement method is typically used in those situations where the goods, equipment or services can be described with sufficient detail to allow bidders to put together a bid setting forth their proposed cost for goods or equipment, or their proposed fee for services.

Iowa Code Section 26.9 states contracts for public improvements must be awarded to the lowest responsive, responsible bidder. Your city's bid specifications and notice to bidders should therefore indicate that the city intends to award the contract to the "lowest responsive, responsible bidder" or words to that effect. A responsible bidder possesses the necessary

financial and technical capability to perform the work, and has the ability to complete the work as demonstrated by past performance.

The lowest dollar bid is one factor in this determination; other considerations include the business judgment of the bidder and the bidder's record for reliability in performance. In a responsive bid, the bidder agrees to do or provide everything required in the bid specifications without any conditions, qualifications or exclusions. Bids which are not responsive, or which are submitted by bidders who are not responsible, should be rejected.

When soliciting bids, the primary determining factor is quantitative. If all the bidders are responsible and all the bids are responsive, the sole remaining determining factor for determining the successful bidder should be the lowest dollar bid to provide the specified goods, equipment or services.

- o Written contracts should be used on costly items, particularly if a warranty is required. Written contracts should also be required on service contracts, particularly if performance security (bond) is required. Do not depend on oral agreements.
- o Consider joint purchasing arrangements with other entities to reduce the unit price on items. A number of private entities have been formed to promote joint bidding and purchasing on behalf of governmental entities. If governmental entities desire to directly engage in joint bidding and purchasing, it is recommended they enter into a Chapter 28E agreement.
- o Investigate pricing available through state bids and other government bulk purchasing arrangements.
- o Buy in bulk when you can, and avoid making many small purchases. Some communities buy certain articles on long-term price agreements at quantity prices with delivery in small lots as the articles are needed.

- **Procurement of Goods, Equipment and/or Services by Request for Proposals (RFP)**

The request for proposals (RFP) methodology should be used for the procurement of complex goods, equipment and/or services, where the exact goods, equipment or services to be provided cannot be described and quantified in “specifications”, but where the desired outcome can be identified in the RFP, and where individual proposers are given great latitude in coming up with a proposed solution.

Examples of goods, equipment and/or services that cities typically procure by RFP are:

- o Engineering or architectural services (for non-federally funded projects).
- o Developing, updating or amending planning documents (such as, comprehensive plan, Urban Renewal Plan, central business district revitalization plan, etc.).
- o An audit or financial examination of the city (Note: as described in Section B4 of this Chapter, the Iowa Code requires cities to use a written request for proposals if they desire to contract with or employ certified public accountants).
- o The development and implementation of financial services software.
- o The design, installation and implementation of complex control systems, such as computerized process control systems for treatment plants, building security, or building environmental and energy consumption control.

Under the RFP methodology, the cost to provide the goods, equipment and/or services is but one of several factors that can be used to make the selection decision. The RFP procurement method allows a city to use both qualitative and quantitative measurements to determine the successful proposer. While the successful proposer should be both responsive and responsible, it is not required that the city selects the proposer submitting the lowest cost proposal.

Other factors that can be used to determine the successful proposer include the experience and expertise of the proposer; the proposer’s

involvement in projects of similar scope and complexity; the proposer’s ability and availability to provide ongoing services, including maintenance, training and upgrading.

Cities that utilize the RFP process typically establish an evaluation team that carefully reviews the proposals submitted and interviews the proposers. After completing its review of proposals and interviews, the evaluation team scores the proposals, using the criteria and weighting set forth in the RFP. On that basis, the evaluation team would then make a recommendation as to which proposal is best. That recommendation would be forwarded to the body or person with authority to make the selection and award the contract to the successful proposer.

G. FINANCIAL PLANNING AND POLICIES

Your city’s approach to financial planning should not be limited to preparing and approving your annual budget. Although not required by law, it is advisable that cities take a longer-term approach to financial planning. The following are examples of longer-term financial planning and analysis activities cities can undertake:

1. Capital Improvements Program (CIP)

A CIP is a multi-year (typically five years) program for the planning, scheduling and financing of large construction, infrastructure and improvement projects, and purchasing of major pieces of equipment. The CIP should be more than a “wish list” as it should not only identify the projects and equipment needed but also designate the funding source(s) for that activity.

The CIP should be a tool for implementing your city’s goals and your comprehensive plan. The CIP should also identify future capital expenditures necessitated by anticipated changes in your city’s population, land use and infrastructure.

The CIP is an important element of your decision-making process and overall vision for your city:

- The CIP requires the systematic evaluation of all potential projects at the same point in time. It helps elected officials see the “big picture” and prioritize all projects at the same time, rather

than on an individual, stand-alone basis. It clearly identifies trade-offs that may occur as elected officials assign priorities.

- The CIP can help your city stabilize the volume of expenditures and better manage your debt structure. It can provide a mechanism for managing the repayment of debt to control fluctuations in your city's property tax levies and utility rates.
- The CIP can provide elected officials, staff and local citizens the city's overall plan for the future.
- Sharing the CIP with other local governments can promote regional cooperation.

Iowa Code Section 384.15(3) requires the council to hold a public hearing prior to adoption of the CIP. Many cities conduct such hearings at the same time as the budget public hearing.

Cities may also levy property taxes in an amount not to exceed \$0.675 per thousand dollars of assessed valuation to establish a Capital Improvements Reserve Fund for financing specified capital improvements or carrying out a specified CIP. Such a levy must be approved by the voters in a referendum (see Iowa Code Section 384.7 for details regarding this process).

2. Financial Policies

Financial policies establish guidelines pertaining to key elements such as revenues, operating expenditures, capital expenditures, reserve funds, cash management, fund balances, investments, debt management, enterprise funds, accounting, auditing and reporting.

3. Multi-year Financial Plan

A multi-year (typically 3 to 5 years) financial plan contains projections of various revenue streams and then compares those resources with the projected cost of providing current and anticipated services, projects and programs (adjusted for inflation).

4. Equipment/Asset Replacement Plan

This is typically a five- to twenty-year plan identifying the scheduled replacement of equipment, vehicles, facilities and other physical assets. Many cities incorporate their Equipment/Asset Replacement Plan into their Capital Improvements Program.

Chapter 7

Risk Management

Risk management is the process of identifying and controlling risks of all kinds – accidents, thefts, fires, lawsuits and more – for which your city could be liable. As Iowa State University Extension’s Risk Management Manual states, “As a local government official, you take risks everyday. Any action or failure to take action by you or other public officials can leave your community exposed to potentially catastrophic losses.” Risk management helps you identify loss exposures so they can be handled appropriately.

A. LOCAL GOVERNMENT LIABILITY

City governments are subject to lawsuits involving:

- Non-criminal wrongs to people or property, such as personal injuries or property damage (often referred to as “torts”).
- Actions of employees, officers, and agents acting within the scope of their employment or duties, e.g., defamation or invasion of privacy claims.
- Cities can be sued with regard to contracts with other parties.
- Cities can also be criminal defendants subject to fines or other damages.

1. Exceptions under Iowa Law

The Iowa Code contains a number of special exceptions from liability for cities (see generally Iowa Code Section 670.4). Consult with your city attorney or insurance carrier regarding specific issues. Exceptions from liability include:

- Alleged failure to place, erect, or install stop signs, traffic control devices, or other regulatory signs (Iowa Code Section 668.10 – but cities could be held liable for failure to maintain signs that have already been placed or installed).
- Failure to remove natural or unnatural accumulations of snow or ice so long as they

comply with their own policies (Iowa Code Section 668.10(2)).

- Claims in connection with the assessment or collection of taxes (Iowa Code Section 670.4).
- Claims seeking punitive damages (Iowa Code Section 670.4).
- Some claims based on acts or omissions of city officers or employees (Iowa Code Section 670.4).
- Some negligent design, specification or construction claims regarding recreational facilities (Iowa Code Section 670.4).
- Some injuries or damages arising out of a recreational activity on public property (Iowa Code Section 670.4).

2. Liability Under Federal Law

Cities can also be found liable for damages under federal laws. The most common lawsuit is the so-called “Section 1983” lawsuit under which persons may seek to enforce their constitutional rights against defendants who act under the color of state law. As a result, cities may get sued under Section 1983 for excessive and lethal force by police, racial slurs, denial of due process and so on. However, allegedly unlawful actions by city employees cannot be imputed to a city unless the city has some “policy, custom, or practice” in place. Cities therefore need to train their employees on appropriate policies. Failure to train or inadequate training on such matters that are “obvious” may itself be a policy for which the city may be held responsible.

Another Section 1983 lawsuit often involves due process claims. Section 1983 has been widely used in actions involving land use decisions, personnel actions and law enforcement activities.

3. Avoiding Litigation

Many actions taken on behalf of cities – such as disciplining employees, zoning and other land use regulatory actions, contracting for services or public improvements, issuing licenses and permits, and going into closed session – could have significant legal consequences that can expose the city, and sometimes individual elected officials or staff, to liability.

Although litigation against a city can be considered an unfortunate “fact of life” (and avoiding litigation should not be the overriding factor in council decision-making), city officials should take reasonable measures to avoid litigation. The following are some suggestions to avoid litigation (excerpted with permission from *Governing Body Handbook*, League of Kansas Municipalities):

- **Training and Education**

Some basic knowledge of the laws city officials are obliged to follow will help avoid unnecessary litigation and will place local government officials in the best possible posture to prevail if they are sued. The Iowa League of Cities and other organizations offer training and educational programs for this purpose.

- **Consistency with Federal, State and Local Laws**

Every action of the city must be consistent with the U.S. Constitution, federal statutes, the Iowa Constitution, state statutes and local ordinances.

- **Consistency with Administrative Regulations**

In many cases, a myriad of federal and state administrative regulations, which are often more complicated and demanding than the statutory law itself, also applies. These regulations have the force and effect of law and must be observed.

- **Consult with Your City Attorney and Insurance Carrier**

Your city attorney is charged with the responsibility of knowing where to find answers and counseling local officials as to their legal alternatives. You should consult with your city attorney as early as possible when you have questions about the authority of an action, the legal procedure by which an authorized act must be carried out, or the legal consequences of a proposed action. The worst time to ask an

important legal question is in the heat of a council meeting, particularly if the question could have been asked in advance of the meeting. Research is usually necessary to give a complete and accurate answer to most legal questions, and city attorneys will want to give a carefully considered answer that can be relied upon. Likewise, consult with your insurance carrier and make sure you have the recommended insurance coverage in place.

B. ACTIONS FOR EFFECTIVE RISK MANAGEMENT

Your city can take the following steps to effectively manage risk:

- Appoint an appropriate official or committee to be responsible for liability prevention activities and review loss control programs.
- Establish an employee safety committee to investigate and evaluate the cause of accidents to reduce the chance of recurrence in the future.
- Inspect, document and correct deficiencies in roads, bridges, sidewalks, road signs, playground equipment, play areas, swimming pools, bleachers, grandstands and public access areas.
- Make sure public swimming areas comply with state and federal regulations and strictly enforce safety rules.
- Conduct regular inspections and maintenance of city equipment and facilities.
- Monitor, update and enforce written personnel policies and other administrative policies and procedures to comply with current laws and judicial decisions.
- Make sure your city attorney reviews all contracts, agreements, policies and similar important documents.
- Record citizen complaints and respond appropriately.
- Maintain good, orderly records. Document safety actions taken to reduce risk.
- Increase general awareness of potential liabilities on the part of officials and employees.
- Monitor legal developments in the area of liability.

C. DEALING WITH RISK

Your city can deal with risk by either purchasing insurance or paying out damages as they are incurred. Insurance for cities, especially smaller communities, is often preferable to direct payments when a risk of loss is high or unpredictable and the potential damages are fairly considerable.

1. Insurance Policies

A city can purchase insurance policies to protect itself against the devastating effects of damage payments in many different ways. State statutes require some types of insurance, while cities purchase other types as a good business practice. Per Chapter 517A of the Iowa Code, cities may purchase liability, personal injury and property damage insurance covering all of their officers, proprietary functions and employees.

No matter what kind of policy you are considering, insurance contracts are complex documents. You should seek the advice of both competent insurance advisors and your city attorney to make sure that the coverages and limits your city select are adequate for the exposures involved.

The following is a brief list of the types of insurance policies your city might consider purchasing:

- **General Liability**

This basic insurance covers the city, its officials and employees for many types of liability. Make sure you understand that exposures are excluded in your general liability policy. Exclusions in some policies may require you to purchase separate additional insurance to cover exposures such as police, public officials or emergency medical technician liability. Be sure the purchase of such insurance does not expose the city to liability for actions that are otherwise excepted from liability. Cities should carefully consider the policy limits on the amount of liability insurance purchased. You should also review Chapter 670 of the Iowa Code regarding general liability insurance.

- **Workers' Compensation**

Your city is required to provide workers' compensation coverage for your employees. Workers' compensation provides coverage for medical expenses and lost wages in the event

of a job-related injury. A city may choose to a join a group self-insured risk-sharing program, purchase coverage from an insurance company, or self-insure workers' compensation coverage for its employees. A city may not purchase workers' compensation coverage for police officers and firefighters who are members of the Iowa Municipal Fire/Police Retirement System. The 2017 Iowa legislature made significant changes to Iowa's workers' compensation law regarding work-related injuries.

- **Property Damage**

While not required, municipalities usually purchase insurance to cover city property against the perils of fires, windstorms, vandalism, etc. This type of insurance is usually purchased on a replacement cost basis, which provides for complete recovery in the event of a loss.

- **General Commercial Automobile Liability and Physical Damage**

This insurance covers damages arising out of the use of licensed city-owned motor vehicles. If city officials or employees drive their own vehicles on city business, the city should obtain "hired and non-owned" liability coverage. Physical damage coverage provides protection for the city's own vehicles in the event of collision, glass breakage, fire, etc. The age and condition of your vehicles should be considered when purchasing physical damage coverage and higher deductibles will help lower premiums.

- **Unemployment Insurance**

Unemployment insurance is a federal program designed to pay benefits to eligible claimants during periods of unemployment when suitable work is unavailable. All governmental entities, regardless of size, number of employees or payroll, must be covered by an unemployment program.

To qualify for benefits, an employee must be totally or partially unemployed, earned wages from a covered employer, lost a job through no fault of their own, is able and available for work and must be actively seeking work. Certain city positions are not eligible for coverage including

elected officials and employees serving on a temporary basis in case of fire, storm, snow, flood or similar emergency. Volunteer firefighters are not eligible to receive unemployment benefits even if they are paid on a per-call basis.

Cities can choose to fund unemployment insurance by one of two methods:

- o Reimbursable rate – Cities are charged back the actual amount paid out to eligible claimants on a case-by-case basis.
- o Contributory rate – Cities are charged a rate similar to an insurance premium based on actual previous claims experiences.

2. Risk-Sharing Pools

Municipal risk-sharing pools enable a group of local governments to self-insure and reduce administrative costs. This practice often results in better terms and lower premiums than available from broad-based commercial companies.

The Iowa Municipalities Workers' Compensation Association (IMWCA) provides workers' compensation coverage as a self-insured risk sharing pool. IMWCA, formed in 1981 and administered by the Iowa League of Cities, provides coverage to hundreds of cities, counties and 28E organizations in Iowa.

The Iowa Communities Assurance Pool (ICAP) is another municipal risk-sharing pool. Established in 1986, ICAP offers Iowa cities and counties general liability, automobile liability and physical damage, law enforcement professional liability, property and inland marine liability coverage.

3. Contractor Certificates of Insurance

It is very important that cities require certificates of insurance before hiring contractors to perform work. Each certificate should be carefully reviewed to ensure the contractor has adequate insurance in place to cover not only the contractor's business but also the city. Generally, a contractor should be required to have limits at least equal to the city's limits of coverage for general, automobile and workers' compensation liability. If the contractor has no coverage in place, the city can be held liable for any damages arising out of the activities of the contractor while performing work for the city. Your city should not allow work to commence by a contractor

until a certificate has been issued verifying all pertinent coverage is in force.

4. Bonding for Municipal Officials

To protect your city from liability and safeguard the integrity of public funds, state law requires certain city officials to post bonds prior to taking office. Bonds are required from all officials or employees who have the authority to handle and disburse public funds, such as the city clerk, deputy clerk, treasurer, finance officer, city manager/administrator, mayor and mayor pro tem. Bonds are not required from council members (see Iowa Code Chapter 64).

Posting bond is an insurance measure that involves taking a pledge to reimburse the municipality against costs or other losses occasioned by wrongful or negligent actions when handling public funds. This requirement is known as posting bond because it is typically done by purchasing surety bond insurance. Typically, the municipality pays the premiums for its officials.

An advisable method for meeting bond requirements is the "blanket bond" which covers several or all officials and employees. Some bonds are set at specific amounts by law. Other bonds are determined by designated city officials who are given discretionary power to fix the precise amount of the required bonds.

Chapter 8

Human Resources Administration and Labor Relations

A. IMPORTANCE OF HUMAN RESOURCES ADMINISTRATION

Your city's services are provided through your employees. Employee salaries and benefits constitute a significant portion of most cities' operating budgets. Dealing with personnel is a complicated activity. Some cities assign personnel administration duties to their city manager/administrator or other staff. Larger cities may have a human resources manager and/or department. Other cities may have a personnel committee of the council.

There are far too many complex laws and regulations pertaining to human resources administration to detail in this *Handbook*. City officials responsible for human resources administration need to stay abreast of this continually changing area by availing themselves of training and educational opportunities regarding these topics.

You should consult with your city attorney to make sure you comply with the many legal requirements pertaining to public employment law. It is particularly important to seek advice from your city attorney before taking any personnel action that may negatively affect an employee or applicant for employment.

1. Chain of Command

"Chain of command" is the order in which duties and responsibilities within an organization are delegated. It specifies who reports to whom in an organization. This system of delegated authority is fundamental to the efficient and orderly operation of your city. Without chain of command, employees would end up answering to multiple bosses, resulting in considerable confusion and serious authority, morale and responsibility problems. City operations will likely function more smoothly and efficiently if chain of command is clearly understood within the entire organization.

To assure efficient and productive functioning of your city's operations, your council should define the specific authority, roles, and responsibilities of the mayor, council, city manager, and department heads in your city and review them on a periodic basis. There are no hard rules or easy solutions, but it is essential that everyone involved knows where they fit within the organization.

The chain of command in your city should be detailed by city ordinance or resolution. Your city should have an organizational chart that indicates the structure of city government based on departmental and other units and the relationship of various employee positions to one another. This chart should be included in your city's personnel policies (employee handbook) and should be available to your elected officials, employees and citizens.

2. Complying with Chain of Command

Complying with the chain of command is not always easy for elected officials. Although council members are near the top of the organizational chart, the chain of command concept restricts an individual council member's authority over individual employees.

An individual council member only has power when the council gathers as a group in public council meetings and approves specific action. An individual council member has no authority to issue orders to the city manager/administrator, a department head or any other city employee. Instead, the elected official should bring matters to the attention of the next person in the chain of command (often, the mayor or city manager/administrator if your city has that position), who will then direct the request to the appropriate employee.

An elected official may certainly inquire how a particular situation is being handled, what actions are being taken, and may offer suggestions with regard to a particular

situation. Your city policies may permit exceptions to the chain of command for certain extraordinary situations, such as reporting sexual harassment or discrimination complaints.

3. Personnel Policies

Regardless of the size of the community, every city should adopt a set of written personnel policies and procedures (sometimes referred to as the “Employee Handbook”) that establish clear rules for the workplace. They inform employees about appropriate conduct and ensure that employees are treated consistently and fairly.

They also assure that various benefits of city employment (such as vacations, sick leave, holidays, etc.) are understood. Personnel policies help communicate the city’s expectations of workers. They can also help provide legal protection to the city and the employee in the event of legal action. Once adopted, these rules become enforceable and should be adhered to by the city.

Your city attorney or human resources advisor should periodically review your personnel policies to make sure they remain consistent with current state and federal laws and judicial decisions. Your city attorney should also examine your personnel policies to assure you do not create an implied contract and thereby overly restrict your legal right to act freely with your employees.

