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**A
HANDBOOK
FOR
IOWA COUNCIL
MEMBERS**

A HANDBOOK FOR IOWA COUNCIL MEMBERS

UNIVERSITY OF IOWA
Institute of Public Affairs
Iowa City

STATE OF IOWA
Office for Planning and Programming
Division of Municipal Affairs
Des Moines

LEAGUE OF IOWA MUNICIPALITIES
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FOREWORD

This handbook deals with your duties and responsibilities as a member of the city council. It reflects the significant changes which the constitutional and statutory grants of home rule have made. The handbook emphasizes your tools as a member of the city council—the powers and duties given to you by state law. A few suggestions on how to do the job are included to help you in your council work.

This handbook does not deal with a lot of legal technicalities. But references to state law have been included where it affects city government. These references are only a starting point in considering any matter. Your city attorney, of course, will also be able to help you with the technicalities.

A Handbook for Iowa Council Members was first published in 1950; subsequent revisions were made in 1954, 1958, 1965, 1969, 1973, 1975 and 1978. As in the preceding years, the current revision represents a cooperative effort of the Institute of Public Affairs (IPA) of

the University of Iowa, the League of Iowa Municipalities (LIM), and the Division of Municipal Affairs (DMA) of the Office for Planning and Programming. This handbook was written by the IPA staff under the direction of Harry Smith, Chief of Research, and reviewed by Edwin H. Allen, Jr., Assistant Director, Technical Advisory Service of the LIM. Rajesh Jain of the DMA staff was responsible for the design, printing and distribution of the current revision.

Clayton Ringgenberg, Director
Institute of Public Affairs
University of Iowa

David A. Discher, Director
Division of Municipal Affairs
Office for Planning and Programming

Robert W. Harpster
Executive Director
League of Iowa Municipalities

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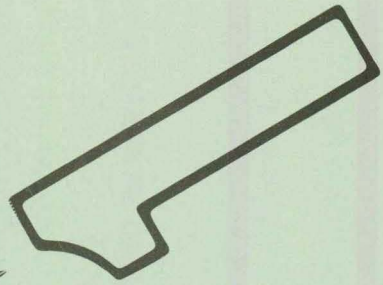
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STUDENT
BOOK COORDINATOR
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BOOK COORDINATOR



What does it mean for your community to be incorporated? What have the courts said about state control of municipal affairs? What is the role of the legislature in city affairs? What do the statutes say about your position on the city council? What is the practical effect of the home rule amendment and its implementing legislation?

The relationship of your city¹ government to the state government has been significantly changed by the 1968 adoption by the voters of Iowa of a home rule constitutional amendment, and the legislature's passage of legislation to implement the constitutional amendment. Home rule has granted chartermaking and substantive powers to cities and has changed cities from a subordinate to a pre-eminent position in control of their "local affairs." State government still exercises a variety of controls which limit municipal action. However, with the adoption of the home rule amendment and its implementing legislation, Iowa municipalities can exercise municipal initiative to solve local problems. As a municipal official, you should be aware of the scope of action available to your city and should recognize the increased authority which home rule will bring.

A. The Meaning of Incorporation

Cities continue to gain their existence through incorporation by the state government. The incorporation of a community in Iowa simply means that a community has taken on a status recognized by law. A city defines its geographical boundaries by incorporation. Incorporation also confers upon the city the power to act within its municipal boundaries and makes the city subject to the restrictions placed upon it by state law and the state constitution.

Since 1857 the Iowa Constitution has required that all cities be incorporated in the same way.² In other words, your community could not have been incorporated by a special act of the legislature;³ rather, it and all other communities, had to be given the right to incorporate under a state law that applied to each community in the same way.