4. Job Descriptions

Every employee position should have a written job description that sets forth the duties, qualifications, essential functions, detailed physical demands, reporting relationship and other key elements of the position. Job descriptions should be periodically reviewed to make sure they accurately reflect the current duties, responsibilities and requirements of the position. When preparing job descriptions, cities should carefully consider the requirements of the Americans with Disabilities Amendments Act (ADAAA) (see Section B6 of this chapter).

5. Workforce Planning

Workforce planning involves analyzing future personnel needs related to anticipated city activities or programs, retirements and other projected staffing changes. Workforce planning should go hand in hand with your city’s strategic and financial planning.

6. Training and Development

The people employed by your city perform complicated tasks utilizing a variety of professional skills. The skills and knowledge necessary to perform such tasks change constantly and must be updated. Staff training and professional development are essential for your city employees to perform their jobs effectively. Several city positions have mandatory training requirements or certifications, including water and waste water operators, most law enforcement positions, firefighters, Emergency Medical Services (EMS) personnel, lifeguards, and equipment operators required to have Commercial Drivers Licenses (CDL).

Employees should also be provided training on the city’s policies and programs regarding non-discrimination/non-harassment, safety/OSHA requirements, hazard communication Safety Data Sheets (SDS), blood-borne pathogen exposures, and similar subjects.

To determine what type of training is appropriate you should consider what training opportunities are available, your future workforce plans, your equipment and technology plans, career development opportunities and the type of training your employees think is necessary. As the employer, the city should retain records of all employee training in the city’s personnel files.

7. Evaluating Performance

Performance evaluation is an essential component of human resource administration. Performance appraisal is essentially a “report card” in which an employee’s job performance is evaluated according to pre-established criteria. Employees are informed as to how they have been doing and advised as to what improvements they can make to do better in the future. Information from performance evaluations is useful when making decisions regarding promotions, merit pay increases, training needs, disciplinary action and other personnel actions. Your city should maintain copies of performance appraisal in the employees’ personnel files for at least five years past the employee’s termination of employment with the city.

Typically, supervisors conduct performance appraisals of their subordinates. As an elected official, you may be personally involved in evaluating the performance of certain high-level employees, such as the city manager/administrator, city clerk or city attorney.

B. IMPORTANT LAWS REGARDING HUMAN RESOURCES ADMINISTRATION

1. At-Will Employment

Unless your city voluntarily restricts itself, your city is legally entitled to dismiss an employee for any lawful reason at any time so long as the reason is not contrary to law or public policy. This legal principle is called “at-will employment”. The at-will principle applies to all employers in Iowa, except those who have voluntarily restricted themselves through policy. The at-will principle does not apply to civil service employees or employees covered by discipline and discharge provisions in collective bargaining agreements. Your city attorney should be consulted before your city considers taking any action that could potentially restrict your legal right of at-will employment.

- **Progressive Discipline**

The practice known as progressive discipline is an example of a policy by which a city could voluntarily restrict its at-will employment rights. A progressive discipline policy that mandates disciplinary actions with increasing levels of severity strictly based on the number of employee violations and the seriousness of the offense could be regarded as voluntarily restricting your legal ability to act freely with your employees. If you decide to use a progressive discipline policy in your city, you should reserve your right to discipline an at-will employee with any type of discipline at your discretion.

2. Civil Service

Civil service laws set forth in Chapter 400 of the Iowa Code apply to appointing, promoting or disciplining certain eligible employees for cities in certain classifications:

- For cities with populations between 8,000 and 15,000 according to the 1980 census, civil service requirements apply to members of the police and fire departments.
- In cities with more than 15,000 population per the 1980 census, all full-time appointive officers are covered by civil service, except city clerks, deputy city clerks, city attorneys, city managers/administrators, assessors, treasurers, auditors,

professional city engineers, health officers, department and assistant department heads, assistant fire and police chiefs in departments of more than 250 members, administrative assistants, principal secretaries of city managers/administrators, employees of boards and commissions, and employees compensated by non-city revenue (Iowa Code Section 400.6).

Assuring compliance with civil service requirements can be rather complex. Cities are advised to seek advice from legal or human resource experts if there is an employment situation involving civil service.

3. Veteran’s Preference

Iowa Code Chapter 35C requires that military veterans of qualified wars and service shall receive a preference “in appointment and employment over other applicants of no greater qualification”. If a veteran can perform the duties and is of good moral character, then the city shall appoint that veteran to the position when there are no other applicants with greater qualifications. The state law has a fairly broad definition of individuals considered veterans. This law also requires all open positions to have notice posted in a manner similar to agendas at least ten days prior to any application deadline.

Veterans also receive certain protections with respect to termination of employment. Iowa Code Section 35C.6 states that a veteran shall not be removed from a position “except for incompetency or misconduct shown after a hearing, upon due notice, upon stated charges, and with the right of such employee or appointee to a review by a writ of certiorari or at such person’s election, to judicial review...”

For those cities under Civil Service, veterans also receive preference points pursuant to Chapter 400 of the Iowa Code. Your city attorney or human resources expert should be contacted if you need assistance complying with Veteran’s Preference.

4. The Fair Labor Standards Act (FLSA)

The Fair Labor Standards Act (FLSA) is a federal law that sets minimum wage, overtime pay, compensatory time off, recordkeeping, hours worked and child labor standards for employees who are covered by the law. The state of Iowa also has a wage and hour law that applies to cities.

Not all city employees are covered by FLSA. Employees not covered by FLSA include elected officials and their personal staffs, policy-making appointees, legal advisors, bona fide volunteers, independent contractors and certain trainees.

Other city employees are covered by FLSA but may be exempted from specific provisions of the Act. For example, executive, administrative, and professional employees who meet the FLSA guidelines are exempt from the minimum wage and overtime standards of the Act, but are covered by the recordkeeping requirements.

FLSA rules governing exemptions, overtime, volunteers, special regulations relating to police officers and firefighters, and many other issues are detailed and complex. If you have questions about FLSA, you should contact your city attorney or human resources director. Questions can also be directed to the Des Moines office of the Wage and Hour Division of the U.S. Department of Labor.

5. Civil Rights

- **Federal Civil Rights Act**

The federal Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, sex, religion or national origin in any program receiving federal financial assistance. Under the Act it is unlawful to discriminate against a person with regard to hiring, firing, compensation, or the terms, conditions, or privileges of employment because of the person's race, color, religion, sex or national origin. It is also unlawful to limit, segregate or classify employees or job applicants, based on considerations of race, color, religion, sex (including pregnancy, sexual orientation and gender identity) or national origin, in a way that deprives anyone of employment opportunities or that otherwise adversely affects the status of an employee. Sexual, racial, religious or national origin harassment are all considered forms of discrimination under this law.

- **Iowa Civil Rights Act**

Under Chapter 216 of the Iowa Code it is an unfair or discriminatory practice for an employer to refuse to hire, accept, register, classify or refer for employment, discharge an employee, or otherwise discriminate in employment against

an applicant or employee because of age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion, disability (mental or physical) or retaliation unless based upon the nature of the occupation.

Chapter 216 also prohibits any employer from discriminating against an employee for the reasons listed above by paying wages at a rate less than the rate paid to other employees who are employed in the same establishment for equal work on jobs, as defined by the law. This law is not applicable to employers with less than four employees.

Complaints under this chapter can be filed with the Iowa Civil Rights Commission.

6. The Americans with Disabilities Act Amendments Act (ADAAA)

The Americans with Disabilities Act Amendments Act of 2008 (ADAAA) amended the Americans with Disabilities Act of 1990 (ADA). The ADAAA makes it unlawful to discriminate in employment against a qualified individual with a disability or a perceived disability. The ADAAA also prohibits discrimination in state and local government programs and activities, including job discrimination by all local government, regardless of the number of employees.

The ADAAA makes it unlawful to discriminate in all employment practices including recruitment, hiring, promotion, training, layoff, pay, firing, job assignments, leave, benefits and all other employment related activities. The ADAAA prohibits an employer from retaliating against an applicant or employee for asserting his rights under the ADAAA. The Act also makes it unlawful to discriminate against an applicant or employee, whether disabled or not, because of the individual's family, business, social or other relationship or association with an individual with a disability.

The determination of "disability" under ADAAA frequently changes as a result of court cases. If you are dealing with a potential case involving ADAAA, consult your city attorney to make sure you are complying with the most recent legal decisions.

7. The Family and Medical Leave Act of 1993 (FMLA)

The Family and Medical Leave Act of 1993 (FMLA) gives eligible employees the right to take unpaid leave for up to 12 work weeks in any 12 month period for the birth, adoption or foster care of a child (within one year of the birth or placement); if the employee is needed to care for the employee's spouse, child or parent with a serious health condition; or if the employee's own serious health condition makes the employee unable to perform the essential functions of his or her job; for any qualifying exigency arising out of the fact that the employee's spouse, child, or parent is on, or has been notified of, an impending call to active duty with the armed forces; or an employee may be eligible for up to a combined total of 26 workweeks of leave during a twelve-month period to care for a sick or injured spouse, child, or parent of the employee who is a member of the armed forces.

The choice of the twelve-month period for determining FMLA leave should be carefully made to prevent overlapping. A city should establish a policy providing that an employee's earned paid leave will run concurrently with any unpaid leave. These policies should be clearly outlined in your city's personnel policies. Do not wait until you have a potential FMLA situation to establish your policy.

To be eligible for FMLA leave, an employee must have worked for the employer: (1) for at least twelve months and (2) for at least 1,250 hours during twelve months preceding the start of the leave and (3) be employed at a worksite where the employer employs at least 50 employees within a 75-mile radius. The twelve months an employee must have been employed by the employer need not be consecutive. If an employee is maintained on the payroll for any part of a week, the week counts as a week of employment.

All employers are required to post a notice explaining the Act's provisions, regardless of the number of city employees. The regulations also require employers to include information about FMLA entitlements and employee obligations in any written materials they give to employees about benefit and leave rights.

Assuring compliance with FMLA requirements can be quite complex. Cities are advised to seek advice from legal or human resource experts if you have a situation involving FMLA.

8. Occupational Safety and Health Act (OSHA)

The Occupational Health and Safety Act (OSHA) was enacted in 1970 to enhance workplace safety. OSHA applies to Iowa local governments pursuant to Iowa Code Section 88.3(5). All cities are required to maintain annual logs of injuries and accidents occurring at the workplace. This information must be maintained at the workplace for five years. The law also establishes certain training, reporting, record keeping and posting requirements, as well as hazard communication and training ("Right to Know").

Cities should contact their workers' compensation carrier for assistance in complying with OSHA requirements and developing and maintaining effective employee safety, training and record-keeping programs.

9. Consolidated Omnibus Budget Reconciliation Act (COBRA)

Under COBRA, employees have the right to pay for continuation of health insurance whenever a change in their employment status results in a loss of coverage. The only exception is for employees discharged for gross misconduct. Cities with fewer than 20 employees are covered by applicable state law.

10. Military Leave

Two state laws govern leaves of absence for military service of city employees. Iowa Code Section 29A.28 requires cities to grant a leave of absence to employees for state or federal military service without loss of pay for their first thirty days of leave. Iowa Code Section 29A.43 provides that an employee may not be discriminated against because of military obligations. Employers are also required to comply with the federal Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) which governs re-employment rights after military service and protects against discrimination based on military service or training.

11. Immigration Reform and Control Act of 1986 (IRCA)

The Immigration Reform and Control Act of 1986 requires that employers verify within three business days after being hired that employees have the legal right to work in the United States. This verification is performed by completing the official I-9 form. This form details what is required and the information to be documented by the employer.

12. Drug Free Workplace Act (DFWA)

The Drug Free Workplace Act (DFWA) requires city governments receiving federal funds to make a good faith effort at maintaining a drug free workplace. It requires that city employees be notified in writing of the requirements of the Act. Cities must also adopt a policy against drug and alcohol use in the workplace and possession or distribution of illegal drugs.

13. Health Insurance Portability and Accountability Act of 1996 (HIPAA)

HIPAA is a very complex and lengthy law concerning the handling of health care information by health plans, certain health care providers, health care clearinghouses and entities that do work for them.

A city is likely to be subject to HIPAA if it maintains an onsite facility or other health care provider program. If so, the city must ensure that the facility or program complies with HIPAA rules when conducting certain transactions electronically. The definition of a health care provider includes any entity that in the normal course of business furnishes, bills or is paid for health care related services.

Most group health plans sponsored by cities are subject to HIPAA rules. The compliance requirement is especially significant for cities that sponsor a self-insured group health plan that covers 50 or more participants or that use a third-party administrator, because the city is usually responsible for administering the plan. Your city may be required to adopt HIPAA administrative policies and procedures, provide notification to participants, adopt certain plan documents, and seek compliance to HIPAA rules by business associates.

14. Affordable Care Act of 2010 (ACA)

The Affordable Care Act of 2010 (ACA) affects a variety of employee-provided healthcare insurance programs and benefits. Generally, employers with 50 or more employees are required to provide health care coverage to those employees working 30 or more hours per week. The health care coverage must be affordable and meet certain minimum standards.

The ACA is very complex and raises innumerable issues for employers. Your city should carefully monitor changes to the ACA and keep abreast of new developments to assess their impact on your city's health insurance program. For more information, see the official healthcare reform website at www.healthcare.gov.

15. Omnibus Transportation Employee Testing Act of 1991

This federal law requires alcohol and drug testing of safety-sensitive employees in the motor carrier, mass transit and related industries. The Federal Motor Carrier Administration (FMCSA) created the Commercial Driver's License Drug and Alcohol Clearinghouse (Clearinghouse). The Clearinghouse has regulations for different parties in the testing process, including the employer and driver. It is important that city officials understand the requirements of the FMCSA. Generally, employees with Commercial Drivers Licenses (CDL) who operate vehicles in excess of 26,001 pounds or carry 16 or more passengers are subject to this law. (Fire department employees are exempt under this law.) Eligible employees are subject to a variety of requirements including pre-employment and on-the-job random drug and alcohol testing. Employees and their supervisors are also required to be trained in alcohol/drug misuse prevention and reasonable suspicion of misuse.

16. Age Discrimination in Employment Act (ADEA)

This federal law prohibits discrimination against individuals 40 years of age or older in regard to hiring, discharging, classifying, advertising or of employment. Development of "early retirement option" programs and related programs should be carefully evaluated by your city attorney to assure compliance with ADEA.

17. Nepotism

Nepotism for city officials means appointing or hiring a person related by blood or marriage to a job financed by public funds (see Chapter 3 of this *Handbook*).

18. Convicted Public Employee Wage Reimbursement

Section 91A.4 of the Iowa Code requires a public employee who is placed on paid leave of absence due to criminal charges classified as a class "D" felony or greater to pay the public employer a civil penalty equal to the cash wages or severance payments received by the employee that result from the termination of the employee's employment contract, if the employee was convicted and terminated.

19. Youth Employment

The Fair Labor Standards Act restricts the hours of work for persons under age 16. The nature of occupations and type of work is restricted for those younger than 18 years of age. Federal and state child labor laws prohibit employment by minors in jobs and conditions detrimental to their health or well-being. There are also requirements for record-keeping related to youth employment. Consult your city attorney or a human resources specialist before hiring youth and assigning them to various tasks to make sure you are complying with applicable laws.

C. SALARY AND BENEFITS DETERMINATION AND ADMINISTRATION

As an elected official, you have responsibility for setting salary and benefits levels for your city's employees. To attract and retain competent staff, salaries and benefits should be set at levels that are:

- Competitive with the relevant labor market for each position.
- Fair when compared to other jobs within your city government, especially considering the relative position of a given job on the city organizational chart.
- Fiscally responsible considering your budgetary situation.
- Consistent with your city's personnel and organizational philosophy.

Employee benefits can be either mandatory or voluntary. Mandatory benefits are required by federal or state law and include workers' compensation, unemployment coverage, certain leave of absence provisions, and retirement contributions for eligible employees (FICA, IPERS, police/fire pension systems for certain cities). Voluntary benefits are discretionary with the city and include sick leave, vacations, holidays, certain forms of insurance, employee assistance programs, educational reimbursement programs, and similar benefits.

Your city's salary and benefits administration is typically handled by a staff member such as the city manager/administrator, human resources director or city clerk. In some smaller cities, the mayor may have this responsibility.

1. IPERS

The Iowa Public Employees' Retirement Program (IPERS) was established by the Iowa Legislature in 1953 and

covers most city employees except:

- Part-time elected officials and elected officials paid on a fee basis unless they specifically ask not to be covered.
- Police officers and firefighters covered by the Municipal Fire and Police Retirement System of Iowa (MFPRSI) (see Section 2 below).
- Temporary employees who work less than six months or on an irregular, seasonal or on-call basis.
- City managers or administrators who choose to enroll in an alternative pension system per Iowa Code Chapter 97B.

Payments into the IPERS system are shared between the employer (city) and the employee. IPERS sets the contribution rates annually.

2. Municipal Fire and Police Retirement System of Iowa (MFPRI)

The Municipal Fire and Police Retirement System (MFPRI) was established by the Iowa Legislature in 1990 as a statewide retirement program for police officers and firefighters from cities that met certain criteria or who voluntarily elect to participate in MFPRSI. Iowa Code Chapter 411 governs MFPRSI; accordingly, this system is frequently referred to as the "411 System".

The contribution rate structure is set by the Iowa Code. The employee contribution rate is set at 9.4% of earnable compensation, while the employer (city) contribution rate is determined on an annual basis following an actuarial valuation of the system, with a minimum employer contribution rate set at 17% of the employee's earnable compensation.

D. LABOR RELATIONS

The term "labor relations" refers to interactions between management and employees, especially workers represented by labor unions. This section of the *Handbook* will present some of the basic elements regarding labor relations. Should labor relations issues arise in your city, you should consult your city attorney or work with an outside labor consultant.

1. Background

In 1975, the Iowa General Assembly recognized the right of public employees to organize, join, and participate in the activities of labor organizations. Unions are now fairly common in city governments in Iowa. Chapter 20 of the

Iowa Code shapes the relationship between cities and unions. The 2017 Iowa Legislature enacted significant changes to the public employment collective bargaining system under Chapter 20.

2. Organizing Campaigns

The process by which a union seeks to represent a group of employees at a given workplace is called “organizing”. In the end, the employees will vote to determine whether they will be represented by a union.

You may not become aware of an organizing campaign among your employees until they ask for an election. Once you learn that an effort to unionize your employees is underway, you should contact your city attorney or an outside labor consultant immediately.

As an elected official, you are considered “management” and have certain rights under Chapter 20 with respect to the organizing process. However, such rights are restricted. If you or the city does anything that violates the employees’ right to organize, you may be charged with a prohibited labor practice complaint.

3. Unit Determination

Questions of representation and appropriateness of bargaining units are handled by the Iowa Public Employment Relations Board (PERB) upon petition by the employer, employee group or labor organization. The content and description of the bargaining unit are very important. A poorly considered bargaining unit description may lead to future problems and litigation.

The 2017 legislative changes to Chapter 20 significantly altered the requirements and procedures pertaining to the bargaining unit certification, retention and re-certification. Consult with your city attorney or human resources consultant whenever you have an issue involving unit determination.

4. Collective Bargaining

Once employees establish a union under Chapter 20 of the Iowa Code, the city has a legal obligation to enter into collective bargaining with that union. Collective bargaining is the process of negotiating certain specific terms and conditions of employment with a union. Collective bargaining includes the mutual obligation of public employees and their employers to meet at reasonable times and bargain in good faith. This obligation does not compel either party to agree to a proposal or make concessions.

Before you start the collective bargaining process, you should carefully review Chapter 20. You must negotiate in good faith with respect to mandatory subjects of bargaining set out in Section 20.9. The city and the union may mutually agree to negotiate other issues that are not prohibited subjects of bargaining (called “permissive” subjects of bargaining).

Upon completion of negotiations, the final written agreement must be signed by both parties and approved by the union members and city council before it becomes effective.

5. When Bargaining Breaks Down

When management and labor cannot reach an agreement during collective bargaining, they are said to be at an “impasse”. PERB is responsible for adjudicating and conciliating employment-related disputes between cities and employee labor organizations. Section 20.12 of the Iowa Code expressly prohibits strikes by public employees.

If you have a bargaining impasse, Chapter 20 provides the following process:

- PERB will assign a mediator to help both sides communicate with one another.
- If mediation does not lead to an agreement, the parties will select an arbitrator pursuant to the terms of the applicable labor agreement to conduct a binding arbitration. The result of the binding arbitration is legally enforceable and will eliminate the impasse.

Under the legislation adopted in 2017, only collective bargaining units with a majority of members who are “public safety” employees may negotiate certain issues specified under Section 20.9 of the Iowa Code – wages, hours, insurance, holidays, vacations, leaves of absence, supplemental pay, seniority procedures for staff reductions, among other items. “Public safety” employees in this context are defined as police officers or marshals of a paid police department and permanent or full-time firefighters of a paid fire department.

For non-public safety bargaining units, the provisions of Chapter 20 provide that collective bargaining negotiations may only involve base wages and other mutually agreed upon matters. Non-public safety bargaining units may not negotiate insurance, leaves of absence for political activity, supplemental pay, transfer

procedures, procedures for staff reductions, release time, sub-contracting for public services, grievance procedures, wage increases, employment benefits or other employment advantages based on seniority. The term of collective bargaining agreements may not exceed five years.

6. Prohibited Practices

Certain actions on the part of an employer, employee group or labor organization are prohibited by Chapter 20. These prohibited practices are intended to protect the rights of the parties and promote cooperation and harmonious relations. PERB has authority to prohibit an unfair labor practice and penalize parties found guilty of such an act.

7. Suggestions for Working with Unions

- Everyone involved in the process (mayor, council members, department heads, supervisors, city attorney, city manager/administrator, etc.) should carefully read Chapter 20 of the Iowa Code.
- All labor agreements should be prepared by a professional experienced in labor contract negotiations.
- Do not feel intimidated or overwhelmed that employees have formed collective bargaining units. Chapter 20 defines the rights of management. The collective bargaining process can yield some positive results.
- All city employees should be advised about collective bargaining laws and process. Your department heads and supervisors should read, understand and abide by the provisions of your city's agreements.
- Keep the channels of communication open at all times between the city and the bargaining unit representatives. Your city may be able to avoid disputes by keeping the representative regularly informed.
- Read the bargaining agreement before taking actions that will affect employees in the bargaining unit.
- Consult your city attorney or human resources professional before taking any action or making any decisions involving labor relations, including grievances.

Chapter 9

Municipal Services

A. PUBLIC SAFETY

1. Police Protection

The Iowa Supreme Court has ruled that a city has “an obligation to make arrangements for its own police services.” The Supreme Court further stated that while the mayor can appoint a chief of police subject to council approval, the “city council, rather than the mayor, bore the duty to provide police protection.” This decision clearly states that “police protection is one of the basic municipal services the city must provide to its residents to justify its existence under Chapter 368,” and “the manner in which police services are to be provided to a city’s residents is left to the judgment of the city council.”

Cities may establish and maintain their own police departments or contract for police protection through your county sheriff’s department, a nearby city police department, or a joint law enforcement district.

The police can play many different roles in your community. Police officers engage in crime investigation and prevention, preserve the peace, regulate other conduct (through licensing, inspection and ordinance enforcement), supervise traffic, and provide general assistance and information to your residents.

To be competent in all their different roles, police officers must be well trained. All law enforcement officers regularly employed by your city must meet the requirements outlined in Iowa Code Chapter 80B and Iowa Administrative Code Rule 501-2.1. Police officers must be trained and certified by the Iowa Law Enforcement Academy (or similar approved police academy in the state or in other states). Under certain conditions, an individual who meets specific requirements may attend the ILEA’s short law enforcement certificate course when sponsored by the city and the person is to be hired as a police officer within eighteen months.

Cities frequently hire applicants who do not meet the state training and certification requirements at the time they are hired. Cities will often agree to pay for the individual’s training, including tuition, wages during training, and related expenses (mileage, food and lodging). Cities can enter into a written agreement with the employee providing that in return for the city covering the training expenses, the employee will reimburse the city for those costs if the employee fails to successfully complete the training or voluntarily resigns as a police officer within a specified period of time, typically four years. The rate of reimbursement is usually based on a sliding scale over the term of the agreement.

Some cities use reserve police officers. A reserve officer is a volunteer who is a sworn member of the police department. Reserve officers have full police powers, can make arrests, investigate crimes and enforce traffic laws. The reserve officer must work under the supervision of a regular police officer. Reserve officers can carry firearms if they have satisfactorily completed the appropriate course required for regular police officers. Reserve officers must meet standards and requirements in accordance with the Iowa Code. Reserve officers must also meet certain minimum training requirements.

Your city is not required to have its own detention facilities (jail), but may choose to contract with the county to keep prisoners in the county jail. Your city may provide its own police communication/dispatch services or contract with the county, a regional agency or another city for such services.

The enforcement responsibilities of the police department may sometimes trigger complaints from the public. Most police departments have a formal complaint review process to ensure that complaints are investigated fairly and that records of complaint resolutions are available if

the complainant is not satisfied with the agency review. By referring complaints to a departmental complaint review process, elected officials can avoid taking sides in an issue while still responding in a constructive manner to the complainant. This process also helps elected officials focus on policy concerns rather than the specific elements of police actions.

2. Fire Prevention and Suppression

Under state law, cities must provide fire protection (suppression) services and may perform a number of activities to prevent fires from occurring (see Iowa Code Section 364.16). Cities have a variety of ways to comply with this requirement. Most cities have a city fire department established by ordinance. For those cities, the ordinance should describe the duties of the fire department, its personnel, and chief and how the chief is to be selected.

Other options cities have for providing fire protection services include contracting with a nearby city or township or private or nonprofit fire department. Cities can also become part of a regional intergovernmental agency. A 28E agreement (see Chapter 12 of this *Handbook*) should be adopted by the city council if a city contracts for these services. These agreements should identify the services to be provided, areas to be served, storage and maintenance of equipment and how costs and fees are to be determined and distributed. These agreements should be reviewed on a regular basis.

Many cities provide fire protection services for townships located outside the corporate limits of the city. If a city is providing such service for a township, a 28E agreement as described above is also needed and should be reviewed on a regular basis.

There are no laws that define the level or type of service provided by the city to meet its obligation for fire protection. Additional fire department activities may include emergency medical services, rescue services, extrication, storm watch and hazardous materials spill response. If those services are provided, your fire department must meet specific state or federal training and equipment requirements for that service.

Most of Iowa's cities rely on volunteers to staff their fire departments. In larger cities, full-time career personnel or a combination of career and volunteer personnel

staff the fire department. Regardless of their pay status, all members of a fire department are required to meet certain minimum training standards.

Councils may establish fire districts in parts of their cities in which certain types of building construction, such as "fire walls", are required. Downtown business areas are often designated as fire districts because buildings are usually close together. Cities may adopt codes that require certain fire protection measures such as automatic fire sprinkler systems or fire alarms. Cities may also establish regulations governing flammables, combustibles and explosives, but such regulations must at a minimum comply with rules issued by the state fire marshal (see Iowa Code Section 364.16).

3. Emergency Medical Services (EMS)

Although not required by state law, many cities provide emergency medical services (EMS) to their citizens either through their fire department or through a separate ambulance/EMS agency. Emergency medical technicians (EMT's) often provide emergency medical care to city residents.

Some cities own their own hospital or run their own ambulance service. These special services must fully comply with state laws governing emergency and other medical treatment. Most cities attempt to finance these services through user fees.

Most communities have emergency 911 systems, which significantly reduce the response time for police, fire and EMS services to a given event. Emergency 911 services can be funded by a surcharge on phone bills.

4. Intergovernmental Cooperation

Cooperation among local governments for police, fire and emergency services is common in Iowa. Most cities on their own do not have the staffing or equipment to handle the largest fires or other major emergencies that can occur. Almost all cities participate in mutual aid agreements, usually on a countywide or regional basis, which provide for response to and from neighboring communities in case of major events and emergencies. Mutual aid agreements must be in writing and meet the requirements of Chapter 28E of the Iowa Code. (See Chapter 12 of this *Handbook*).

Many cities enter into contracts or agreements to provide police, fire and/or emergency services to townships or smaller communities outside their corporate boundaries. If your city provides such services to other entities, you are required to have a written contract that complies with Chapter 28E of the Iowa Code. These contracts should provide a fair and equitable cost share for services. Sharing services and joint purchasing is a growing trend in Iowa. Many cities join together to conduct training, purchase and share equipment, and perform other cooperative functions. This can be a cost-effective strategy to provide levels of service not possible for an individual city.

A database of 28E agreements is available at the Iowa Secretary of State website. The Iowa League of Cities also has a Collaboration Report available on its website.

5. Animal Control

As a city official, you will most likely receive various types of complaints about animals. Your city can enact an animal control ordinance prohibiting dogs from running at large or causing nuisances. Your city may also enact ordinances governing cats, farm animals and exotic pets (see Iowa Code Chapter 351).

Your city can also adopt ordinances pertaining to vicious or dangerous animals inside the city limits. Vicious animals are usually defined as animals that have attacked or bitten a person or other animal without provocation or who have exhibited vicious behavior. Some cities have adopted ordinances identifying certain breeds of dogs as “vicious” and prohibiting them within the city. Issues involving breed-specific ordinances are very complex and may result in legal challenges. If you are considering such an ordinance, consult your city attorney to make sure your proposed ordinance meets current statutory and legal requirements.

Dangerous animal ordinances typically address the issue of ownership of non-domesticated animals that are not naturally tame or gentle, and are capable of killing, inflicting serious injury or causing disease. Dangerous animal ordinances will typically list specific animals that are deemed to be dangerous (such as lions, bears, wolves, certain types of poisonous snakes, etc.) and prohibit them from being kept inside city limits.

Enforcement is the most difficult part of controlling animals in your city. Some cities have their own animal control division, while others assign this task to a particular city department. Other cities contract for this service with a local animal shelter, the county sheriff or another city.

6. Emergency Management and Homeland Security

Cities are a very important component of the emergency management and homeland security structure in the state of Iowa. By state law, every city is a member of the Emergency Management Agency (EMA) of the county in which they are located. The mayor, or his or her representative, is automatically a member of the EMA Board. Chapter 29C of the Iowa Code requires county EMAs to provide direction for emergency management planning, administration, coordination, training and support for local governments and their departments. The commission hires an emergency management coordinator to carry out these activities and coordinate efforts in the event of a disaster. Your city should be actively involved in the activities of your county EMA.

Before a disaster strikes, your city is well advised to:

- Participate in EMA meetings.
- Assure communication and coordination between the county EMA and your city law enforcement, fire department and public works personnel. Make sure all city departments or agencies that could act as first responders (such as police, fire, ambulance, public works, etc.), have the appropriate equipment and training to operate in emergency situations. These agencies must also meet federal emergency communications requirements.
- Make sure emergency plans are in place, up-to-date, and periodically reviewed and exercised.
- The federal National Incident Management System (NIMS) is intended to provide a framework for local, state and federal governments to work together to respond to any domestic hazard, whether a natural disaster or terror incident. To be eligible for certain federal emergency preparedness funding, your city must comply with NIMS. To be in compliance, NIMS requires updated plans and participation by designated city officials in specified training and exercises. Check with your county EMA coordinator or

local public safety personnel to identify those city officials required to have NIMS training and certification to ensure compliance with NIMS and other requirements. You should also designate and train a city official as your Public Information Officer (PIO) to ensure appropriate and consistent messages are being communicated to the public during an emergency.

- Your city may be required to participate in the National Flood Insurance Program (NFIP) and adopt flood plain zoning regulations to be eligible for federal flood disaster assistance. The Iowa Code also requires all cities with flood hazards within their boundaries to participate in the NFIP.
- Review local mutual aid agreements.
- Decide whether your city should become a member of the Iowa Mutual Aid Compact (IMAC). IMAC is a voluntary program that allows one political subdivision to assist another political subdivision in a disaster. Political subdivisions must be signatories of the compact to implement assistance through IMAC. Because the IMAC system is statewide, it may provide options for assistance in addition to existing local mutual aid agreements.
- It is recommended that all cities, regardless of size, develop and maintain an emergency operations plan. An excellent guide is the Basic Emergency Operations Planning – Emergency Operations Basic Plan Template, which can be found on the Federal Emergency Management Agency (FEMA) website.

After a disaster strikes your city must act quickly and decisively:

- In the first stages of recovery, local officials should work with your county EMA coordinator and local public safety personnel. If the event is beyond your city's capacity to effectively respond, your city may want to make a local proclamation of emergency to access necessary resources from outside your jurisdiction. Your county EMA coordinator can assist with the process of requesting state assistance. To receive federal disaster assistance, the governor must request a presidential disaster declaration.
- Use your Public Information Officer to keep local officials, the media, the public and other governmental jurisdictions informed about the

status and progress of the event.

- Marshal all local resources – city employees, volunteers, businesses, neighboring jurisdictions, military assistance, Iowa Homeland Security and Emergency Management Division, Federal Emergency Management Agency (FEMA) personnel, and private relief agencies. Develop a realistic, broad spectrum, long-term recovery plan involving all appropriate agencies and departments.
- Develop a program for document recovery.
- Keep detailed records (including personnel hours) because your city may be eligible for FEMA reimbursement for some of the costs you incur in disaster recovery. Without such detailed records, FEMA may not provide reimbursement to the city.

B. PUBLIC WORKS

Public works refers to a variety of key services and infrastructure provided by your city. The functions described below are typically those considered as “public works”.

1. Streets and Alleys

• General Responsibility

Iowa Code Section 364.12 imposes on cities the responsibility for keeping all public grounds, including streets, sidewalks, alleys, bridges and a number of other public properties, “in repair, and free of nuisance.” Your city has both a safety and aesthetic interest in keeping roads, signs and streetlights in good repair and free from hazards. City services relating to street maintenance include repair, grading, construction, resurfacing, drainage, cleaning, snow/ice removal, dust control, signing, street lighting, painting traffic lines and planting and caring for trees located in the city right-of-way.

• Financing

Construction, repair and maintenance of city streets may be financed from general fund revenues, road use fund, general obligation bonds, and, in certain circumstances, local option sales taxes and special assessments.

State highways that pass through your city are usually operated with some degree of joint

jurisdiction between your city and the Iowa Department of Transportation (IDOT). The responsibilities of each party should be defined in a maintenance agreement between the city and IDOT.

Certain designated major roads in your city may be eligible for federal assistance. Contact your regional planning commission or council of governments to learn which streets in your city may be eligible and the process for applying for such funds.

- **Joint Projects**

Joint governmental projects to improve streets or other public improvements (such as between your city and the county or an adjacent city) are governed by Chapter 28E of the Iowa Code (see Chapter 12 of this *Handbook*). Joint projects between your city and the IDOT are subject to applicable IDOT requirements and procedures as well as any agreements between the city and IDOT that may apply.

- **Complete Streets Concept**

Complete streets refers to the design and operation of streets so that they are safe, comfortable and convenient for all users, including pedestrians, bicyclists, buses as well as motorists.

- **Street Trees**

Your city is responsible for the removal of diseased trees or dead wood from publicly-owned property or in the public street rights-of-way (typically, the area between the curb and sidewalk). The cost of these activities cannot be assessed to adjoining property owners. Per Iowa Code Section 364.12(c), cities may require by ordinance property owners to maintain trees that are in the right-of-way.

- **Street and Alley Vacations**

Iowa Code Section 354.23 allows a city to vacate all or part of a public street or alley if the city council determines there is no benefit to the public. In some cities, the planning and zoning commission may be required to review and make a recommendation to the city council on such

matters. Once vacated, the city may sell the vacated property. The process for vacating and/or selling streets and alleys is rather complex and involves a number of procedural actions that must take place. Accordingly, you should seek the assistance of your city attorney to assure compliance with all the requirements and procedures. (See also Chapter 12 of this *Handbook* regarding the sale of streets and alleys and other city property.)

2. Bridges

Cities are required to periodically inspect bridges located in the city limits. Most state highway bridges are inspected by the IDOT through its inspection program. Repairs and maintenance of bridges and culverts may be financed the same as other street projects.

3. Traffic Safety

- **Traffic Control Devices**

State law authorizes cities to install traffic control devices, such as stop signs or traffic signals, for use on city streets. The type and placement of such devices should conform to the standards set forth in The Manual on Uniform Traffic Control issued by the Federal Highway Administration (FHWA).

On highways that are not primary highway extensions, cities have the responsibility to furnish, erect and maintain traffic information and regulatory signs (e.g., speed limit and no parking signs). Traffic signs on primary highway extensions are regulated and installed by the IDOT.

- **Streetlights**

Streetlights provide traffic and general nighttime safety. Cities differ regarding their choice and application of street lighting systems. State law requires burnt out mercury vapor streetlights to be replaced with sodium vapor bulbs. LED bulbs may also be used.

4. Public Sidewalks

The installation and maintenance of sidewalks in the public right-of-way is a challenging issue for many cities. Your city is ultimately responsible for the care, supervision and control of public sidewalks. The

Iowa Supreme Court has ruled that cities have a legal responsibility to ensure that public sidewalks are properly maintained.

The Iowa Code in Section 364.12(2) allows cities to adopt ordinances to make an adjacent property owner responsible for keeping the sidewalk safe and in a hazard-free condition, including the removal of snow, ice and other accumulations from the public sidewalk and repairing defective sidewalks. However, the city has a responsibility to enforce applicable ordinances and make sure required work is performed.

City councils frequently confront the following issues regarding sidewalks:

- Repairing and maintaining existing sidewalks.
- Filling in the gaps where sidewalks are missing in developed areas.
- Requiring sidewalks in new developments.
- Requiring sidewalks in existing developed areas that do not have sidewalks.
- Ensuring sidewalks comply with federal Americans with Disability Amendment Act (ADAA) requirements.
- Determining allocation of costs for sidewalks between property owners and the city.

Cities have used many different approaches for implementing sidewalk programs and financing sidewalk projects. Construction can be financed in whole or in part by general revenues, general obligation bonds or special assessments.

5. Other Right-of-Way Responsibilities

Cities may require property owners to maintain the right-of-way (typically the area between the curb and the sidewalk) adjacent to their property. The city should adopt an ordinance that details this requirement and gives the city authority to enforce its provisions. In addition to maintaining public sidewalks as described above, these types of ordinances typically require the property owner to keep the public right-of-way safe and in a hazard-free condition, which includes mowing the area between the sidewalk and the curb.

6. Off-Street Parking Facilities

Cities may finance off-street parking facilities with general obligation bonds, special assessments or revenue bonds. A city may exercise its power of eminent domain to acquire land for parking facilities.

7. Water Mains, Treatment and Distribution

Cities have a number of choices regarding water service for their citizens. Many cities operate a water utility, which may be under the control of the city council or a separate water board (see Section C in this chapter for discussion of city utilities). Cities may also grant a franchise to a private company for the operation of the waterworks. Some cities contract with a neighboring community or rural water association for water service in part or all of their community. Some city residents obtain their tap water from private wells.

Cities are responsible for public water systems, while boards of health (which are typically county agencies) are responsible for the regulation of private drinking water systems.

Cities must obtain DNR permits to withdraw water from streams, rivers, impoundments or aquifers. The DNR must also issue permits to construct or modify wells, treatment facilities, storage tanks and water mains. The Drinking Water State Revolving Fund (DWSRF), administered through the DNR, provides long-term, low interest loans for water projects.

If a city operates its own water system, it must comply with numerous state and federal regulations governing such matters as inorganic chemicals, asbestos, fluorides, lead and copper contamination, radionuclides, disinfectants, public notification requirements, well head protection and more. These requirements can change over time, so it is important to stay abreast of current or proposed regulations and their impact on your community. In addition, staff who operate a water treatment plant or water distribution system must meet certification and continuing education requirements established by the DNR.

8. Sanitary Sewer Service

Satisfactory removal and disposal of wastewater is an important safety and health factor. Many cities provide sanitary sewers and wastewater treatment facilities to remove wastewater from public and private buildings. If your city has no sanitary sewers or wastewater treatment facility, you most likely rely on private septic systems. Cities may also grant a franchise for sewer service.

Cities with sanitary sewer systems can require property owners to connect to the public sanitary sewer system,

install sanitary toilet facilities, and remove private sewage facilities from their property.