The law on incorporation of cities has been changed by the home rule act.⁴ A new state agency is formed called the city development board.⁵ This board is composed of three members appointed by the governor.⁶ It is given the power to study and rule upon plans for city incorporation, discontinuance or

consolidation of cities, and annexation by, or severance of territory from, existing cities. The procedure for any of these changes is generally the same: a petition with specified contents is filed by the governing authority or the voters, notice of the filing is given to affected parties, board consideration is given to the proposal, a public hearing is held before the board, and approval is granted if the board finds the change to be in the "public interest."⁷ This recent change in the procedure for incorporation of cities demonstrates the principle stated in Iowa's Constitution that any law providing for municipal corporations may be changed at any time, including the laws on incorporation.⁸

The most recent amendment to the Iowa Constitution (the "county home rule" amendment) which was approved by the voters in the 1978 general election, empowers the legislature to provide for a new type of local government corporation—the joint county—municipal corporation. This joint county—municipal corporation would be basically a consolidation of a county and city government into one entity. At present, however, the legislature has not acted to provide implementing legislation for this new type of governmental corporation.

B. The Grant of Power to Your City

The Constitutional Grant of Power—The Constitution of the State of Iowa was amended in 1968 to include the following statement:

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 the 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."⁹

This amendment ends the Dillon Rule and the rule, "expressio uno exclusio omnis," which formerly prevailed in Iowa. Under this rule cities had been restricted to exercising only the following types of powers: (1) those expressly granted by the legislature, (2) those necessarily or fairly implied in or incident to

the powers expressly granted, and (3) those indispensably essential—not merely convenient—to the declared objects and purposes of the municipality.¹⁰

The Iowa Constitution prohibits a city from holding stock in a bank or other private corporation, and limits the amount of debt cities can undertake.

The Statutory Statement Concerning Powers—The general statement of powers and duties and specific provisions for municipalities to control certain local affairs are found in the home rule act, enacted by the legislature in 1972.¹¹

“A city may, except as expressly limited by the Constitution, and if not inconsistent with the laws of the General Assembly, exercise any power and perform any function it deems appropriate to protect and preserve the rights, privileges, and property of the city or of its residents, and to preserve and improve the peace, safety, health, welfare, comfort, and convenience of its residents.”¹²

Under Iowa form of home rule, the municipality's control over local affairs is subject to pre-emption by the state legislature.

In other words, the municipality cannot act where it can be shown that the legislature, by a broad scheme of legislation, intended to cover a certain area or where municipal legislation would be inconsistent with the state legislation. Originally there may be some problem in deciding when a city can act and when the state has pre-empted the area, but generally a city can feel safe in acting if there is no state-enacted prohibition or if the state has not enacted any law on the matter.

The home rule act contains certain provisions which can be used to interpret other sections in the home rule act or other statutes applicable to cities. For instance, section 362.8 provides that the home rule act is to be construed liberally; section 364.2(2) provides that specific statutory grants of power should not be used to limit or restrict the constitutional grant of home rule power; section 364.2(2) requires that any limitation on the city's powers be expressly stated in the law; section 364.2(3) says that a statute is not inconsistent with a city action unless the two are irreconcilable; and section 364.3(3) provides that cities may set higher or more stringent standards than those imposed by state law, unless a state law provides otherwise.

An important part of a city's new power is the

power to make its own charter. In fact, every municipality is required to adopt a charter ordinance embodying its existing form of government. The forms of government are the traditional forms found in the Iowa Code: mayor-council, mayor-council with appointed manager, council-manager-ward, council-manager-at-large, and commission; the special charter; and a new form, the home rule charter.¹³ It is with the home rule charter form of government that municipalities can experiment with different powers and duties for officers, and combine or elaborate on their functions. The contents of the home rule charter must contain provisions for: a mayor and council, their terms of office, and their powers and duties.¹⁴ There is a specified procedure for adoption of the charter which should be examined carefully.¹⁵

C. State Law Defines Your Positions as a Council Member

Some sections of the home rule act and other state laws outline how you are selected and your official duties.

Number of Council Members—Depending on the form of government in your

municipality, the number of council members varies. Under the mayor-council form of government the number must be an odd number but not less than five;¹⁶ under the council-manager-at-large form there are five members;¹⁷ under the council-manager-ward form there are seven members;¹⁸ under the commission form there are five members;¹⁹ and under the home rule charter form of government there must be an odd number of members not less than five.²⁰

Election—To be elected to the council you must be an elector of your city,²¹ eighteen years of age,²² and a citizen of the United States and a resident of Iowa.²³ If you represent a ward, you must live in that ward.