Cities may provide sanitary sewer service to persons residing outside the city limits and enact ordinances related to such extensions. There is no limitation on the maximum distance outside city boundaries that such services can be extended. In some cities, property owners outside city limits who request connection to city utilities are required to annex their property to the city immediately or at some future date. If your city provides utility services outside the city limits without an annexation agreement, the property owner may have little motivation to annex at a later date.

9. Wastewater Treatment and Disposal

The 1972 Amendments to the Clean Water Act established a comprehensive federal program of water pollution control, including wastewater treatment and disposal, administered by the EPA. In Iowa, the DNR administers this program on behalf of EPA. The DNR is responsible for issuing permits for operation and the discharge of treated wastewater. Discharge permits include effluent limits based on water quality objectives. In addition, staff who operate a wastewater treatment system must meet certification and continuing education requirements established by the DNR.

Wastewater treatment plants must comply with applicable state and federal regulations to operate. These requirements can change over time, so it is important to stay abreast of current or proposed regulations and their impact on your community.

Cities are required to have treatment agreements with major contributing industries. The DNR must also issue permits to construct or modify treatment facilities and for sewer systems and extensions. The DNR administers the Clean Water State Revolving Fund (CWSRF) providing long-term low interest loans for wastewater projects.

10. Storm Sewers and Drainage

A good storm water management system is important for your community to control flooding, properly handle drainage and insure water quality. Cities may require abutting property owners to connect to public drainage systems for health and safety reasons.

Your storm water management system can be financed by general revenues, general obligation bonds or special assessments (under certain circumstances). Iowa Code Section 384.84 also allows cities to establish storm water utility systems with user fees to recover the costs of construction and operation. If a storm water utility has been established, revenue bonds may also be used. In addition, the state's Storm Water Best Management Practice (BMP) loans administered through the Iowa Department of Agriculture provides low-interest loans for qualified storm water quality projects.

Your city may be required to obtain a storm water discharge permit from the DNR if your population exceeds a certain threshold or if your city owns a defined industrial operation such as a landfill, airport or power plant. Also, certain industrial operations in your community may need permits from the DNR to discharge runoff water into your city's storm sewers. The DNR can advise as to what operations need permits and how to apply for the permits. These permits may require Spill Prevention Plans, Emergency Response Plans and sampling during rainfall events.

In addition, municipal construction projects exceeding one acre of disturbed area require a Storm Water Pollution Prevention Plan and Permit (SWPPP), which must be maintained on the construction site for DNR inspection. Storm water runoff and erosion control measures must be incorporated into the project. Inspections are required weekly and after significant rainfall events.

11. Solid Waste Removal, Disposal and Recycling

Cities are generally responsible for the collection and disposal of garbage and refuse. Cities may provide municipal solid waste collection using city employees, contracting with private companies for such collection, or allowing residents to individually contract with private companies.

The council may impose a schedule of fees for the collection of garbage and/or charge people for using the landfill or other disposal facilities.

Many cities provide recycling and yard waste composting services. Some cities partner with other local governments, private companies and/or nonprofit

organizations to provide such services. To establish a compost facility, a permit is first required from the DNR and the compost facility must comply with DNR rules and requirements.

12. Landfills

Since 1975, counties have had the responsibility for the proper handling and disposal of solid waste, although a few cities still operate their own landfills. In many areas, regional Solid Waste Management Authorities have been formed to establish and operate landfills. Local governments participate in these regional agencies through 28E agreements.

Landfills are regulated by the DNR through the issuance of permits. Landfill operations must comply with applicable state and federal regulations to operate. New sanitary disposal projects require approval from the local jurisdiction (city or county). Permits must be renewed every three years.

C. UTILITIES

1. City Utilities

A city utility as defined in Iowa Code Section 362.2(6) includes “waterworks, gasworks...electric light and power plant and system, heating plant, cable communication or television system...”

- **Council or Board Governance of City Utility**

In accordance with Iowa Code Chapter 388, an election is required to establish, acquire, lease or dispose of a city utility. An election is also required to establish or discontinue a combined utility or utility board. A proposal to establish a utility board must specify whether the board will have three or five members. The mayor appoints board members, subject to approval by the council.

A city utility board has all powers of the city in relation to the city utility except the authority to certify taxes, pass ordinances, issue general obligation or special assessment bonds, and hold title to property.

- **Local Control and the Iowa Utilities Board**

Because municipal utilities are locally controlled, the jurisdiction of the IUB over municipal utilities is limited:

- o **Water utilities**

The IUB has no jurisdiction over the operations of municipally-owned water utilities, but the IUB does regulate for-profit private water utilities.

- o **Electric and gas utilities**

Municipal electric and gas utilities are exempt from IUB regulation unless specifically required under Section 476.1B or elsewhere in the Iowa Code.

The areas of IUB jurisdiction that come into play most often are disconnection rules and safety standards. Municipal utilities are required to pay IUB assessments, Energy Center fees, and file energy efficiency reports.

- **Rate Setting**

The local utility board or city council sets rates and approves the service tariff. IUB is not involved in the setting of rates of municipal utilities. Some factors that the local utility board or city council should consider when setting rates include:

- o **Short-term needs**

Assuring that revenues cover expenses, including debt service, the current year’s depreciation (if your city funds depreciation) and any amounts to be used to fund a capital improvement fund as directed by city policy.

- o **Long-term needs**

Earmarking a portion of the rate for future capital improvements and regulatory requirements can help stabilize the rate and provide seed money for major projects.

- o **Administrative support**

Utility support for administrative services provided by other city departments can be considered when setting utility rates. In some cities, utilities pay directly for hours worked to prepare and collect utility bills or the amount and time the city manager/administrator, city clerk or other staff spends on utility-related matters. In other cities, utilities pay a fixed amount or a designated percentage of administrative expenses for administrative services. In either case, the amount billed to the utility for administration should be reasonable.

- **Rate Increase Procedures**

Municipal electric and gas utilities should provide 30 days' notice of a proposed rate or charge increase to all affected customers. No IUB approval is needed. The rate increase should be adopted by ordinance of the council, or by resolution of the trustees, and published in the same manner as an ordinance (see Iowa Code Section 384.84). Implicit is a requirement that a hearing be held. As with other public hearings, notice should be posted in a newspaper of general circulation 4-20 days before the hearing date.

- **Residency Requirement for Utility Board Members**

A 1971 Iowa Attorney General Opinion indicates that a utility board member must be a resident of the municipality. However, the legislature subsequently repealed the statutory provisions upon which the Attorney General relied in drawing this conclusion. At present, there is no definitive statutory or case law authority for or against a residency requirement for utility board members.

- **Customer Deposits**

Under legislation adopted in 2017, cities and municipal utility boards now have local control over their gas and electric deposits and payment plan. Municipal utilities may now control deposits under city codes rather than under rules promulgated by the Iowa Utility Board (IUB). IUB retains jurisdiction over disconnections, including the terms of payment plans required before disconnection. IUB does not have jurisdiction over payment plans for past debt and delinquent amounts owed.

- **Disconnection of Utility Service**

- o **Electric and Gas Utilities**

Municipal utilities are covered by IUB regulations concerning disconnection of electric and gas services. Most of the disconnection issues relate to electric services so that is what is discussed here. Gas disconnection is basically the same.

Most disconnections involve nonpayment of bills. Speaking in general terms, disconnection of a customer due to

nonpayment can occur if the utility: (a) has made a reasonable attempt to collect; (b) has given the customer 12 days' notice to pay; and (c) has provided the customer a copy of the Customers Rights and Remedies sheet.

Residential customers are entitled to special protections. Disconnection of a residential customer may not take place on a weekend, holiday or after 2:00 p.m. unless the utility is prepared to reconnect the same day. Disconnection of a residential customer shall be postponed if the disconnection would present an especial danger to the health of any permanent resident of the premises.

- o **Active Deployment for Military Service**

A gas or electric utility cannot disconnect service to a residence in which one of the heads of households is a service member deployed for military service, as defined in Section 29A.1(3) of the Iowa Code, prior to a date 90 days after the end of the service member's deployment, if the utility is informed of the deployment.

- o **Winter Moratorium**

Disconnection of residential electric service is subject to special requirements during winter months. If the customer might be eligible for low-income energy assistance or weatherization funds, they must be given 12 days to apply. If the community action agency certifies within 30 days that the customer is eligible, then disconnection is prohibited between November 1 and April 1.

The "20 degree" rule applies to delinquent customers who received notice of termination, failed to qualify for any kind of energy assistance, agreed to a payment plan, and then defaulted again on the payment plan. Such customers can be terminated unless the temperature is forecast to go below 20 degrees. After such a delay, these customers can be terminated at such time as the temperature reaches 20 degrees and at any time if the forecast is for 20 degrees or higher.

- o **Water**

There are few restrictions on disconnection of water. IUB regulations do not apply to municipal water systems. The applicable section relating to disconnection of water is Iowa Code Section 384.84, which contains provisions relating to hearing, notice to landlords, and placing liens on property for nonpayment. Section 384.84 allows disconnection of one city utility service for nonpayment of another (usually disconnection of water for nonpayment of sewer or garbage). Sewer and water companies may enter into 28E agreements that would allow water to be shut off for non-payment of sewage.

Note: Gas and electric disconnections must still follow IUB regulations and therefore cannot be disconnected for nonpayment of any other utility service.

- **Late Payments Charges**

It is recommended that IUB rules should be used as a guideline for late fees. IUB rules provide that a late payment charge cannot exceed 1.5 percent per month of the delinquent bill. Some utilities have changed their policies to apply a single late payment charge.

- **Liens**

Iowa Code Section 384.84 provides that a lien may be placed on a property for non-payment of water, sewer, storm water and solid waste collection/disposal bills. The governing body of a city utility may delegate to a designee named in a resolution the authority to certify unpaid fees to the county treasurer. This authority also applies to a city that is contracting with a city utility for joint billing or collection. A delinquent utility bill stays with the property served by that utility, even if the account holder sells or leaves the property.

Iowa Code Section 384.84 requires the city or city utility to provide notice to the account holder of its intent to certify a lien at least 30 days prior to certification. If the account holder is a tenant, and if the owner or landlord of the property has made a request for notice, the notice shall also be given to the owner or landlord.

Residential rental properties are exempt from a lien for water, sewer, storm water and solid waste collection/disposal service that is separately metered and paid directly by a tenant if the landlord gives written notice to the city utility that the property is a residential property and that the tenant is liable for the rates or charges.

- **Payment in Lieu of Taxes**

A municipal utility can make an in-lieu-of-tax transfer to the city but only to the extent that the transfer consists of excess revenues of the utility. It cannot pay a franchise fee, because a municipal utility does not need a franchise to operate.

- **Municipal Telecommunication Services**

Municipal telecommunications services are not regulated by the IUB but are subject to certain restrictions pursuant to Iowa Code Section 388.10. A city that operates a telecommunications utility may use revenue generated from electric, gas, water, sewage or solid waste services provided by the city to offset the capital costs involved in forming a telecommunications utility, but may not use such funds for on-going support, or to otherwise cross-subsidize the telecommunications utility. A city may market the bundling of city services with municipal telecommunications services if a separate charge for each service is provided.

2. Private Utilities

- **Franchises**

Cities are authorized to grant franchises to private utility companies by virtue of Iowa Code Section 364.2(4). Essentially, a franchise agreement grants a utility company the right to use public rights-of-way, city streets and alleyways. It also creates the presumption of continued utility service and limits the risk that the franchised utility may be challenged by formation of a competing municipal utility. A franchise also ensures a stable source of revenue to the utility, enhancing its ability to finance utility improvements at a competitive rate. Finally, a franchise agreement may address a number of other issues such as the utility's authorization to exercise the power of eminent domain for utility facilities and access, the respective liabilities of the parties, and the utility's

obligations with respect to its operations in city rights-of-way.

Iowa Code Section 364.2(4) limits the length of a franchise to 25 years but cities are not obligated to grant the full 25 years. Cities also have the option to grant a 25-year franchise with “reopener” clauses at various designated times, such as the 10th, 15th and 20th year anniversary dates at which time the city may choose to renegotiate most of the terms and conditions of the franchise ordinance.

When considering whether to grant, amend, extend or renew an electric or natural gas franchise, a city must hold a public hearing before the franchise can be approved. The city may choose to conduct an election or to dispense with an election. However, if the city receives a valid petition requesting an election regarding an electric or natural gas franchise, the election must be held. As to all other types of franchises, a city must hold a public hearing and conduct an election before the franchise can be approved.

- **Service Territories**

- o **Electric**

- o Iowa Code Sections 476.22-.26 establish service territories for all electric utilities. These territories were established in the late 1970s and are generally the mid-points between facilities as they existed at that time. The utility boundaries do not necessarily coincide with city boundaries. In some cases, the utility area may extend beyond the city boundaries; in other cases, parts of the city may be served by another utility. It is common for both situations to exist within the same city. Utilities are obligated to serve all customers within their service area and are prohibited from serving customers outside their area.

- o **Water**

- o A rural water district desiring to provide services within two miles of a city must provide the city a notice of intent to provide water service to the area and provide a plan indicating the area to be served (see Iowa Code Section 357A.2). The city must respond within 90 days or the water district

can provide service to the area. The city may either waive its right to serve the area or reserve its right, in which case the city must provide service to the area within four years.

These provisions do not preclude a city from serving an area that is annexed by the city. However, rural water systems have claimed that federal financing repayment obligations protect the rural water system from competition because the revenues of the district have secured the financing. This claim has been upheld in other states and is currently being challenged.

- **Telecommunications**

- o Telephone companies have local but non-exclusive service areas. Iowa Code Section 476.29 requires telecommunications companies to obtain a certificate of public convenience and necessity from IUB before providing local exchange services.

- **Sewer Services**

- o Under Iowa Code Section 357A.23, cities may grant a franchise for sewer service.

Note: see Chapter 6 of this *Handbook* for guidance on franchise fees.

3. Cable Television

In most Iowa cities, cable television is provided by a private cable operator under a franchise agreement approved by the city or a statewide cable franchise issued by the IUB. A city that has formed a municipal telecommunications utility may offer any combination of cable, phone or internet service.

- **Statewide Cable Franchising**

- o Under Chapter 477A of the Iowa Code, franchise agreements between a cable provider and a city may be subject to a statewide franchise agreement administered by the IUB. Regardless of whether a statewide franchise agreement is in effect, cities may still collect a franchise fee up to 5 percent of gross sales (see Chapter 6 this *Handbook*).

4. Railroads

The operation of railroads in cities presents both opportunities and challenges. A successful railroad can be a positive asset to promote economic development. On the other hand, rail traffic can block streets, railroad whistles can create noise disturbances, and conflicts can occur between city infrastructure improvement projects and railroad rights-of-way. State and federal laws regarding railroads are quite detailed and complex. The Railway Division of the Iowa Department of Transportation can provide information on these matters.

D. CULTURE AND RECREATION

Culture and recreation programs and services are provided to improve the quality of life for your citizens. For many people, culture and recreation opportunities define their city as a great place to live.

In general, culture and recreation services can be grouped into three categories:

- **Directly Provided Services and Programs**

Common examples of directly provided culture and recreation services include libraries, parks and recreation programs, community centers, arts and cultural programming, historic preservation, human or civil rights commissions, senior citizen activities, and youth councils.

Several factors may affect your decision to provide direct services, such as the needs of your citizens, the potential demand for a proposed service, and your city's resources. Sometimes community surveys help answer these questions. Providing these services may require staffing, facilities and financial resources.

- **Cooperative Services and Programs**

Some culture and recreation programs are very important but may exceed a city's financial or staffing capabilities. As an alternative, cities may enter into agreements with state agencies, other local governments or nonprofit organizations to provide these services. Examples of cooperative culture and recreation activities include day care centers, community action programs, substance abuse rehabilitation services, before- and after-school programs, job training programs, family crisis or abuse centers/shelters, low income

financial assistance programs, and senior citizen transportation services.

- **Referral Services**

In many cities, culture and recreation services are already provided by state agencies, other local governments or nonprofit organizations. If that is the case in your city, it would be impractical and inefficient for your city to duplicate these efforts. Your city may choose to take an active role in informing people about these organizations and services. Referrals can be extremely important to these agencies or organizations whose continued existence is often determined by their amount of use. In some communities, such organizations to receive a budget allocation from the city to help fund their services.

1. Libraries

In most communities, the library is one of your city's most heavily used services. The library provides many benefits to your city: it is a source of books, movies and information for pleasure, education and recreation. It helps children develop a love of reading, it provides computers and internet access to people who may not have them at home and it can be a gathering place for the community.

- **Library Boards.** In Iowa, the public library is established by an ordinance which specifies the:
 - o Number of board members, how they are appointed and their terms of office.
 - o Powers and duties of the library board, including its authority to set the library director's salary and control the library's expenditures as well as manage operations.
 - o Procedures for library budgeting and approving library bills.
 - o Reports required from the library to the city council.

Along with the powers and duties outlined in the library ordinance, most library boards also:

- o Advocate for the library in the community and advocate for the community as a member of the library board.
- o Plan for the future of the library.
- o Monitor and evaluate the overall effectiveness of the library.
- o Set library policies.
- o Hire and evaluate the library director.

- **Changing Your Library Ordinance**

Section 392.5 of the Iowa Code requires that “a proposal to alter the composition, manner of selection or charge of a library board, or to replace it with an alternate form of administrative agency,” is subject to approval by a vote of the people in a city election. A referendum is therefore needed to change the number of library board members, their terms, or powers and duties of the library board or even adding a rural resident to the library board.

- **Council Relationship with the Library Board**

The mayor and city council generally have two basic powers with regard to libraries:

- o Appointing library board members.
- o Appropriating total library funding from the general fund as part of the annual budget.

Once the city approves the library’s funding, the library board decides how the money will be spent. According to most library ordinances, the board has the authority to shift funds from one line item to another and approve library expenditures.

Due to the authority given library boards in the ordinance, the library often functions more autonomously than other city departments, although library employees are city employees. Understanding and respecting this difference can enhance the relationship between the council and library. Equally important, the library board needs to understand and respect the city’s responsibility to account for all income and expenditures (see Iowa Code Section 384.20). While the library board has the authority to decide how library funding is spent, it still needs to report all income and expenditures to the city.

- **Library Funding**

Libraries receive funding from the city’s general fund. They also receive financial support from the county for providing library service to rural residents. Cities without a public library may contract with another city to provide library service to their residents.

Both city and county support of public libraries is mandated by Iowa Code Section 256.69. Cities are required to levy a tax of at least \$0.0675 per \$1,000 assessed property valuation “for the purpose of providing financial support to the public library which provides library services within the respective jurisdictions.”

2. Parks and Recreation

Cities may establish, acquire, maintain and regulate parks, playgrounds, recreation/community centers, swimming pools, aquatic centers, golf courses, ball fields, soccer fields, public theaters, ice rinks, skateboard parks, trails and many other recreation facilities. Many cities operate such facilities cooperatively with one or more other city, school district, county or nonprofit organization through 28E agreements.

In many cities, the city council directly oversees parks and recreation activities. In other cities, councils have delegated this responsibility to parks and recreation boards. Some parks and recreation boards have authority to establish rules and regulations governing parks and recreation facilities and activities, while in other cities such boards are advisory to the city council and the city council has the authority to establish such rules and regulations. If your city has a parks and recreation board or commission, you should review the ordinance to understand the duties, responsibilities and authority of your city’s board.

The acquisition, development, operation and maintenance of parks and recreation programs can be financed through general fund revenues and user fees. Bonds can be used to finance the development of parks and park facilities, but a referendum may first be required. You should monitor your city’s current facilities and programs, assess future parks and recreation needs, and carefully plan a financially sound way to meet those needs.

State and federal funds may be available for certain parks and recreation projects. For more information, contact the DNR (its REAP funding program in particular offers grant opportunities) and Iowa Arts Council. The IDOT also has a funding program for recreational trails. Grant funds are usually not available for operation and maintenance of existing facilities.

E. OTHER CITY SERVICES

1. Transit Systems

There are typically two types of public transit systems:

- A fixed route system operates on defined routes and schedules.
- A para-transit system operates on a “dial-a-ride” (appointment) basis.

Cities may own and operate either type of transit system. A board of transit trustees may be established to supervise the transit system. A city may also choose to contract for transit services with another city, county or regional agency through a 28E agreement.

Cities can levy a tax of up to \$0.95 per \$1,000 valuation for its transit system. A city can also subsidize a private company that provides this service.

2. Airports

A city may own and operate an airport under the council’s direction or by creating an airport commission. Approval of the voters is necessary to establish or disband an airport commission (see Iowa Code Section 330.7). State and federal programs may be available to assist with certain aspects of airport development, depending on the size and traffic at your airport. Joint or regional airport operations with another governmental body may also be undertaken through Chapter 330A of the Iowa Code

3. Hospital, Nursing, and Custodial Homes

Cities have the authority to establish and maintain health care facilities. These types of facilities are usually supervised by a hospital board, elected by the voters.

4. Golf Courses

Cities in Iowa may develop and operate golf courses. The amount of holes of play usually depends on the public demand. The capital needs to develop a golf course are significant and can be financed through general obligation bonds. Cities try to cover a golf course’s operating expenses through users fees derived through a combination of greens fees for the round of golf played, concessions sold at a clubhouse, rental fees for equipment and other related services.

5. Cemeteries

A city may own and operate a cemetery. Cities may adopt rules that govern the hours of operation, the sale of plots, and maintenance standards of the cemetery. They can also regulate the placement and types of memorials. All rules must be available to the public.

Capital costs such as land acquisition, construction and improvements to a cemetery may be financed with general obligation bonds. Operating and maintenance costs are typically covered through sale of plots, burial fees and general fund appropriations. Perpetual care funds are regulated under Iowa Code Chapter 523I. Some cities without a municipally owned cemetery make annual contributions to a local cemetery association to assist with operating expenses.

Chapter 10

Regulatory Function of Cities

A. OVERVIEW

Your city can control many activities in your community through regulating and licensing. Regulation generally involves setting conditions for allowing a practice, occupation or business, including placing limits on the number of or the presence of certain activities within a city. Licensing typically involves issuing permits for a practice, occupation or business.

Although cities may control many activities through regulating, licensing or prohibiting, state laws may preempt city or significantly limit control over specific areas, such as livestock confinement or manufactured housing.

B. REGULATION OF BUILDING CONSTRUCTION

Building construction codes, such as Building, Electrical, Mechanical and Plumbing Codes, are intended to:

- Provide for the regulation and inspection of construction, including major repairs and remodeling of buildings.
- Provide for the regulation and inspection of mechanical system installations including electrical, heating, ventilating, air conditioning and plumbing systems.
- Maintain safe conditions in buildings after construction.

Iowa Code Chapter 103A requires cities with populations of 15,000 or more to adopt building codes at least equal to the State Building Code. Cities in this population category are also required to adopt the most current versions of the Uniform Plumbing Code and International Mechanical Code.

For cities of all sizes, the state has adopted the 2020 edition of the National Electrical Code. If a city does

its own electrical inspections, it may adopt a different electrical code as long as it is not less stringent than the 2020 edition of the National Electrical Code.

Cities under 15,000 population may adopt and enforce building, electrical, fire, mechanical and plumbing codes but are not required to do so. If a city in this population category chooses to adopt its own codes, the standards may not be less stringent than those imposed by the state (but may be higher). If cities in this population category do not adopt their own local codes, the provisions of the State Building, Electrical, Plumbing and Mechanical Codes will apply.

Under these codes, a person who wants to do any construction or installation is generally required to obtain a permit from the city before starting work. The permit usually provides for city inspection so that a qualified inspector can determine if the work meets the requirements of the applicable code. Under a recent state law, new electrical installations are subject to state inspection unless the city provides local city inspections by approved inspectors. Many cities charge building permit fees to offset the cost of providing city inspection services.

Even if a city has adopted local building construction codes, some buildings and uses (such as schools, hospitals and nursing homes) are subject to review, approval and inspection by the state. State codes supersede local authority to regulate other specifically identified structures, such as manufactured homes.

Although many cities have historically required local licensing of individuals or businesses to perform electrical, plumbing or HVAC (heating, venting or air conditioning) work in their communities, the authority to license electrical, plumbing and mechanical contractors

and installers reverted to the state in 2008. (The state also licenses sprinkler and alarm contractors and installers.) Cities may charge fees for the issuance of permits and inspections for work performed in their jurisdiction but may not charge fees to license businesses or individuals.

C. LICENSES

A license is a regulatory device to ensure compliance with established rules and regulations governing specific occupations, professions, commercial trades or other activities. It is a grant of special privilege and not a contract. It gives the holder a privilege to do something that the license holder could not do without the license.

The city council's regulatory role generally includes determining the standards or conditions for issuing such licenses, which may include limiting or prohibiting certain activities within a city.

Some ordinances provide for the issuance of licenses by staff, while other licenses can only be issued by the council. In either case, the act of issuing the license is considered a "ministerial" function, which means the license should be issued if the application meets the terms and conditions of the applicable ordinance.

1. Possible Licenses or Permits

The following are examples of certain types of occupations, professions, trades or activities that may be licensed by cities:

- Adult uses
- Ambulances
- Auction sales
- Beer, wine or liquor retailers (state licensing also required)
- Billboards
- Bowling alleys
- Cigarette/tobacco sellers
- Circuses
- Demolition
- Dogs and cats
- Flammables and explosives storage, handling and use, including fireworks
- Fortune tellers, clairvoyants, palmists
- House movers
- Junk dealers and collectors
- Parades
- Pawn brokers

- Peddlers and transient merchants
- Pool or billiard halls
- Shows and exhibitions in public spaces
- Solid waste haulers
- Taxis
- Telecommunications towers

2. Suspension or Revocation of Licenses

Federal courts have emphasized the need for due process in denying, suspending or revoking licenses. Consult with your city attorney before making any attempt to deny, revoke or suspend any license.

Cigarette licensees risk the revocation of their licenses for cigarette law violations. Likewise, wine or beer permit holders and liquor license holders may be subject to revocation or suspension under certain circumstances.

Retail liquor licenses are approved by the city council with a recommendation to the state Alcoholic Beverage. The actual licenses are issued by the state. If the city recommends denial of the license, or suspension or revocation, the person or business has the right of appeal and due process. Possession of unlawful gambling devices may also trigger loss of license.

D. OTHER REGULATORY FUNCTIONS

Other activities that may be subject to city regulation include:

- Use of city streets by vehicles, including traffic regulations
- On-street parking regulations
- Noise
- Parks and playgrounds
- Curfews
- Open burning
- Fireworks

In addition, cities can regulate certain functions of private utilities through the use of franchise ordinances (see Chapter 9 of this *Handbook*).

E. NUISANCES

Nuisances are defined under Chapter 657 of the Iowa Code as:

"Whatever is injurious to health, indecent, or unreasonably offensive to the senses, or an obstruction

to the free use of property, so as essentially to unreasonably interfere with the comfortable enjoyment of life or property, is a nuisance, and a civil action by ordinary proceedings may be brought to enjoin and abate the same and to recover damages sustained on account thereof.”

Per Iowa Code, Section 364.12, cities have the authority to require a property owner to:

- Abate any nuisance, public or private, in a reasonable manner.
- Remove, repair or dismantle a dangerous building or structure.
- Connect to public drainage system or public sanitary sewer from abutting property.
- Cut or destroy weeds or growth.
- Repair or replace dangerous public sidewalks.
- Remove snow, ice and other accumulations from public sidewalks abutting the owner’s property.
- Remove diseased trees or dead wood on their personal property, but not on the adjacent public right-of-way.
- Install address numbers on buildings.

1. Abatement of Nuisances

Your city may order a property owner to take care of certain health, safety and fire hazards or public nuisances even if the hazard is on private property. You must notify the property owner (as shown by the records of the county auditor) in a manner prescribed by your city ordinance. The notice should identify the hazards and/or nuisances that exist, state the actions that need to be taken, and specify a time limit for completing action.

If the property owner does not perform the action required by the city within a reasonable time after notice, the city may abate the nuisance and assess the costs against the property (see Iowa Code Section 364.12). In an emergency, a city may take actions to abate a nuisance without prior notice and still assess the costs.

Prior to initiating nuisance enforcement/abatement actions, consult your city attorney to make sure you are following the proper procedures and notification requirements.

2. Municipal Infractions

Your city council may authorize one or more employees to issue civil citations to people who commit a municipal infraction. Municipal infractions are civil offenses that

only apply within the city boundaries and are designated by the city council (see Iowa Code Section 364.22).

Municipal infractions should be specified by ordinance. Violations of certain city ordinances, such as the nuisance, zoning, subdivision and similar ordinances may be treated as municipal infractions. Iowa Code Section 364.22 sets out the maximum amount of fine that may be issued for first-time and repeat violations.

A municipal infraction cannot be charged if the violation is a felony, an aggravated misdemeanor, a serious misdemeanor under state law or if the violation is a simple misdemeanor.

3. Fire-Damaged Properties

Buildings damaged by fire and not repaired can cause considerable concern to both neighborhoods and the city. Section 515.139 of the Iowa Code sets out certain conditions under which an insurer must reserve \$10,000 or 10% of the damages (excluding personal property) whichever is greater, as a demolition cost reserve. The Iowa Code establishes various filing and timeline requirements, so timely consultation with your city attorney is essential when dealing with these types of situations.

4. Abandoned Properties

Cities frequently end up dealing with properties that the owner has abandoned and/or stopped paying property taxes. The Iowa Code provides several possible strategies for dealing with such situations.

Per Iowa Code Section 446.19A, a county can pass an ordinance under which a city can purchase a tax sale certificate for “abandoned residential or commercial multifamily housing property”. The city can assign the certificate to a person who demonstrates the intent to rehabilitate the abandoned property for habitation or build a residential structure on the property. Chapter 446 also allows cities to negotiate with the purchase of the tax sale certificate for voluntary assignment of the tax sale certificate.

Iowa Code Section 657A.10B allows cities to petition in District Court for title to an abandoned property (defined as being vacant and has remained in violation of the city’s code for six consecutive months). After the petition is served on the property owner and a hearing is held,

the court can award title of the property to the city “free and clear of any claims, liens or encumbrances held by others.”

For cities with populations under 5,000, the Iowa Department of Natural Resources (DNR) has a competitive grant program that can assist with rehabilitation or demolition of derelict buildings. Contact the DNR for additional information regarding this program. The IEDA has several funding programs that can provide assistance with nuisance property remediation, revitalization and community development.

5. City Attorney

To enforce the nuisance code and other related ordinances and statutes described above, the city must take legal action against a private property owner. Your city attorney needs to be actively involved in this process to make sure the city’s actions are being conducted properly and all the procedural steps and notifications comply with applicable requirements.

F. HOUSING CODE

Housing codes establish specific building safety regulations, with inspection and enforcement mechanisms, pertaining to rental housing units in a city. Iowa Code Section 364.17 requires cities with population of 15,000 or more to adopt a housing code and institute a program for regular inspections of rental housing. A city must adopt a housing code within six months after official determination of that population level. Cities must adopt one of several housing codes identified by the statute. Under Home Rule, cities of less than 15,000 population can also adopt rental housing codes and inspections.

G. HEALTH INSPECTION

Cities with population of 25,000 or more may appoint a board of health or the council may appoint itself as the health board. Cities may have a health officer supplement the county board of health and abate nuisances. Cities may contract with a county or district board of health to enforce appropriate health ordinances.

Although the state usually inspects vending machines, food service establishments, hotels, dairy farms, milk plants, receiving stations and transfer stations, cities may enter into a separate agreement with the state to perform these inspections.

H. ZONING AND SUBDIVISION REGULATIONS

Many cities use zoning and subdivision regulations to regulate land use and development activities. Chapter 11 of this *Handbook* provides information on these functions.

Chapter 11

Planning and Community Development

A. PLANNING AND ZONING

1. Planning

City planning is a method for achieving orderly physical development in your community. Planning is the process of developing goals and objectives by which your city determines what kind of future it wants and then establishes the policies and management tools to help reach those goals.

Your city council has an important role in formulating short- and long-range plans for your community. The city council decides which projects your city government will undertake and which policies will be adopted. Some of the most important and long-lasting decisions you will make as an elected official will involve planning and development issues.

City planning and zoning is governed by Iowa Code Chapter 414. Iowa State University Extension publishes *The Iowa Land Use Planning Notebook*, an excellent reference on planning and zoning in Iowa. ISU Extension also provides planning and zoning training workshops throughout the state. For more information visit <http://blogs.extension.iastate.edu/planningBLUZ>.

2. The Comprehensive Plan

The Comprehensive Plan (sometimes referred to as the “Master Plan”) is a document that identifies the goals, objectives and policies that will generally guide decisions concerning the development of your city. It informs the public and other interested parties what the city is planning for the future. Because of its importance, your Comprehensive Plan should be reviewed and updated on a regular basis. It is also important to assure public participation in the planning process.

Broadly speaking, comprehensive plans typically address four general areas: (1) a thorough review of the city’s existing conditions and anticipated trends, (2) goals and objectives for development, (3) implementation strategies for achieving those goals, and (4) the future land use map. Comprehensive plans usually include components related to land use, public infrastructure and utilities, transportation systems, housing and neighborhoods, economic development, environmental and natural resources, and community facilities.

State law requires that zoning regulations – including decisions to rezone property – must be compatible with your Comprehensive Plan. If there are incompatibilities, you should amend your Comprehensive Plan prior to making any changes to your zoning district map. Court cases have made it clear that a city’s zoning decision is much more likely to be upheld when challenged if there is an adopted comprehensive plan in place, and the zoning decision being challenged is consistent with the map and policies in that plan.

Your planning and zoning commission is responsible for developing the Comprehensive Plan for consideration by the city council. The council is required to hold a public hearing before the Comprehensive Plan can be adopted or amended.

3. Zoning

Zoning is the classification of land into districts or zones which specify how property may be used. It is intended to provide for orderly development and prevent incompatible land uses from locating near one another. Zoning regulations also regulate the bulk, height and density of buildings and other structures and establish minimum lot sizes and setbacks to limit congestion and other undesirable features. Zoning regulations also regulate many other development-related matters,

such as off-street parking requirements, landscaping/screening regulations, accessory buildings and open space requirements.

Zoning regulations, including the zoning map, are established by ordinance. Amendments to zoning regulations, including the rezoning of property, must also be done by ordinance, after review and recommendation by the planning and zoning commission and after public hearing before the city council. (As noted in Chapter 4 of this *Handbook*, elected officials should not meet or communicate with any interested party regarding a rezoning matter or any other quasi-judicial matter outside of the formal public hearing process. If you have a question as to whether a proposed meeting or communication is inappropriate, you should consult with your city attorney).

If your county does not have zoning, Iowa Code Section 414.23 allows your city to extend its zoning ordinance to regulate the area located within two miles of the city limits (in more urbanized areas where two cities are located less than four miles apart, the Iowa Code provides for the ability for each city to zone up to a line halfway between those cities). Such extraterritorial zoning jurisdiction must be done by ordinance and the area in question must be defined and included in that ordinance.

Cities are specifically exempted from regulating land used for agricultural purposes, including farm barns, outbuildings or other buildings or structures used for agricultural purposes. If your city exercises this authority, your planning and zoning commission and board of adjustment must both be expanded to include two additional members appointed by the county board of supervisors from the area over which extraterritorial control is being exercised.

4. Planning and Zoning Commission

Iowa Code Section 414.6 requires your city to have a planning and zoning commission if you have a zoning ordinance. (This board is sometimes referred to as the zoning commission or “P&Z”). The Iowa Code spells out two specific responsibilities for the commission related to the zoning ordinance: (1) the planning commission has responsibility for overseeing the preparation of the zoning ordinance and making recommendations to the city council regarding its adoption. Usually, a consultant, council of governments or city staff assists

the commission in preparing the zoning ordinance; (2) once the zoning ordinance has been adopted, the Iowa Code requires the commission to review and make recommendations to the city council regarding any proposed changes to the zoning map (rezoning) or the text of the ordinance.

Other responsibilities of the planning and zoning commission include reviewing and providing recommendations to the city council on a variety of development processes, including reviewing subdivision plats, planned unit developments, street and alley vacation requests, urban renewal plans, and other duties as may be set forth in your zoning ordinance. Some zoning ordinances give the commission responsibility for providing recommendations to the board of adjustment on conditional use applications, and occasionally variances.

5. Zoning Board of Adjustment

If your city has zoning, Iowa Code Section 414.7 requires that your city must also have a board of adjustment separate from the city council. This board has the power to hear and decide requests for variances, appeals and conditional (or special) use permits in accordance with your zoning ordinance. The council has no authority to overturn or modify a decision by the board of adjustment, but can remand variance decisions back to the board for possible re-consideration.

6. Restricted Residence Districts

If your city does not have zoning, the council may by ordinance establish restricted residence districts within the city. The council may establish reasonable rules for the use and occupancy of all buildings within the district after public notice and hearing. If your city adopts a zoning ordinance, the restricted residence district ordinance is no longer in effect and should be removed from the municipal code.

7. Rental Property Occupancy

The 2017 Legislature removed cities’ authority to regulate the occupancy of residential rental property based on familial/non-familial status of occupants. Prior to this legislation, cities could limit through zoning or similar regulations the number of unrelated persons living in a single-family residential district. Cities can no longer do so.

8. Short-Term Rental Property Regulations

Recent legislation has greatly reduced a city's ability to regulate short-term rental properties, which are defined as a home or dwelling unit that is rented for 30 days or less.

B. REGIONAL PLANNING COMMISSIONS

Most cities participate in regional planning commissions (also known in some areas as councils of governments). These commissions typically deal with a wide range of regional policy and planning issues. They may also be responsible for allocating certain federal funds to local governments, especially for transportation and housing projects. Regional planning commissions also assist cities in identifying, applying for, and administering state and federal grants and loans. They can also provide a broad range of planning and other technical assistance to communities.

A list of the regional planning commissions in Iowa and the areas they serve is included in this *Handbook* under Appendix A.

C. SUBDIVISION REGULATION

Your council can adopt an ordinance to regulate and control development of new subdivisions (see Iowa Code Chapter 354). As defined in the Iowa Code, a subdivision is a split of property into three or more parcels for the purpose of development or sale. However, some cities require subdivision plats for splits of property into two or more parcels.

A subdivision ordinance usually requires a property owner or developer to submit a drawing ("plat") of the proposed subdivision to the city council for approval prior to development. Most cities also require planning and zoning commission review of subdivision plats.

The ordinance can establish minimum requirements and design standards for public improvements in subdivisions, including grading and paving of streets, sidewalks, installation of utility services, storm water management and erosion control.

Cities may apply their subdivisions regulations to land located two miles beyond the city limits. If another city is closer than four miles, the regulations apply to half the distance between the two cities. Some cities have

negotiated "fringe area agreements" with counties regarding the enforcement of zoning and subdivision ordinances in areas located just outside city limits.

D. ECONOMIC DEVELOPMENT

Economic development has been defined as a sustained community effort to improve both the local economy and the quality of life by building the area's capacity to adapt to economic change (Loveridge and Morse). Your efforts to promote and sustain the growth and vitality of your community can be one of the most important, rewarding but also at times frustrating aspects of being a municipal policy leader.

Iowa has a wealth of resources – local, state and federal economic development agencies, educational institutions, utility companies, regional planning agencies, professional organizations and private consultants – who can assist your community's economic development efforts. See Appendix A for information regarding these organizations.

In many areas, economic development efforts are established and functioning. These organizations are great sources of information about local economic development activities and current programs being undertaken. You should visit with them to learn what programs are in place and how you can become involved in the process.

In other localities, economic development efforts may not exist or are disjointed or ineffective. If this is your situation, state or regional economic development resources can provide helpful information and identify economic development organizations that do a good job and are well respected. Learn what works for them and what can potentially be applied to your community.

1. Forms of Economic Development

Economic development efforts can be categorized under four broad development approaches:

- **Existing Business Retention and Expansion**
Existing businesses and industries provide by far the greatest single source of job growth and capital expansion in the United States. Up to 80% of community job growth and new capital investment comes from businesses already doing business in your community.

Developing and implementing an existing business retention and expansion program is an especially important and effective economic development strategy. Such programs typically involve making periodic calls on local businesses to express appreciation for the business being in town, learn of any concerns or opportunities that may exist, and gain insights from the business perspective on the community's strengths and weaknesses that support or impede growth. Other existing business activities include holding business appreciation functions, hosting business CEO meetings, encouraging business open houses and promoting news stories featuring area businesses.