You are barred from holding office if you have been convicted of a crime resulting in imprisonment in the penitentiary or the men's reformatory,²⁴ or if you are merely stationed in Iowa in the Armed Forces.²⁵

You must remain a resident of the city (and ward) while you remain in office. By establishing a residence outside the city (or ward) you will have automatically resigned.²⁶

Oath of Office—You must "qualify" for your office as council member by taking an

oath of office. You must qualify before your term of office begins.²⁷ You must qualify even if you are re-elected or are a holdover because no successor was elected or your successor failed to qualify.²⁸ Your oath of office should be as set out in the Code:²⁹

“(your name), do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of Iowa, and that I will faithfully and impartially, to the best of my ability, discharge all the duties of the office of city council member in (name of city) as now or hereafter required by law.”

The oath may be administered by the mayor or city clerk or by a judge, a clerk or deputy clerk of the supreme or district courts, a notary public, or a certified shorthand reporter.³⁰ After it is administered orally it should be written and signed by you.³¹ Your signature should then be certified by the person administering the oath to you.³² It is not clear whether your acts would be valid without taking the oath of office, presumably not, and you would be subject to a penalty of a fine not exceeding \$1,000 or imprisonment in the penitentiary not exceeding one year or both if your failure was intentional.³³

You are not required to furnish a bond.

Term of Office—Your term of office, as well as that of other city officials, begins and ends at noon on the first day of January which is not a Sunday or legal holiday, following a regular city election.³⁴

Normally, your term of office will be two years, and if no term is specified it is two years.³⁵ Terms may be changed from two to four or four to two years by a process of petition and election.³⁶ There is no limit on the number of terms you can serve.

Compensation—The amount of your salary is set by ordinance.³⁷ The only restriction that is placed in the law is that your compensation cannot be changed, such as increased, during your current term of office and the changes must be made before November first of the year of the regular city election.³⁸ However, if a change is made, if you have two more years of a four-year term you will also receive the same pay as those elected at that election. You should check with the city clerk to determine the current rate of pay.

Conflict of Interest—As a public official, you cannot use your public office for

private gain.³⁹ In other words, you cannot benefit, either directly or indirectly, from the business your city gives the business people of your community or other communities.

However, certain situations do not constitute a conflict of interest and they are set out in the state law:⁴⁰

1. Receiving payment for holding compatible governmental positions.
2. Designation of a bank or trust company as a depository, paying agent, or for investment of funds in which you are employed or have any ownership.
3. Making contracts with the city in municipalities of less than 3,000 population upon competitive bid in writing, publicly invited and opened.
4. Making contracts in which you have an interest by reason of either personal employment or stock interest of less than 5 percent of the outstanding stock of the corporation, if the contracts are made by competitive bid, publicly invited and opened, and if the remuneration of your employment is not directly affected as the result of such contract, and provided that you do not have as a duty of your employment any activities directly involved with procurement or

preparation of the contract.

5. Voting on the designation of an official newspaper if you are an officer or owner of the paper.
6. Contracts made with the city before you took office.
7. Other contracts with corporations in which you or your spouse or members of your immediate family own or control, directly or indirectly, less than 5 percent of the outstanding stock. The only change in this section made by the home rule act is the addition of the spouse or immediate family within the range of prohibited activity.
8. Volunteer firemen or civil defense volunteers may sell to the city.

Even though you have a conflict of interest and you vote on an ordinance, resolution, or motion, the ordinance, resolution, or motion, if adopted, is valid unless your vote was needed for passage.⁴¹

If a specific or extraordinary majority or unanimous vote is required, the vote will be computed on the number of members who are not disqualified.⁴²

If you believe you have a conflict of interest, decline to vote and state that your reason is

because of a conflict of interest. Your statement will be entered on the record and will be conclusive.⁴³ Where the council enters into a contract with the mayor, a council member, or any other city officer or employee in violation of the conflict of interest provisions, it is void.⁴⁴

Civil Liability—You and the other members of the council cannot be held personally liable either individually or collectively for the decisions you make that are permitted or required of you by the statutes. This is because, as the Supreme Court of Iowa has said, “To hold public officials personally and financially liable for the loss to some individual following official action would deter all but the most foolhardy or insolvent from assuming public responsibility. Municipal government might fall from lack of personnel.”⁴⁵ However, if you act outside the scope of your duties as a council member, you may be personally liable. This is because you will be considered as acting outside your position as a council member, and thus should be held to the same liability as any private citizen.