Existing businesses can be very valuable when a prospective business considers your community as a possible location for a facility. Many prospects or their consultants reach out to existing business owners and managers to find out on how business is treated in your community.

- **New Business Recruitment**

Attracting a new business or industry to your community certainly brings many benefits – new jobs and wages, different amenities, additional tax base, opportunities for local contractors, builders and suppliers, and new families for your community.

However, business recruitment can be a very resource-intensive process requiring time, skilled individuals and money. It also requires a community to be prepared and have a comprehensive understanding of their community – available sites and buildings, gas and electric utility capabilities, water and sewer capacities, workforce availability, transportation and community demographics.

- **Entrepreneurial Development**

Working with new business startups can be quite rewarding but can also require a great deal of patience. These projects typically involve the investment of time and potentially money and may flounder for years or fail. However, they also provide great opportunities for job growth, capital investment and enhanced community viability.

A number of strategies have been identified to foster entrepreneurial development in a community, including: finding business mentors willing to work with new entrepreneurs and share their knowledge and expertise; creating a regional “angel investment” network involving area residents willing to consider investing in new business opportunities; establishing a business incubator for start-up businesses to share services and resources; and providing opportunities for entrepreneurs to gather together to share and learn from their experiences.

- **Tourism**

Marketing your existing recreational, historical, cultural and retail amenities to travelers can be a very effective strategy to bring outside dollars into your community. Local festivals and events also provide an opportunity for visitors to come to your community and spend money with local merchants. Many Iowa communities have joined together to promote and market themselves regionally and package attractions in their area to attract visitors.

2. The City's Role in Economic Development

Your city's role in economic development can take many forms. Your city's level of involvement in economic development will depend on the resources your city is willing and able to allocate towards economic development. Key considerations include:

- **Strategic Planning**

Are your city's vision, goals and growth plans compatible with promoting economic development? What kind of economic development does your community want? What are your city's strengths and weaknesses? Developing and implementing an economic development strategic plan is a very productive process to answer these questions and formulating a strategy to achieve your economic development goals.

The following organizations can assist you in economic development planning and strategizing (see Appendix A for contact information):

- o Iowa Economic Development Authority (IEDA)

- o Institute for Decision Making, University of Northern Iowa
- o Your local regional planning commission

Communities may also contract with a variety of private consultants for these services.

- **Product Development**

Before your community can successfully compete in the economic development arena, you must have product. Land, buildings and workforce are your key products in economic development. In reviewing your community’s economic development “product line”, ask yourself these questions:

- o Are there existing sites and buildings available?
- o Are the existing sites and buildings under a willing seller’s control and priced for the market?
- o Do they have the needed infrastructure?
- o Is workforce available with the appropriate skills?

- **Infrastructure**

You need to know whether your city has the capacity in terms of sewer and water systems, electric and natural gas utilities, wastewater treatment, storm water drainage, broadband capacity, transportation, and public safety resources to adequately service potential development. If your community has deficiencies, your city needs to determine what can be done to address those weaknesses.

- **Incentives**

Your city may be asked to provide financial incentives such as tax abatements, tax increment financing, grants, loans or other packages to attract or retain business (see Section 3 below). Your city may also be asked to sponsor applications on behalf of companies to state agencies such as IEDA or IDOT. These are crucial decisions that need to be thoughtfully made. You should carefully evaluate the potential benefits, costs and risks to your community and project the economic impact/return on investment. Programs are available to assist cities in examining their roles in economic development prior to making

commitments. A number of cities have developed written policies to guide their participation in economic development efforts.

- **Community Amenities**

Many businesses desire to locate in a community that presents itself well in appearance, provides needed business services, is welcoming to new residents and offers “quality of life” opportunities such as housing, education, recreation, shopping, health care and similar amenities. Consider these questions when evaluating your community amenities:

- o Does your community demonstrate civic pride? Are the streets well maintained? Are homes and yards kept up? Are Main Street businesses inviting and appealing?
- o Is there a variety of housing options available for line employees, management, families and singles, as well as ownership and rental choices?
- o What recreational, cultural, educational, social, shopping and health care opportunities are available in your community or nearby?
- o Are the city entrances or gateways to town attractive and give a favorable impression of the community?

- **Other City Policies**

Whether or not your city chooses to be actively involved in economic development, your local government nonetheless plays a critical role in this area. Your city government controls many of the policies and services critical to business – zoning and land use decisions, building codes and permitting, availability and cost of city services (water, sewer, wastewater treatment, utilities, street maintenance, property taxes, etc.).

- **Collaboration**

The value of collaboration and partnership in economic development efforts has long been recognized as essential in achieving economic development goals. Many cities participate in and financially support local and regional economic development groups.

Assessing how your community stands in regard to these factors and what steps are being taken

to address these issues will go a long way toward the success of economic development in your city.

3. Economic Development Financial Assistance

A variety of state and federal programs are available to promote economic development. The IEDA website www.ieda.com is an excellent source of information regarding state economic development programs.

- **Tax Increment Financing (TIF)**
One of the more commonly used tools for cities to promote economic development is Tax Increment Financing (TIF). TIF is described in Chapter 6 of this *Handbook*.
- **Property Tax Abatement**
Another frequently used tool to promote economic development and redevelop areas is property tax abatement. Under tax abatement, property owners can receive an exemption from all property taxes (including those of the city, county and school district) for all or a portion of the increase in property valuation which occurs from new construction or improvements to existing buildings. Eligibility for exemption generally requires an increase in valuation of 10% to 15%. The Iowa Code authorizes tax abatements in two ways:
 - o **Industrial Property Exemption**
Per Iowa Code Chapter 427B, the city council can adopt an ordinance after public hearing authorizing tax abatements for industrial properties, warehousing and research facilities located anywhere in the city. Eligible properties can receive abatements over a five-year period on a sliding scale ranging from 75% in the first year to 15% in the fifth year.
 - o **Urban Revitalization**
Under Chapter 404 of the Iowa Code, cities can designate specific sections of their community, or the entire city, as an Urban Revitalization District to encourage redevelopment or to address certain conditions that are set out in Chapter 404. Before an Urban Revitalization District can be established, an “urban revitalization plan” must be prepared, property owners in the proposed district must be notified, a

legal notice must be published and a public hearing must be conducted. Once an urban revitalization district has been established commercial and industrial properties are eligible for a maximum abatement of 100% of the value added to the assessed valuation of the properties as a result of improvements or new construction for three years, or a sliding scale over ten years ranging from 80% in the first year to 20% in the tenth year. A number of tax exemption schedules are allowed for residential properties dependent on different purposes and uses.

Note: TIF and Property Tax Abatement programs may work at cross-purposes when applied to the same area or property. Cities are advised to consult with qualified legal counsel to understand the complexities and determine what is in the best interests of the city.

- **Other Economic Development Programs**
Other programs cities may use to promote economic development include Main Street Iowa, Community Development Block Grant Economic Development Set-Aside, High Quality Jobs Program, and Workforce Housing tax credits. Certain targeted state programs may be beneficial for specific needs related to economic development projects such as road (Revitalize Iowa’s Sound Economy – RISE) or sanitary sewer/water/wastewater improvements. Your community may also qualify for federal economic development programs through the U.S. Department of Agriculture’s Rural Development Programs, Economic Development Agency (EDA) or other agencies.

4. Balancing Business Attraction

In some communities, economic development is more oriented to “quality of life” issues, such as affordable housing, schools, access to daycare, parks, recreation, health care and libraries. These communities view their role as a “residential center,” with other locations providing employment opportunities on a regional basis. These residential centers have discovered that their “niche” in the regional economy is to offer people a great place to live and raise a family.

When economic development is viewed from this perspective, issues such as community betterment, land use, annexation, housing, transportation, parks and recreation, and infrastructure become very important.

E. ANNEXATION

State law governs the process of setting and altering local government boundaries. Government boundaries determine how much a person pays in property taxes, who provides police protection and emergency medical services, how a landowner can use his or her property, whether animals can run at-large, and many other essential issues.

Annexation is the legal process for expanding a city's municipal boundaries. Annexation and other boundary changes, such as consolidation, incorporation and discontinuance, are commonly referred to as "city development" actions. The state's City Development Board is responsible for overseeing these activities. Iowa Code Chapter 368 sets out the processes and procedures for annexations.

There are two general methods of annexation – voluntary and involuntary.

1. Voluntary Annexation

A voluntary annexation is the simplest action. The affected property owner initiates the action by applying to the city council. The city must notify the County Board of Supervisors by certified letter at least fourteen days prior to any city council action.

If the property proposed for annexation is located more than two miles from the border of another city, a voluntary annexation only requires a resolution of approval from the city council. If a voluntary annexation is located in an urbanized area (that is, within two miles of another city) a hearing is required before the City Development Board.

After approval, copies of the resolution, map and legal description are filed with the Iowa Secretary of State, Department of Transportation and the County Recorder.

- **"80/20" Annexations**

In some situations, properties other than those owned by the applicant may be included in a "voluntary" annexation. Usually, such properties

are included in order to avoid creating an "island" of land surrounded by the city and to make property contiguous with existing city boundaries. (Per Iowa Code Chapter 368, annexations must be contiguous to existing city boundaries and not create "islands"). Under such circumstances, Iowa law allows up to 20 percent of the land within a voluntary annexation to be included without the owners' consent. These annexations are called "80/20" annexations.

2. Involuntary Annexation

In an involuntary annexation, some or all of the affected property owners are opposed to the annexation. Involuntary annexations are much more complex than voluntary annexations. An involuntary annexation requires submittal of considerable documentation to, and a hearing before, the City Development Board and most likely an election before it can be approved. In addition, a city requesting an involuntary annexation must submit a three-year service provision plan to the City Development Board.

Involuntary annexations and other city development actions can be rather complex and sometimes quite controversial. Iowa Code Sections 368.11 through 368.22 deal specifically with involuntary annexations. If your city is considering an involuntary annexation, you should consult with your city attorney and carefully review those sections of the Iowa Code to fully understand the process and requirements. You should also contact the City Development Board staff at IEDA as early as possible to discuss the process and learn of any recent changes resulting from legislation or administrative rules.

F. COMMUNITY BETTERMENT

Community betterment is the combination of many different actions to enhance the quality of life and make your city a better place to live, work and play. An effective community betterment program can make your community a source of pride to your residents.

1. Reasons for Community Betterment

- **Community Appearance**

Just as many people are concerned about the appearance of their homes, your city should be concerned about its overall appearance.

- **First Impression**
Your city’s overall appearance, combined with the availability of recreational and cultural facilities, usually provides visitors with their “first impression” of your city.
- **Local Pride and Community Spirit**
Your city’s appearance, cultural facilities and availability of recreational services will have a tremendous impact on the pride and community spirit of your local residents.
- **Community Leadership**
A positive attitude can be contagious. If your residents have real pride and a positive community spirit, they are more likely to get involved in efforts to benefit your city.
- **Enhanced Property Values**
Community betterment projects can have a positive impact on property values in a community. They can help maintain the city’s property tax base and help ease your city’s financial burdens.
- **Health and Safety**
Projects such as nuisance abatement, removal of junk vehicles, demolition of dilapidated buildings, removal of dead trees, collection of stray animals, sidewalk repairs, etc., can improve the overall health and safety of your community. A collateral benefit of such efforts is the reduction of city exposure to potential lawsuits and liability problems.
- **Economic Development**
Your city’s appearance and quality of life play a major role in decisions by other people to invest in your community.

2. Community Betterment Projects

The following are examples of activities your city can initiate to improve your community and generally make neighborhoods more attractive and livable.

- **City Wide Clean Up Programs**
Some cities sponsor an annual or semi-annual program for residents to dispose of brush, debris, used appliances, old furniture, junk, etc., without cost.

- **Downtown Redevelopment/Streetscape Projects**
Some cities make a concerted effort to improve their downtown areas through main street programs, streetscape projects and historic districts.
- **Gateway/Entrance Projects**
Many cities improve their community’s “front doors” or gateways with landscaping/plantings, city identification signage, nuisance abatement, building renovations, etc.
- **Paint-A-Thons**
Some communities organize programs in which volunteers paint houses of selected homeowners, such as people on limited incomes.
- **Community Identity Projects**
Some communities identify a theme for community identification centered on a historic site, downtown area, museum, tourist attractions or annual festival.
- **City Infrastructure Projects**
Upgrading and maintaining your city’s basic infrastructure can have a positive impact on your quality of life. Community betterment projects can feature repairs to streets and sidewalks, construction of trails, paths, and new sidewalks, city tree and stump removal, and storm water management.

3. City Regulatory Authority and Community Betterment

As discussed in Chapter 10 of this *Handbook*, cities have regulatory authority in many areas that can be used to enhance community betterment, including:

- Nuisance abatement
- Zoning enforcement
- Subdivision regulation
- Removal/redevelopment of dilapidated/abandoned buildings
- Animal control
- Weed control and mowing
- Removal of junk

4. City Buildings and Facilities

Before your city embarks on a comprehensive community betterment program, you should inspect your own “back yard” before you tell local property owners to “shape up”. Take notice of the condition of the buildings and grounds at your city facilities. Keep your vehicles and equipment clean and in good repair. This can also improve employee morale and pride.

Chapter 12

Other Important Matters

A. BOARDS AND COMMISSIONS

Boards and commissions play significant roles in city government. Their reports and recommendations can be very useful to the city council in establishing policies, resolving problems and helping to provide effective city government.

The council usually creates boards and commissions. In a few cases, state law requires your city government to place a service or function under the supervision of a board.

The powers and duties of boards vary considerably. You should review the responsibilities of your boards by checking the applicable city ordinances and/or state code sections. In most cases, the council has some discretion in determining the powers and function of these boards. Remember that no board has the power to levy a tax – only the city council can levy taxes under specific statutory authority.

1. Council Oversight

Your council can provide effective oversight of boards and commissions by:

- Determining how much tax-supported funding will be given to city boards each year. (Note: Utility boards control utility rates and funds.)
- Appointing or approving the appointment or dismissal of board members.
- Requiring periodic reports from boards.

2. Establishing Effective Working Relationships with Boards

The following are suggestions to establish effective working relationships between city councils and boards and commissions:

- For each board and commission, make sure your

ordinances and/or policies clearly define the following:

- o Powers and duties.
- o Member appointment and removal process.
- o Member terms and eligibility.
- o Determination whether the board is advisory or administrative.
- o Reporting requirements (if applicable).
- Take time to meet with board members or schedule an annual “Boards and Commissions Meeting” to share information.
- Make sure new board members receive an orientation to learn their duties and responsibilities.
- Provide all board members with an information book that contains the ordinance establishing the board, current board by-laws, a copy of the Open Meetings and Open Records Laws, conflict of interest rules, and a listing of current board members with their term expirations, addresses and phone numbers.
- Make sure each board complies with the Open Meetings Law and other statutory and legal requirements.
- Provide boards with city staff assistance as needed.
- Read the minutes of board meetings.
- Respect board decisions and recommendations; provide an explanation when the council decides to take a different course of action than that recommended by a board.
- Try to allow each board to do its job with minimal interference.
- Make sure boards are gender balanced in accordance with state law.
- Express public appreciation to the members for their efforts as a valuable part of overall city government operations.

3. General Description of Common Boards

The following is a brief description of some of the more common boards and commissions that may be found in Iowa cities:

- **Airport Commission**
Acts in an administrative capacity to operate and manage the local airport. The council may call an election upon its own initiative or upon a voter petition to create the Airport Commission. If a majority of the voters approve, the commission is established.
- **Building Board of Appeals**
Hears appeals of building inspectors' decisions. Affirms, modifies or reverses decisions. Makes recommendations regarding updates/revisions to the building code.
- **Civil Service Commission**
Oversees city employment practices of designated positions from entrance to discharge (see Chapter 8 of this *Handbook*).
- **Health Board**
If your city has a population of 25,000 or more, you may appoint a city board of health with jurisdiction inside the city limits. Alternatively, the council may act as the city board of health. In cities under 25,000 population or those that do not desire a city board of health, the county board of health assumes all the duties of the city board.
- **Historic Preservation Commission**
Reviews and makes recommendations on proposals for designating areas as historic districts and provides information to the public. May be involved in recommending policies and regulations regarding construction requirements in designated historic districts.
- **Hospital or Health Care Facility Board**
An administrative board that may be created in a city with a municipal hospital or health care facility, such as a nursing or custodial home. The board of trustees must be elected and they serve as the exclusive board of trustees for all such institutions established by the city.
- **Housing Board of Appeals**
Hears appeals of housing inspectors' decisions. Makes recommendations regarding updates/revisions to the housing code.
- **Human Rights Commission (sometimes called Civil Rights Commission)**
Oversees the investigation and resolution of civil and human rights complaints and educates the public about human and civil rights issues. Makes recommendations regarding updates/revisions to the Human Rights Ordinance.
- **Library Board of Trustees**
An administrative board that oversees library activities, purchasing and personnel. Depending on the date the board was established, the board has sole power to expend what is appropriated to the library services account from the general fund. (See Chapter 9 of this *Handbook*).
- **Parks and Recreation Board**
An administrative board for city parks and recreation programs and activities. The board may be appointed or elected but its duties are prescribed by the council (See Chapter 9 of this *Handbook*).
- **Planning and Zoning Commission**
Conducts studies and prepares the Comprehensive Plan. Makes recommendations to the council on proposed changes to the zoning regulations and zoning district map as well as subdivision plats. (See Chapter 11 of this *Handbook*).
- **Transit Agency Board**
Establishes and oversees the implementation of the city's transit system. Operates and manages the city's transit service when directed by council resolution to do so.
- **Utility Board of Trustees**
An administrative board appointed by the mayor with approval of the council. The voters can put a board in charge of a single city utility, all city utilities or a combined utility system after the question has been submitted to them by the council. (See Chapter 9 of this *Handbook*).

- **Zoning Board of Adjustment**

Required in any city with a zoning ordinance. Hears appeals of zoning official's decisions. Makes determinations on variances, special uses and conditional uses as provided in the zoning ordinance. Its members are appointed as provided by ordinance. (If the mayor is ex-officio zoning administrator, members should be appointed by the council.) (See Chapter 11 of this *Handbook*).

B. RELATIONS WITH OTHER GOVERNMENTS AND AGENCIES

1. Intergovernmental Cooperation

Operating a municipal government requires an enormous resource base, but your city does not have to “go it alone”. Many cities have learned public services can be provided efficiently and economically through cooperation arrangements with other governments or outside organizations.

Many cities currently participate in various intergovernmental cooperation arrangements, such as:

- Sharing of equipment and personnel.
- Joint purchasing of equipment, supplies and services.
- Law enforcement, fire protection, emergency medical services and public safety dispatching.
- Solid waste disposal.
- Planning.
- Parks and recreation.
- Economic development.

Intergovernmental cooperation arrangements can produce the following benefits:

- Services can be provided more effectively and efficiently.
- Services needed throughout an area can be coordinated and uniformly administered.
- Seldom-used or expensive facilities and equipment can be more effectively utilized when shared with other jurisdictions.
- Better use can be made of administrators, technicians and employees.
- Joint purchasing of equipment, supplies and services can produce cost savings.

2. Factors for Consideration

The decision to enter into an intergovernmental arrangement can be complicated and sometimes controversial. Whenever your city is considering an intergovernmental arrangement, it is recommended you take into account the following considerations:

- Cost of the service.
- Overall acceptance by the public.
- Quality/effectiveness of the service.
- Service continuity/disruption.
- Feasibility/ease of implementation.
- Potential overall impact.
- City's share in the future control.
- Impact on the city's liability exposure.

3. “28E” Agreements

The term “28E agreement” refers to Chapter 28E of the Iowa Code. This statute permits a governmental agency to undertake any activity jointly with any other agency so long as each agency has the power to undertake that particular activity on its own. For example, cities, townships, counties and schools can each establish their own libraries. Therefore, a joint library through a combination of these organizations can be undertaken. Under Chapter 28E, cities can enter into intergovernmental arrangements with agencies of the state and federal governments. Cities can also enter into cooperative arrangements with nonprofit organizations and private agencies in certain situations. (Cities may not contract or otherwise delegate the selection, appointment and retention of police departments to private concerns but may enter into agreements with other governmental entities for joint exercise of such authority.)

Many cities have entered into a number of 28E agreements over the years. You should periodically review your city's 28E agreements. As conditions change, the agreements may need to be updated. Some agreements may no longer apply and should be terminated. You should also make sure the organization is providing the agreed upon services as stipulated in the agreement and each entity is paying its fair share.

Some agreements establish a joint entity with a governing body. Find out who represents your city on that governing body and how they are appointed.

The Iowa Code establishes accountability and reporting requirements for certain 28E organizations (see Iowa Code Chapter 8F). City representatives on 28E agencies should apprise themselves of these requirements and make sure the organization complies with all applicable requirements.

Consult your city attorney and your insurance agent whenever your city is considering participating in a new or modifying an existing 28E agreement. The agreement should contain key provisions to minimize your city's liability exposure.

C. SPECIAL ENVIRONMENTAL ISSUES

You should be aware of the following major environmental issues and their potential impact to your city.

1. Air Quality

In 1970, Congress passed the Clean Air Act, which set air quality standards and gave enforcement power to the Environmental Protection Agency (EPA). In Iowa, the Clean Air Act is administered by the Iowa Department of Natural Resources (DNR). Generally, this act affects cities in three ways:

- Local governments are prohibited from openly burning combustible materials, with some exceptions.
- Like industries and individuals, cities must comply with air quality regulations, obtain required permits, and may be required to control the emission of air contaminants from government-owned facilities. For instance, it is likely that a city-owned facility with fossil-fuel combustion equipment must have a permit issued by the appropriate permitting authority regulating the emissions.
- The authority for granting pollution control permits can be delegated to local governments. In administering air quality programs, local governments must adopt standards at least as stringent as those of the federal and state governments.

Asbestos is another air pollution-related concern. In 1986, Congress passed the Asbestos Hazard Emergency Response Act (AHERA) to deal with this problem. If your city is involved with

remodeling or demolition of a building, you need to know the regulations outlined in AHERA.

2. Drinking Water Quality

Congress passed the Safe Drinking Water Act (SDWA) in 1974 to protect public drinking water systems from harmful contaminants. EPA has promulgated a number of drinking water quality standards to accomplish this goal. In Iowa, the SDWA is enforced by the DNR.

Cities are required to provide annual water quality reports to its citizens. The DNR conducts annual inspections of your city's water system. Copies of the DNR inspection reports can be obtained from your city clerk or water utility operator.

3. Wastewater Treatment and Disposal

The quality of Iowa surface water is another major focus of environmental legislation. As discussed in Chapter 9 of this *Handbook*, the DNR administers the federal program relating to wastewater treatment and disposal. The DNR is responsible for issuing permits for operation and the discharge of treated wastewater. Discharge permits include effluent limits that may vary by community and are based on water quality objectives.

4. Ground Water Contamination

In 1987, the Iowa Legislature passed the Iowa Groundwater Protection Act to "prevent the contamination of groundwater from point and non-point sources contamination to the maximum extent practical, and if necessary to restore the groundwater to potable state, regardless of present condition, use, or characteristics."

Cities are required to follow the underground storage tank (UST) regulations if they own such facilities. These tanks must be registered with the state and equipped with devices that prevent spills and overfills, protect against corrosion, and detect leaks. Cities are financially responsible for the costs of cleaning up a leak and compensating injured parties.

5. Brownfields

Brownfields are defined by the EPA as real property the expansion, redevelopment or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant or contaminant. Federal

brownfield programs help finance the identification, assessment and remediation of areas of potential surface or underground contamination. Some state programs are also available. Contact the EPA and DNR for more information regarding these programs.

6. Flood Hazard Areas

Legislation enacted in 2009 requires all cities with flood hazard areas within their boundaries to join the National Flood Insurance Program (NFIP). Cities with a flood insurance rate map or a flood hazard boundary map published by FEMA must join within two years. Cities without such maps must join within two years of the final publications of such a map. State financial assistance for a flood-related disaster is now contingent upon the city participating in this program. Participation in this program is also an important component for making flood insurance available to property owners in your city.

D. CONDEMNATION/EMINENT DOMAIN

Condemnation, or “eminent domain”, is the process by which a city or other governmental agency may acquire property for a public purpose, such as construction of a street, sewer or water main or other public facility when the city is unable to voluntarily acquire the property through good faith negotiations with the property owner. Condemnation may be used to acquire ownership of property, easements over property and temporary interests such as construction easements.

An easement gives the city the right to have access to a property for a specific purpose. For example, cities often acquire permanent easements for utility improvements, such as water or sewer mains. A permanent sewer easement grants the city the right to access private property for the purpose of constructing, operating and maintaining the utility structure. Some easements, however, are merely temporary. For example, a permanent sewer easement may only need to be 20 or 30 feet wide, but during construction the contractor will often need a wider strip of land on either side of the permanent easement to accommodate excavation and construction activities, or to temporarily store construction materials, equipment and dirt. This type of temporary easement allows the city and its contractor access to the property during construction but expires once construction is complete.

1. Legal Requirements

The state of Iowa has a complex set of laws that apply to land acquisition and the use of eminent domain by cities. Cities are required to notify property owners, contract purchasers and other interest holders. The condemnation process involves considerable procedural steps, including notice and hearing. If a project funded even partially by a federal program involves land or easement acquisition, you will also have to comply with federal property acquisition requirements.

Recent legislation has imposed significant limitations on the use of condemnation for certain purposes:

- Authority to condemn property to eliminate “slum or blight” in an urban renewal area is allowed only if 75% or more of the properties in the acquisition plan area exhibit slum or blight and in no case may agricultural land be determined to be slum or blight.
- Condemnation of property for economic development purposes is no longer allowed, unless the property being acquired meets the slum or blight criteria described above.
- Authority to use eminent domain to acquire property for an airport outside the city limits is subject to approval by the county board of supervisors except under certain limited conditions.
- Agricultural lands cannot be acquired by eminent domain for “private development purposes”, which is defined as recreational trails, recreational development paid for with private funds, housing and residential development, and commercial or industrial enterprise development.
- Authority to acquire property for lake development is limited to just that property needed for a surface drinking water source.

Before undertaking a project that involves the acquisition of private property for a public use or purpose, your city should plan carefully and consult with a qualified attorney, especially if your city may be considering using its eminent domain authority to acquire the needed property.

2. Relocation Requirements

If a city project for which eminent domain is used to acquire property results in the displacement of a person from their residence or place of business, state law requires the city to provide relocation assistance to those

displaced persons. Relocation assistance may also be required for federally-funded projects. Be sure to consult with a qualified attorney or relocation specialist if your city is involved in any of these activities.

(including online bidding mechanisms), or setting a minimum sale price based upon the item's market value. A city may also donate personal property to another governmental agency.

E. SALE OF CITY PROPERTY

- **Real Property**

Section 364.7 of the Iowa Code sets out the process for sale of city real property (land and buildings). Cities are required to publish a legal notice (or post notice in the case of cities with a population of 200 or less) with an accurate legal description of the property and hold a public hearing prior to the sale of city-owned real property (see Iowa Code Section 364.7 regarding notice and timing requirements). After the public hearing, the council must pass a resolution authorizing sale of the property.

Your city attorney should be consulted to determine the appropriate form of deed and legal description for transferring the property as well as preparing the proper legal notice and other documents pertaining to the sale.

Cities are required to sell real property at no less than fair market value. Cities may not dispose of real property by “gift” except to another governmental body for a public purpose. Again, you should consult with your city attorney to make sure your process complies with applicable statutory requirements and meets the “fair market value” standard.

Cities must follow this same process before entering long-term leases (more than three years) for rental of city property or making a gift of city real property to another governmental body for a public purpose.

- **Personal Property**

There are no comparable provisions governing the sale of city-owned personal property (vehicles, equipment, goods or furnishings). However, it is recommended that cities should dispose of public property in a manner calculated to obtain the best possible sale price. This is typically achieved by requesting bids or quotes, through auction

F. MUNICIPAL ELECTIONS

Regular city elections are held on the first Tuesday after the first Monday in November in odd-numbered years. These elections are non-partisan, which means that candidates for mayor or city council or other city offices run without formal affiliation with a political party.

The county auditor is in charge of conducting all city elections and has the title of Commissioner of Elections. Results of city elections are canvassed by the county board of supervisors and certified by the county auditor to the city involved.

At one time, the city clerk had certain duties related to city elections, such as accepting and submitting nomination papers for city offices, but legislation enacted in 2014 removed the requirement for nomination papers to be filed with the clerk's office. Nomination papers must now be filed with the county auditor. Additional legislation adopted in 2016 permits a county election commissioner to designate a city clerk to receive nomination papers for city offices. The office of a city clerk that has been designated to receive nomination papers must remain open until 5 p.m. on the final day for filing papers.

City clerks are responsible for notifying county auditors of vacancies and appointments of elected city officials and delivering the texts of public measures to the county auditor. City clerks may inform candidates and potential candidates about the changes to the state law regarding filing for city elections with the county auditor. The city clerk may also provide information to candidates including candidate guides, nomination papers and affidavits. City clerks may also notarize nomination papers before the candidate files them.

The Secretary of State's website contains valuable information regarding municipal elections:
<http://sos.iowa.gov>.

1. Nominations

Cities may select one of the following four election/nomination methods for city elections:

- A city primary election in which candidates are nominated by petition, followed (if necessary) by a regular city election.
- A regular city election only with candidates nominated by petition (per Iowa Code Chapter 45).
- A regular city election only with candidates nominated by convention (per Iowa Code Chapter 44).
- A regular city election with runoff city election (if necessary) – candidates nominated by petition.

Your city clerk must notify the county auditor as to your city's nomination method no later than 90 days before the regular city election. If a city has not selected a method of election, it must follow the primary election process. Selection of any of the other methods must be done by ordinance.

Iowa Code Chapter 376 sets out various requirements including signatures needed and deadlines for filing nominations. These requirements differ depending on which nomination method is used. Check with your county auditor and city attorney to obtain details regarding the requirements that apply to your city.

2. Primary Elections

For cities using the primary system, a primary election must be held when the number of candidates who file nomination papers is more than twice the number of seats to be filled for a particular office. If a primary election is required, it must take place on the Tuesday four weeks before the date of the regular city election. The candidate(s) who receive the most votes, up to twice the number of seats to be filled for an office, are declared nominated and will have their names placed on the ballot at the regular city election.

3. Run-Off Elections

A city may adopt an ordinance requiring a run-off election rather than a primary election. A run-off election is held for positions left unfilled after the regular city election, because one or more candidates did not receive a majority of the votes in the general city election or a write-in candidate received a majority of the votes cast

at a regular city election and then declined the office. For each unfilled position, a run-off election is then held for the candidates that received the most votes, such that there are twice as many candidates as unfilled positions. Run-off elections are held four weeks after the regular city election.

4. Write-In Votes

For those cities using the primary system, candidates may be nominated by write-in votes in primaries if they receive the most votes, up to twice the number of seats to be filled for an office. A candidate for city office nominated in this manner must file an affidavit with the county auditor by 5 p.m. on the day after the canvass of the primary election. If the person nominated fails to file such an affidavit within that time limit, the county auditor must disregard any write-in votes cast for that city office candidate. Consult your county auditor if you have questions regarding this procedure (see Iowa Code Section 376.11 for details).

For those cities using the run-off system, a person receiving enough write-in votes to qualify for the runoff election must file an affidavit of candidacy with the county auditor by 5 p.m. on the day following the canvass of election to move on to the runoff election.

For those cities with regular city elections without runoff provisions, a write-in candidate who receives the most votes is declared the winner and does not need to file an affidavit of candidacy. A write-in candidate who receives the most votes may decline the office by submitting written notice within 10 days after the canvass of the election. If this happens, the city clerk notifies the next highest vote getter who may also decline within 10 days after receiving the notice from the city clerk. If the individual accepts the office, he/she can be sworn in but citizens may petition for a special election if the next highest vote getter takes office (see Iowa Code Section 376.11).

5. Determination of Election Winner

For cities without runoff provisions, the candidate(s) who receives the most votes at the regular city election is declared the winner. If there is a tie, the county board of supervisors draws lots. (See Section 4 above regarding the procedures involving write-ins who receive the most votes).

For cities with runoff provisions, at the regular city election a candidate must receive a majority of the votes cast to win the election. If no majority is received, the runoff election is held. The candidate(s) who receives the most votes in the runoff election is the winner. If there is a tie, the county board of supervisors draws lots. (See Section 4 above regarding the procedures involving write-ins who receive the most votes).

6. Special City Elections for Public Measures

Special elections for public measures may be called at different times for various reasons, such as bond issues for certain purposes, certain types of local option taxes, or changing the form of government.

Many questions require a simple majority vote to pass. However, bond issues for general corporate purposes must receive a 60 percent favorable vote to pass.

Special elections for public measures can be initiated by city council action or by petitions requesting special elections. The requirements for these types of special elections are spelled out in the authorizing sections of the Iowa Code. Consult your city attorney to make sure that the appropriate procedures, notifications, deadlines, signature requirements and similar requirements comply with the Iowa Code.

If a public measure special election is called, all appointments to fill elected official vacancies must also be placed on the special election ballot. Cities can only hold special elections for public measures on the following dates (the authorizing Iowa Code sections may provide additional limits as to when specific elections may be held):

- First Tuesday in March
- First Tuesday in August
- First Tuesday after the first Monday in November in odd-numbered years

Occasionally, city officials or citizens are interested in placing a general question of policy to the electorate. Unless the city has a special charter, a city can only place questions to the electorate that are authorized or required by the Iowa Code.

7. Elected Official Vacancies

An elected official's position can become vacant in several ways (see Iowa Code Chapter 69). Resignation

is a common reason for a vacancy. Elected officials can resign by submitting a letter of resignation to the city clerk or mayor. It is not necessary for the council to take any action to accept the resignation. Other situations that might result in an elected office vacancy include:

- If the incumbent ceases to be a resident of the city (or ward if applicable) in which he or she was elected.
- If the incumbent, the mayor-elect or council member-elect, dies or resigns before qualifying.
- If no one is elected at the proper election, or appointed within the time fixed by law, unless the incumbent holds over.
- If the incumbent or holdover officer fails to qualify within the time prescribed by law.
- If the incumbent is removed from office or forfeits his or her position, or a court having proper jurisdiction declares the office vacant.

An elected city official may be disqualified if he or she accepts another public office that is incompatible with his or her office. The judicial test in that situation involves the following questions: (1) Is there an inconsistency in the functions of the two offices (i.e., is one subordinate to the other)? (2) Are the duties of the two jobs inherently inconsistent and repugnant? If the answer is "yes" to either question, then the additional office held is incompatible with the original office and the official would likely be disqualified. The facts of each case and the statutory requirements for each job will determine whether two offices are incompatible. You should contact your city attorney if you have questions in this regard.

• Removal of Elected Officials from Office

Generally speaking, it is rather difficult to remove mayors and council members from office. Only two bodies have the power to strip elected municipal officials of their position: the district court or the city council.

Chapter 66 of the Iowa Code states that the district court can remove an elected official for the following reasons:

- o For willful or habitual neglect or refusal to perform the duties of office.
- o For willful misconduct or maladministration in office.
- o For corruption.
- o For extortion.

- o Upon conviction of a felony.
- o For intoxication, or upon conviction of being intoxicated.
- o Upon conviction of violating the campaign finance laws.

The procedure for bringing this matter to a district court's attention and for petitioning the court for an official's removal is set forth in Chapter 66.

A mayor or council member can be removed by a two-thirds vote of the entire membership of the city council. Such a vote can ONLY take place after written charges have been filed and a hearing conducted. Your city should have an ordinance setting up the manner of hearing such charges. Generally, any of the charges listed for district court consideration are sufficient to justify removal by the council. A person cannot be removed from an office more than once for the same offense. Proceedings by the council will not prevent later proceedings in the district court.

8. Filling Elected Office Vacancies

It is important to fill vacant council positions. Vacant positions create difficulties in obtaining a quorum and often count as votes against legislation. For your council to run smoothly, you should act quickly to fill any elected official vacancies that might occur.

Vacancies in city offices may be filled by appointment by city council or by special elections.

- **Appointments**

To fill a vacancy by appointment, the city council must do the following: (see Iowa Code Section 372.13(2)(a) through (c) for specific information):

- o The city council must publish notice of its intention to appoint. The notice of intent must be published not less than four nor more than twenty days before the date the council will consider the appointment. The notice must identify the vacancy, state the intention of the council to fill the vacancy by appointment and indicate the date, time and place of the meeting at which the appointment is to be made. The notice must also announce that citizens have the right to petition for a special election.

- o The petition signature requirement for a special election is based on the city's population and the total votes cast at the last regular city election:
 - 10,000 or less: 15% or 200, whichever is less
 - 10,001 – 50,000: 15% or 1,000, whichever is less
 - 50,001 or more: 10% or 2,000 whichever is less
- o The petition calling for a special election must be filed with the city clerk within 14 days of publication of the notice of intent to appoint or within 14 days after appointment is made, whichever is later.
- o The appointment must be made within 60 days after the vacancy occurs. If the notice is published before the vacancy occurs, the council must wait to make the appointment until after the vacancy occurs or after the notice is published, whichever is later.
- o Appointees filling a vacancy must meet the same eligibility qualifications as a candidate seeking to run for the office.
- o If the city council fails to make an appointment within 60 days after the vacancy occurs, the city clerk is required to provide notice of the vacancy to the county auditor. The county auditor will then call a special election at the earliest practical date but no sooner than 32 days after the notice has been received from the city clerk.
- o The appointment will last until the next regular city election or special election for a public measure (see Iowa Code Section 372.13(2)).

If there are multiple vacancies on the council and the remaining council members do not constitute a quorum of the full membership, Iowa Code Section 372.13(2)(b)(2) provides that a special election shall be called by the county auditor at the earliest practical date. The remaining members of the council must give notice to the county of the absence of a quorum. If there are no remaining members of the council, the city clerk shall give notice to the county of the absence of a council. If the clerk's position is vacant, the city attorney shall give notice to the county.

- **Special Election to Fill Vacancies**

If the council has chosen to hold a special election or is petitioned for a special election to fill a vacancy, the city must give the county auditor notice of this election (cities with primary provisions at least 60 days' notice; cities without primary provisions at least 32 days' notice). The special election can be held on any Tuesday except:

- o 4 weeks before or after primary and general elections, including the primary and general elections.
- o An election date where some but not all of the registered voters of any precinct would be entitled to vote in one of the elections occurring on that day and all of the registered voters of the same precinct would be entitled to vote in the other election.

The special election must be held at the earliest practicable date but not later than 90 days after the vacancy occurs. If a city has primary or runoff provisions, the election must follow those procedures. Signature requirements for nomination papers are the same as regular city elections.

The special city election may be held in conjunction with a pending city election if this will get the vacancy filled within 90 days after the vacancy occurs. If not, the election shall be called at the earliest practical date. The council must give the county auditor at least 60 days written notice of the date chosen for the election. If as a result of a vacancy the remaining members do not constitute a quorum, the election shall be called at the earliest practical date.

- **Terms of Office**

A person who is elected to fill a vacancy serves the rest of the unexpired term. A person appointed to elective city offices serves until the next regular city election, unless there is an intervening special election for that city.

9. Campaign Laws

State law prohibits the use of public resources for political purposes (Iowa Code Section 68A.505). "Political purpose" not only refers to election of candidates but also to any issue to be put before the voters, including referendums for bond issues or local option sales tax elections.

Actions that could violate this law include:

- Using city intra-office and inter-office mail boxes to advocate for or against a candidate or ballot issue.
- Printing or publishing a city newsletter urging citizens to vote for or against a candidate or ballot issue.
- Including with utility bills a message of advocacy or urging citizens to vote for or against a candidate or ballot issue.
- Using public resources to solicit or accept campaign contributions.
- Using public resources to solicit votes, engage in campaign work or poll voters on their preferences for candidates or ballot issues.
- Using a publicly owned vehicle to transport political materials, placing campaign signs on a publicly owned vehicle, or traveling to campaign-related events.
- Placing campaign materials on public property including the placement of campaign signs in the public right-of-way.
- Using city email, website, social media and stationary to advocate for or against a candidate or ballot issue.