Your municipality is subject to liability for your torts when you are acting within the scope of

your responsibilities or duties as a council member.⁴⁶ Your council may purchase an insurance policy to insure against your torts as well as the torts of other employees and agents. The costs of such insurance premiums may be levied in excess of any tax rate limitation imposed by statute.⁴⁷ Any board or commission in the municipality having authority to spend funds for a particular municipal function without approval of the governing body may obtain liability insurance within the field of its operation. But any insurance that the council obtains to cover the areas exempted, such as a claim arising out of a loss resulting from an act or omission of a city officer or employee even though they exercised due care, means that the city waives the governmental immunity as to those areas.⁴⁸

Your council has the right to compromise, settle, or adjust any tort claim against you.⁴⁹ Be sure to consult your city attorney for technical advice in purchasing insurance.

Vacancies—A vacancy will be created in your office on the council if you resign voluntarily or if your conduct would be incompatible with your further continuance in office.

Your resignation may be submitted in writing

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What kinds of services can a city like yours furnish? Is there any limit on what you can spend to furnish a service? What obligation does your council have to let the people know what you are doing? How should complaints be handled?

By becoming incorporated, your community is permitted a degree of self-government. That is, your community is permitted to make many decisions for itself that it could not make if it were unincorporated.

The power of the city is vested in the city council unless by state law it is given to a board, commission, agency, or other city official or employee. You and other members of the council have the responsibility for making most of the major decisions for the community. For the most part, these decisions will be of two types: (1) decisions regarding the furnishing of services to the people of the community, and (2) decisions regarding the protection of the present physical condition of the community and providing for its growth. These are the chief purposes of the city government.

In this chapter, the kind and extent of services your community can furnish are discussed. In

the following chapter, the council's responsibilities in the development of the community are discussed.

A. The Kind and Extent of Services You May Furnish

Historically, as was pointed out in the preceding chapter, the legislature, by statute, determined which services your community and other communities could provide. Now, the home rule act may be used to allow you more discretion to run your city with less direction from the state.

Almost without exception, the laws which set forth the different services leave to the decision of the council the question as to whether or not the service shall be provided. However, before some services may be provided, the people themselves must request the service by petition and approve it by an election. And in a few cases the law requires that each municipality must provide certain services.

Extent of Services You May Furnish—There are now few laws that state that a city “shall have power to provide for” this

service or that service. Few say how your community must go about providing a service. Most services are not mentioned in the statutes but may be provided under the city's general home rule authority. If your community wants a particular service, or already has it, it is usually up to you and the other members of the council, and the mayor, to decide the extent to which the service is to be furnished. You are permitted to make this decision locally. You can decide when and where each type of service is to be provided and how the work is to be done. You can decide how much you want to spend for each service. You can make the other decisions necessary to give the people of your community the kinds of services they want.

Some Restrictions on the Extent of Services You May Furnish—

There are several ways in which the statutes restrict your council and mayor from deciding entirely on your own the extent of services to be furnished. The most common restriction has already been pointed out: You must be careful to follow the procedures and rules set forth in the law.⁶⁴ You have no choice but to do this.

trustees have charge of a certain municipal service. This takes the service out of the council's hands almost entirely, even though the board members are usually appointed by the council, or with the approval of the council. For best results, it is necessary that the council and the board make some decisions jointly. This is especially true in deciding how much should be spent for a service that is under the jurisdiction of a board of trustees. This subject is discussed more thoroughly in Chapter 4.

Another restriction on the extent of services you can provide involves financial limitations. The law that applies to city finances puts an overall limit on the amount of property taxes your community can levy each year to provide services. However, there is no limit upon the amount of taxes to be levied for each particular class of services, other than the overall limit. In a few cases, the law requires that certain revenues of the municipal government must be spent for certain purposes. These matters are covered in more detail in Chapter 5. Under some laws, your community is required to provide a certain service. There are only a few of these laws.

Municipal Services—Obviously, in your position on the city council you cannot be

expected to know all about the services your community can give your people, nor can you be expected to know what can be done under each statute. Again, you must rely on your city attorney to get this information for you as you need it.

Although many authorizing provisions have been repealed by the home rule act, we are including the former list of municipal services as a checklist with their new statutory authorization, be it a specific Code section, a home rule act section or the general home rule authority, and with any statutory limitations. Of course, this list is no longer exhaustive and you may wish to combine, redefine, eliminate, or develop new services for your municipality to perform, consistent with legal provisions.

Providing Services Cooperatively—Chapter 28E of the Code of Iowa authorizes any governmental agency to undertake to provide any service or activity jointly with any other agency *so long as each agency has the power to undertake that particular activity on its own*. Thus, as an example, since both cities and counties have the authority to establish and operate equipment maintenance facilities, they may do

so jointly. A 1978 survey by the Institute of Public Affairs identified 687 cooperative agreements in effect on topics ranging from sanitary landfills to hot meals. In times of rapidly increasing costs of government services, the use of cooperative agreements is one way of attempting to provide quality services in the most economical manner.

The Kinds of
Services Which
May Be Furnished

Legal Citation

Public Works Services

1. Construction and repair of streets,
alleys, curbs, and gutters

Secs. 364.8, .12, .15; 384.3; 384.7 as amended
by Ch. 85, Acts, 68th G.A. (1979); 384.24(3a),
.37(1c)

Cities are given the responsibility for the care, supervision, and control of public streets and alleys in Sec. 364.12(2), and may finance their construction with general revenues, road use taxes, from a capital improvements reserve fund, or by general obligation or special assessment bonds. The city may compensate owners of property who are damaged by alteration of street grades or vacation by the city. Sec. 364.15. The city may require safety devices at railroad crossings on public streets. Sec. 327G.15.

2. Improvement of primary and county road
extensions in the city

Sec. 384.71. Code Ch. 28E;
Secs. 313.21-313.23

Construction or repair of a public improvement such as primary roads may be paid from general obligation bonds or from other city funds. Joint improvements undertaken with another city, the county, the state, or another political subdivision are governed by Ch. 28E of the Code. When the state transportation department is involved, Code sections 313.21-313.23 govern.

3. Maintaining and cleaning streets and sidewalks

Secs. 364.12(2), 384.37(1c), 384.24(3)

Maintenance is required to keep streets open, and both streets and sidewalks in repair, and free from nuisance. Cities are authorized to finance maintenance, such as seal coating, with special assessments when appropriate. Secs. 384.37-.79. However, the abutting property owner is responsible removal of snow, ice, and accumulations from sidewalks. Sec. 364.12(2b).

4. Lighting of streets, freeways, and other public places

Secs. 384.24(3b), 384.37(1d), 313.4

Any city may form street lighting districts.

5. Construction and repair of sidewalks

Secs. 364.12, 384.24(3c)

The city is responsible for the care, supervision, and control of sidewalks. Sec. 364.12(2). Sidewalk construction can be done by utilizing the general obligation bond or special assessment procedures for funding. Special provision is made for repair, replacement, or reconstruction of sidewalks with notice to be given to the property owner. Sec. 364.12(2d) and 364.12(2e).

6. Construction, repair, and maintenance of bridges, culverts, viaducts, underpasses, and railroad grade crossings

Secs. 309.75, 309.9(3), 364.12(2), 384.12(5)-.12(7), 384.12(8), 384.24(3e)

Acquisition, construction, reconstruction, enlargement, improvement, and repair of bridges, culverts, viaducts, underpasses, grade crossing separations, and approaches may be financed by general obligation bonds. When there is a question of using taxes outside tax rate limitations to aid in construction of a county bridge, the question must be submitted at a general election. Cities may purchase bridges built by private companies, subject to approval of the voters. Sec. 384.12(7). Cities may levy taxes to carry out a contract for use of a bridge on a river of the city. Sec. 384.12(8). Cities

must construct and maintain culverts and bridges not on secondary roads. The board of supervisors may use secondary road funds for construction and maintenance of bridges in cities with less than 8,000 population. Sec. 309.9(3), Secs. 384.12(6)-.12(7), 384.24(2g).