In addition, all candidates for elected office must comply with campaign finance disclosure and other requirements. Questions about these requirements may be referred to the Iowa Ethics and Campaign Disclosure Board.

10. Election Calendar

Consult your county auditor to obtain dates for filing deadlines for candidates, special elections and other details regarding city elections.

Appendix A

Sources of Information

General Resource Organizations

Iowa Association of Regional Councils

www.iowacog.com

Iowa City/County Management Association

www.iacma.net

Iowa Municipal Attorneys Association

www.iowaleague.org/get-involved/iowa-municipal-attorneys-association

Iowa League of Cities

www.iowaleague.org

Iowa State Association of Counties

www.iowacounties.org

International City/County Management Association

www.icma.org

Iowa State University Extension Office of State and Local Government Programs

www.extension.iastate.edu/communities

National Conference of State Legislatures

www.ncsl.org

National Governors Association

www.nga.org

National League of Cities

www.nlc.org

United States Conference of Mayors

www.usmayors.org

University of Iowa School of Planning and Public Affairs

sppa.uiowa.edu

Urban Institute

www.urban.org

Budge/Finance/Taxation

Auditor of State

www.auditor.iowa.gov

Government Finance Officers Association

www.gfoa.org

Iowa Department of Management

dom.iowa.gov

Iowa Department of Revenue

tax.iowa.gov

Iowa Municipal Finance Officers Association

www.imfoa.org

Civil/Human Rights

Iowa Civil Rights Commission

icrc.iowa.gov

Iowa Department of Health & Human Services

hhs.iowa.gov

United States Commission on Civil Rights

www.usccr.gov

Civic Engagement

National Civic League

www.nationalcivicleague.org

Office of Citizen's Aide/Ombudsman

ombudsman.iowa.gov

United States Department of Agriculture Rural Development – Iowa Office

www.rd.usda.gov/ia

Economic Development

Institute of Decision Making
idm.uni.edu

Iowa Area Development Group
www.iadg.com

Iowa Economic Development Authority
www.iowaeda.com

Iowa State Extension Community & Economic Development
www.extension.iastate.edu/communities

Professional Developers of Iowa
www.pdiowa.com

Employment/Human Resources

Iowa Public Employees' Retirement System
www.ipers.org

Iowa Public Employment Labor Relations Association
www.npelra.org (*click on "state pelra's"*)

Iowa Public Employment Relations Board
www.iowaperb.iowa.gov

Housing

Federal Home Loan Bank – Des Moines
www.fhlbdm.com

Iowa Economic Development Authority
www.iowaeda.com

Iowa Finance Authority
www.iowafinance.com

Iowa Workforce Development
workforce.iowa.gov

National Public Employment Labor Relations Association
www.npelra.org

United States Department of Agriculture Rural Development – Iowa Office
www.rd.usda.gov/ia

United States Department of Housing and Urban Development – Iowa Office
www.hud.gov

United States Department of Labor – Iowa Office
www.dol.gov

Information Technology

Center for Technology in Government
www.ctg.albany.edu

Geographic Information Systems Support And Research Facility
www.extension.iastate.edu/communities/gis

Iowa Department of Administrative Services
www.das.iowa.gov

Iowa Geographic Information Council
www.iowagic.org

Public Technology Institute
www.pti.org

State Library of Iowa
www.statelibraryofiowa.org

Law/Legal Issues

Attorney General
www.iowaattorneygeneral.gov

International Municipal Lawyers Association
www.imla.org

Iowa Ethics and Campaign Disclosure Board
ethics.iowa.gov

Iowa Municipal Attorneys Association
www.iowaleague.org/get-involved/iowa-municipal-attorneys-association

Iowa Public Information Board
www.ipib.iowa.gov

National Association of Attorneys General
www.naag.org

Parks and Recreation

Iowa Department of Natural Resources
www.iowadnr.gov

Iowa Park and Recreation Association
www.iapra.org

National Recreation and Park Association Development Board
www.nrpa.org

Planning/Land Use

American Planning Association

www.planning.org

Iowa Association of Regional Councils

www.iarcog.com

Iowa Economic Development Authority – City

www.iowaeda.com

Iowa State University Department of Community & Regional Planning

www.extension.iastate.edu/communities

University of Iowa School of Planning and Public Affairs

<https://sppa.uiowa.edu/>

Public Safety

Building Inspection

Iowa Association of Building Officials

www.iabo.net

State Building Code and Plan Review

dps.iowa.gov

Law Enforcement

International Association of Chiefs of Police

www.theiacp.org

Iowa Police Chiefs Association

www.iowapolicechiefs.com

Iowa Law Enforcement Academy

ilea.iowa.gov

Emergency Management

Iowa Emergency Management Association

www.iowaema.com

Iowa Homeland Security and Emergency Management Division

homelandsecurity.iowa.gov

Fire/Emergency Medical Services

International Association of Fire Chiefs

www.iafc.org

Iowa Department of Public Safety

dps.iowa.gov

State Fire Marshal

dps.iowa.gov

Public Works/Solid Waste/Environment

American Public Works Association

www.apwa.org

American Water Works Association

www.awwa.org

Iowa Department of Natural Resources

Environmental Protection Division

www.iowadnr.gov

Iowa Recycling Association

www.iowarecycles.org

Iowa Society of Solid Waste Operations

www.isoswo.org

Iowa Water Environment Association

www.iawea.org

Keep Iowa Beautiful

www.keeptowabeautiful.org

Solid Waste Association of North America

www.swana.org

Regional Planning Commissions

(counties served in parentheses)

Area 15 Regional Planning Commission

(Davis, Jefferson, Keokuk, Mahaska, Van Buren, Wapello)

www.area15rpc.com

Bi-State Regional Commission

(Muscatine, Scott)

www.bistateonline.org

Chariton Valley Planning and Development

(Appanoose, Lucas, Monroe, Wayne)

www.charitonvalleyplanning.com

East Central Intergovernmental Association

(Cedar, Clinton, Delaware, Dubuque, Jackson)

www.ecia.org

East Central Iowa Council Of Governments

(Benton, Cedar, Iowa, Johnson, Jones, Linn, Tama, Washington)

www.ecicog.org

Iowa Association of Regional Councils

www.iowacog.com

Iowa Northland Regional Council of Governments

(Black Hawk, Bremer, Buchanan, Butler, Chickasaw, Grundy)

www.inrcog.org

Metropolitan Area Planning Agency

(Mills, Pottawattamie)

www.mapacog.org

MIDAS Council of Governments

(Calhoun, Hamilton, Humboldt, Pocahontas, Webster, Wright)

www.midascogia.net

North Iowa Area Council of Governments

(Cerro Gordo, Floyd, Franklin, Hancock, Kossuth, Mitchell, Worth)

www.niacog.org

Northwest Iowa Planning and Development Commission

(Buena Vista, Clay, Dickinson, Emmet, Lyon, O'Brien, Osceola, Palo Alto, Sioux)

www.nwipdc.org

Region Six Planning Commission

(Hardin, Marshall, Poweshiek, Tama)
<https://www.region6resources.org/>

Region XII Council of Governments

(Audubon, Carroll, Crawford, Greene, Guthrie, Sac)
www.region12cog.org

Siouxland Interstate Metropolitan Planning Council

(Cherokee, Ida, Monona, Plymouth, Woodbury)
www.simpco.org

Southeast Iowa Regional Planning Commission

(Des Moines, Henry, Lee, Louisa)
www.seirpc.com

Southwest Iowa Planning Council

(Cass, Fremont, Harrison, Montgomery, Mills, Page, Pottawattamie, Shelby)
www.swipco.org

Upper Explorer Land Regional Planning Commission

(Allamakee, Clayton, Fayette, Howard, Winneshiek)
www.uerpc.org

Transportation**Center for Transportation Research and Education**

www.ctre.iastate.edu

Iowa Department of Transportation

www.iowadot.gov

Federal Aviation Administration – Central Region

www.faa.gov

United States Department of Transportation

www.transportation.gov/

Utilities/ Telecommunication**Iowa Association of Municipal Utilities**

www.iamu.org

Iowa Rural Water Association

www.iowaruralwater.org

Iowa Utilities Board

www.iub.iowa.gov

National Association of Telecommunications Officers and Advisors

www.natoa.org

State Agencies (Other)

(For further information, go to www.iowa.gov)

Department of Agriculture and Land Stewardship

iowaagriculture.gov

Department of Cultural Affairs

culture.iowaeda.com

Iowa Department on Aging

hhs.iowa.gov

Department of Inspections and Appeals

dial.iowa.gov

Department of Public Health

hhs.iowa.gov

Iowa Alcoholic Beverages Division

abd.iowa.gov

Appendix B

Glossary of Abbreviations and Acronyms

A

ABI	Association of Business and Industry
ACA	Affordable Care Act
ADA; ADAA	Americans with Disabilities Act; Americans with Disabilities Amendment Act
AFSCME	American Federation of State, County, and Municipal Employees
AG	Attorney General
AGO	Attorney General's Opinion
APWA	American Public Works Association

B

BOD	Biochemical Oxygen Demand
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C

CATV	Cable Television
CAFR	Comprehensive Annual Financial Report
CBD	Central Business District
CDBG	Community Development Block Grant
CIP	Capital Improvements Program
CMC	Certified Municipal Clerk
COBRA	Consolidated Omnibus Budget Reconciliation Act
COG	Council of Governments
CPA	Certified Public Accountant
CPI	Consumer Price Index

D

DNR	Department of Natural Resources
DOL	Department of Labor
DOM	Department of Management

E

EDA	Economic Development Administration
EEO	Equal Employment Opportunity
EIS	Environmental Impact Statement
EMS	Emergency Medical Services
EMT	Emergency Medical Technician
EPA	Environmental Protection Agency

F

FAA	Federal Aviation Administration
FCC	Federal Communications Commission
FEMA	Federal Emergency Management Agency
FHA	Federal Housing Agency
FICA	Federal Insurance Contribution Act (Social Security)
FLSA	Fair Labor Standards Act
FMLA	Family and Medical Leave Act

G

GAAP	Generally Accepted Accounting Principles
GASB	Governmental Accounting Standards Board
GIS	Geographical Information System
GO Bond	General Obligation Bond

H

HHS	U.S. Department of Health and Human Services
HUD	U.S. Department of Housing and Urban Development

I	
IaCMA	Iowa City/County Management Association
IAMU	Iowa Association of Municipal Utilities
ICAAP	Iowa Clean Air Attainment Program
ICAP	Iowa Communities Assurance Pool
IDNR	Iowa Department of Natural Resources
IDOT	Iowa Department of Transportation
ICE	U.S. Immigration and Customs Enforcement
IEDA	Iowa Economic Development Authority
ILOC	Iowa League of Cities
ILEA	Iowa Law Enforcement Academy
IMFOA	Iowa Municipal Finance Officers Association
IMWCA	Iowa Municipalities Workers Compensation Association
IPAIT	Iowa Public Agency Investment Trust
IPERS	Iowa Public Employees Retirement System
ISAC	Iowa State Association of Counties
ISU	Iowa State University
IUB	Iowa Utility Board

L	
LMI	Low and Moderate Income
LUST	Leaking Underground Storage Tank

M	
MFPRSI	Municipal Fire and Police Retirement System of Iowa
MSWLFC	Municipal Solid Waste Landfill Criteria

N	
NEPA	National Environmental Policy Act
NFIP	National Flood Insurance Program
NLC	National League of Cities
NPDES	National Pollution Discharge Elimination System

O	
OSHA	Occupation Safety and Health Administration

P	
P & Z	Planning and Zoning
PERB	Public Employment Relations Board
PO	Purchase Order
PWS	Public Water Supply

R	
RC&D	Resource, Conservation and Development
RCRA	Resource Conservation and Recovery Act
RDA	Rural Development Administration (U.S. Department of Agriculture)
REAP	Resource Enhancement and Protection
RFP	Request for Proposal
RFQ	Request for Qualifications
RIG	Rural Innovation Grant
RISE	Revitalize Iowa's Sound Economy
ROW	Right-of-Way
RPC	Regional Planning Commission
RUTF	Road Use Tax Fund
RWA	Rural Water Association

S	
SDWA	Safe Drinking Water Act
Section 8	Federally Subsidized Housing Program
SOP	Standard Operating Procedure
SRF	State Revolving Fund
SSMID	Self-Supporting Municipal Improvement District

T	
TIF	Tax Increment Financing

U	
U of I	University of Iowa
UNI	University of Northern Iowa
UST	Underground Storage Tank

W	
WHP	Well Head Protection
WWTP	Waste Water Treatment Plant

Z	
ZBA/BOA	Zoning Board of Adjustment

Financial and Budgetary Terms

Accrual Basis Accounting

Accounting for liabilities when they are incurred and revenues when accounts become receivable. Cities over 2,000 population are encouraged to keep their books on a modified accrual basis, which includes “encumbering” purchase orders and contracts to record the reduction of the appropriation balance even before cash is paid out.

Actual Value

The assessed, or 100% valuation of taxable property, before the application of any rollback percentage. The value against which a city calculates its constitutional debt limit.

Appropriation

This is an authorization to spend. Your budget certificate contains the appropriation resolution that allocates appropriations to programs when you adopt the budget. If you want to appropriate money for programs or purposes not included in the originally adopted budget, or to increase appropriation amounts to any of them, you will need to go through the budget amendment process.

Appropriation Balance

At any date during the fiscal year, this is the amount you have appropriated for a program, service, function or activity account, less the amount that has been spent as of that date. This figure has nothing to do with the cash balance. Thus, you may also want to check to see that your income is meeting expectations. If it is not, you may have to cut your appropriations and expenditures accordingly. You should have information made available to you regularly, preferably monthly, on expenditures to date and the appropriation balances, as well as actual money taken in and the amounts yet to be collected.

Beginning Fund Balance

You are required to include this figure in the state-prescribed budget summary form. It is an estimate of the cash on hand, less outstanding warrants/checks that you anticipate on the day your next year’s budget starts, together with all investments.

Bonds or Notes

These instruments of long term debt are issued by cities in order to obtain funds to pay for projects whose costs exceed amounts available in the current budget. Examples of bonds and notes include general obligation bonds, revenue bonds and special assessment bonds. When a city issues bonds, it must keep the bond proceeds in a separate project fund. The project fund should be identified by its purpose. The money in a bond project fund can be appropriated and used only for the purpose stated in the bond issue.

Budget Appeal

This is a request by taxpayers to make a change in the budget (or budget amendment) after it has been adopted by the council but before it goes into effect.

Budget Certificate Summary Form

This summarizes the detailed budget and is adopted by the council as the formal certificate of city income, expenditure estimates and tax rates. Iowa law requires a city to file two copies of the Adoption of Budget and Certificate of Taxes, one paper copy of the detailed budget and one original proof of publication or Affidavit of Posting to the county auditor. One copy of the budget file is required to be sent to the Iowa Department of Management. The complete budget you prepare for your own city’s use must be available for public inspection and must be more detailed. It should show the different types of income you plan to take in and the different kinds of expenditures you plan to make.

Cash Balance

This is the amount of money the city has in the bank, including investments. Each month the city should receive a report of the cash balance by funds from the treasurer or designated finance officer.

Cash Basis Accounting

Most Iowa communities keep their records on a cash basis. That is, no record is made until cash is either actually received or cash is actually paid out to pay a bill, salaries, wages, etc. This method is the alternative to accrual basis accounting.

City Finance Committee

This body is the state board assigned the task of overseeing the financial requirements of city government as outlined in Section 384.13 of the Iowa Code.

Fiscal Year

Cities operate on a fiscal year for their financial operation from July 1 to June 30. The primary reason for having a fiscal year is so that your city government will have the same starting and stopping point year after year for budgeting, accounting, reporting and auditing purposes.

General Fund

This fund is used to account for all revenues and the activities financed by the city (such as Police, Fire, Parks, Library, Council and Clerk) but not accounted for in some special fund (such as Road Use or Enterprise Funds).

General Obligation Bonds

General obligation bonds are debt instruments (either essential corporate purpose or general corporate purpose) that are backed by the “full faith and credit” of the city and usually paid back with funds collected through the property tax levy.

Line-Item Budget

Used by most local governments, line-item budgets are prepared by adding proposed spending increases to current expenditure levels. The budget lists how much money will be spent on every item in a department.

Program Budget

Focuses on specific services or outputs and involves allocating resources to obtain desired goals. This approach makes it easier to set priorities and select among competing programs and service alternatives but can be staff intensive.

Property Tax Asking

This term concerns the dollar amount required to balance your budget after all other revenues have been deducted from your budgeted needs.

Revenue Bonds

Revenue bonds are debt instruments backed by a revenue source through the receipt of that particular revenue, such as water or sewer revenue.

Rollback

A state-imposed restriction in the growth of property valuation, stated in terms of a percentage, which is used in determining taxable value.

Special Assessment Bonds

Special assessment bonds are debt instruments backed by the properties benefited by the improvements and repaid from special tax charges levied against these properties.

State Appeal Board

The group of state officials who hear and decide requests from city officials to raise property tax revenues in excess of the state mandated levels and also hear and decide appeals from local citizens who challenge the city’s proposed property tax asking.

State Shared Revenues

These funds are collected by the state and are shared with city governments (for example Road Use Tax Funds).

Tax Levy

This is the actual amount of total dollars raised in property taxes in your community.

Tax Rate

This is the amount in dollars and cents that is assessed on every \$1,000 of taxable property in your city: tax levy divided by taxable value (in terms of \$1,000 of property). This is sometimes referred to as the “mil rate.”

Taxable Value

This is the amount of value of property in the city against which taxes may be assessed.

Transfer

Certain revenues must be deposited into revenue funds. The expenses may be reflected in a different fund. The council approves a transfer resolution to move the money from one fund to another.

Checklist: Policies and Procedures

This appendix can be used as a checklist to review with your city staff, city attorney and policy leaders. Certain items may not pertain to your city due to your size, form of government or services rendered, but some items may be required by state or federal laws.

A. General Ordinances/Resolutions

- City code of ordinances
- Book of resolutions
- City council minute book

B. General Plans and Policies

- Comprehensive plan
- Economic development plan
- City street snow removal policy
- Policy regarding sale of city property
- Information technology/telecommunications policy

C. Meetings

- Council meeting rules of procedure and decorum
- Policy regarding preparation of meeting agendas
- Post tentative agenda of meetings 24 hours in advance
- Publish council minutes within 15 days of meetings per state law
- Publish ordinances per state law
- Obtain city attorney opinion prior to conducting closed sessions

D. Financial Matters

- Annual city budget
- Capital Improvements Program
- Equipment replacement plan
- City investment policy
- Purchasing policy
- Summary of city fees and charges
- Annual financial statement/report
- Council resolution of depositories of city funds
- Road use tax financial reports

E. Human Resources Administration

- Personnel manual or employee handbook
- Job descriptions for all positions
- City organization chart
- Collective bargaining agreement(s)
- Employee performance/evaluation format
- Health insurance plan administration

F. Safety and Protection Programs and Manuals

- Employee safety manual
- Hazardous materials plan
- Blood-borne pathogens plan
- Respiratory program
- Confined space program
- Lock-out/Tag-out program
- Completion of OSHA Form on injuries and illness
- Completion of OSHA Form (annual log of injuries and accidents)
- "Right to Know" plan - material safety data sheets
- Emergency/disaster preparedness plan
- Countywide emergency operations plan

G. Permits

- National pollution discharge elimination system (NPDES) permit (wastewater facility)
- Underground storage tank (UST) licenses
- Public drinking water supply permit
- Storm water discharge permit

H. General Listings and Summaries

- City organizational chart – chain-of-command
- List of city insurance policies – coverage, limits, costs, company, expiration date
- List of city employees – name, position, date of employment
- List of council committees and appointments
- List of city boards and commissions – members, meeting dates, term dates, bylaws
- Asset inventory listing city buildings, facilities, and other assets with location, use, size, value, and year built
- Vehicle/equipment inventory listing make, model, year, ID number, size, value, and location/department
- Fire/EMS mutual aid agreements and service contracts
- 28E agreements involving your city