Purchase and construction of interstate bridge Secs. 384.12(6)-.12(7), 384.24(2g)

Cities may levy a tax to aid a company constructing an interstate bridge upon approval by the voters at an election.

Requiring a railroad company to construct and Sec. 364.8; 364.11
maintain a viaduct, underpass, or railcrossing

When a railroad company operates tracks on or across a city street, the city may by ordinance require the company to construct or reconstruct and maintain an overpass or underpass where the street passes over or under the tracks. Specifications may be established by the council subject to certain conditions. The State Department of Transportation must determine that the viaduct or overpass is necessary for public safety and convenience and approve the plans.

7. Construction and repair of storm sewers Secs. 364.12(3e), 384.24(3d), 384.37(1a,b),
and drainage systems 384.38

Storm sewers and drainage systems can be financed by general obligation bonds or special assessments. Further, cities may require connection to public drainage systems by abutting property owners for reasons of health and safety.

8. Systems of flood control Secs. 364.9, 384.12(16), 384.24(3i)

Cities may finance acquisition, construction, reconstruction, and improvement of waterways for flood or high water control through general obligation bonds. Cities may require railroad companies to provide structures, temporary or permanent, which carry the railroad's tracks when a channel has been diverted for flood control purposes.

9. Parking lots and other parking facilities Secs. 384.24(2a), 384.24(4a), 384.37(1k), 471.4

Cities may finance parking facilities systems with general obligation bonds, use special assessments, or by revenue bonds. A city may exercise its power of eminent domain for parking lots and parking facilities. Sec. 471.4.

10. Construction and repair of water mains Secs. 364.2, 384.24(4a), 384.37(1i), 384.81,
and water supply and treatment works 388.1-.7

Cities may grant franchises to erect, maintain, and operate waterworks. Sec. 364.2(4a). Cities alternatively may, upon approval by the voters, Sec. 388.2, operate a waterworks which can be financed by general obligation or revenue bonds. The water utility may be managed by a utility board of trustees established by an election. Ch. 388.

11. Care, removal, replacement, and control Secs. 364.12(2c), 384.24(3a), 384.37(1l)
of trees and shrubbery along public streets

Property owners may, by ordinance, be made responsible for maintenance of property outside of lot and property lines and inside curb lines on public streets, except for removal of diseased trees and dead wood, for which the city is responsible. Sec. 364.12(2c). Cities may remove dead wood or diseased trees on public streets or grounds, and finance the cost of removal and replacement by bonds. Secs. 384.24(3a), 384.25(1,2).

12. Improvement of river front Sec. 384.24(3i)

Cities may develop and beautify banks and other areas adjacent to river fronts with general obligation bonds. Sec. 384.24(3i). Cities may establish a river front commission to have charge of this. Sec. 364.1, ch. 392.

13. Construction and maintenance of garage for municipal vehicles	Sec. 384.24(4c)
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14. Urban renewal to remove or rehabilitate blighted or slum areas	Ch. 403
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Upon determination by the local governing body—generally the city council—that an area exists that is detrimental to the health, safety, morals, or welfare of the community, either the council may exercise the powers or an urban renewal agency may be appointed by the mayor, with the council's consent. Sec. 403.14(1). General obligation bonds may be used to finance urban renewal projects. Sec. 384.24(3q).

15. Urban revitalization	Ch. 84, Acts, 68th G.A. (1979)
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Cities may designate an area of the city as an urban revitalization area. Improvements to qualified real estate within these designated areas may then be eligible to receive a total or partial exemption from property taxes for a specified number of years. (See *Handbook for Urban Revitalization*, available from Office for Planning and Programming, 523 E. 12th St., Des Moines 50319)

16. Construction and operation of low-rent housing projects	Ch. 403A
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Cities may construct and operate low-rent housing projects for the elderly or handicapped, or provide such housing through lease of existing structures. Low-rent housing is operated by the council, or at its option, by a low-rent housing agency, the commissioners to be appointed by the mayor with the council's consent. A city is limited in the number of low-rent housing units it may construct to the number of units stated in the notice of hearing.

17. Mall and plaza arcade

Sec. 384.37(1i)

Malls and arcades may be financed with special assessments.

Sanitation and Health Services

1. Collection and disposal of garbage
and refuse

Secs. 384.24(2f), 384.24(3d), 384.82, 384.84

You may provide for solid waste collection, a disposal plant or recycling facility, and for a landfill. You may also impose a schedule of fees for the collection of garbage or for use of the city landfill. Sec. 384.84(1). You may also contract for the operation of your landfill or garbage collection by one or more private collectors in the city. Financing of the acquirement of land and equipment for a sanitary disposal system may be through general obligation or revenue bonds. Secs. 384.24(3d), 384.82.

2. Construction and repair of sanitary sewers;
power to extend system beyond corporate
limits

Secs. 364.12(3f), 384.24(3d), 384.37(1a)

Cities can require property owners to connect to public sewer systems from abutting property and require installation of sanitary toilet facilities and removal of other toilet facilities on the property. Sec. 364.12(3f). Sewage systems may be financed by municipal bonds. There is no longer any limitation on the distance outside city limits to which such services can be extended. Rather, the city may extend services to any person outside the city by contract. Sec 364.4(2). When services have been extended outside the city limits, the city may enact and enforce ordinances relating to the city service. Sec. 364.4(3)

3. Construction and operation of sewage disposal plant	Secs. 384.24(3d), 384.37(1e)
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Cities may finance a sewage disposal plant by bonding, either general obligation or revenue bonds.

4. Enforcement of state health laws, quarantining of sick, and abatement of health nuisances	Ch. 137
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Cities of 25,000 or more population may appoint a board of health or the council may appoint itself as the local board of health. All cities may continue to have a health officer to supplement the county board and to abate nuisances. The only requirement in the makeup of the board of health is that one member be a doctor of medicine and surgery or an osteopathic physician and surgeon licensed in Iowa. Cities may contract with a county or district board of health to enforce appropriate health ordinances. Sec. 137.6(3).

5. Milk and food service establishment (restaurant) inspection	Chs. 170A, 192, 194
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6. Ambulance service	Sec. 384.24(3l)
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Cities may by ordinance provide a schedule of fees to be charged the users of the ambulance service, and issue general obligation bonds to equip the service.

7. Committee or commission on alcoholism	Sec. 123.53(3)
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Funds may be allocated to this commission, using liquor profits received by the city or other resources.

8. Plumbing regulations

Sec. 135.11(7)

Cities may adopt plumbing codes consistent with the State Plumbing Code, and may license plumbers.

Public Safety Services

1. Fire protection inside and outside city limits

Chs. 100, 613A; Sec. 364.16

Cities may set fire limits, control flammables, combustibles, and explosives; set the fire department's jurisdiction; may acquire fire fighting equipment; and insure fire officers and employees against liability when providing fire protection outside city limits. Regulations and ordinances may not be inconsistent with the rules issued by the state fire marshal. Cities may use general obligation bonds to build fire stations, Secs. 384.24(4c), 384.26, and to equip the department, Secs. 384.24(3j), 384.25. Certain cities must recruit and operate their fire and police departments through civil service procedures and provide special retirement plans. Chs. 400, 410, 411.

2. Police protection

Secs. 384.24(4c), 384.26, Ch. 356

Cities may establish and maintain a police department. They may use general obligation bonds to finance construction of police stations and a jail. Cities may contract with the county to keep prisoners violating ordinances in the county jail. They may use general obligation bonds to equip a police department. Secs. 384.24(3j), 384.25. Alternatively cities may contract for police protection (Ch. 28E), or join a united law enforcement district (28E.21-.26). See civil service comments under fire protection, above.

3. Traffic control devices

Secs. 321.255, 384.24(3a)

Cities are authorized to install traffic control devices. They must conform, however, to the state Manual on Uniform Traffic Control Devices issued by the Department of Transportation. They may undertake indebtedness to finance acquisition of traffic signals and their installation and repair. Secs. 384.24(3a), 384.25.

4. Speed signs

Sec. 321.289

On main highways, which are not primary extensions, cities are to furnish and erect suitable signs giving traffic information, including points at which speed changes, and the maximum rate of speed in the district which the vehicle is entering. Other speed regulation, not inconsistent with state law, may be enacted by the city. Traffic signs on primary extensions are installed by the state, and along with other signs thereon desired by the city must be approved by the Department of Transportation.

5. Disaster services and emergency planning

Ch. 29C as amended by Sec. 15 H.F. 742,
68th G.A. (1979)

Cities can carry out disaster preparedness (formerly called civil defense) and emergency planning. They shall cooperate with the county disaster services administration. (29C.9).

Recreation Facilities

1. Parks, playgrounds, and swimming pools

Ch. 28E; Ch. 300; Secs. 384.24(2c)
384.24(4b), 382.37(lj), 384.26, 384.81

Cities may establish, purchase, maintain, and regulate these facilities. Cities may wish to operate these with other governmental subdivisions, such as a school board. Chs. 28E, 300.

2. Parks

Secs. 384.24(30), 384.24(4b), 392.1-.4, .7

Cities may choose to delegate responsibility for parks to a park commission. A park commission can be formed or an existing one retained or modified under the home rule act's general provisions for administrative agencies.

3. Playgrounds, recreation centers

Secs. 384.24(4b), 392.1, .7

Cities may delegate responsibility to a recreation commission or to a combined park and recreation board or commission or the council can supervise them directly. Cities may build recreation centers and borrow money to finance them.

4. Community centers and civic center

Secs. 384.12(11,12), 384.24(2b), 392.1-.4, .7

Cities may delegate responsibility to a community center board, or the council may provide and direct these facilities itself.

5. Band

Sec 384.12(1)

The municipal band may be financed by a tax of thirteen and one-half cents per thousand dollars of assessed valuation outside the general fund levy limit, subject to approval by the voters. A vote is not necessary if it can be financed inside the general fund levy limit.

6. Library

Secs. 384.24(4c), 392.5

Libraries are controlled by a library board and are financed from the general fund through a specific appropriation to a library services activity account.

7. Art gallery

Secs. 384.24(2c), 384.26, 392.1-.4, .7

A board of art trustees may be delegated responsibility for the art gallery.

8. Golf course

Secs. 384.24(2c), 384.24(4b), 384.26, 384.81

Golf courses may be acquired, developed, and operated by cities, either with general funds, or as an enterprise if self sustaining or nearly so.

9. Symphony orchestra

Sec. 384.12(3)

Cities may levy a tax of up to thirteen and one-half cents per thousand dollars of assessed valuation outside the general fund levy limit to finance a symphony orchestra if approved by the voters. A vote is not necessary if it can be financed within the general fund levy limit.

10. Municipal cultural and scientific facilities

Secs. 384.12(4), 384.24(2c), 384.24(4i), 384.26

Cities can levy a tax not to exceed twenty-seven cents per thousand dollars valuation outside the general fund levy limit for the operation of cultural and scientific facilities if approved by the voters. A vote is not necessary if they can be financed within the general fund levy limit.

Services of a Business Nature

1. Markets, public scales, wharves, piers,
basins, and ferries

Secs. 384.24(2d), 384.81

Cities may set up, operate, and charge for these services.

2. Docks

Secs. 384.24(2d), 384.81

3. Electric and gas utilities

Secs. 364.2(4a), 384.24(4a), 384.37(1f), 384.81,
388.1-.7

Cities may undertake indebtedness to acquire, construct, reconstruct, extend, improve, or equip these enterprises. The utilities may be operated by a utility board of trustees when authorized by the city voters. These services may be provided through granting franchises. Sec. 364.2(4a). In the case of electric utilities cities can own and operate electric facilities jointly with other utilities, public or private. Ch. 390.

4. Waterworks

Secs. 364.2(4a), 384.24(4a), 384.37(1f), 384.81,
388.1-.7

Cities may contract indebtedness to own and operate a waterworks. The waterworks may be part of a combined utility system. Cities may grant a franchise for operation of the waterworks, or place a city-owned waterworks under a board of trustees if authorized by the city voters.

5. Hospital, nursing, and custodial homes

Secs. 384.24(4c,i), 384.26, 392.6

Cities now have authority to establish health care facilities. They no longer need to be presented as gifts. Hospital boards are elected by the voters.

6. Airport

Secs. 330.17, 384.24(2e), 384.24(3n),
384.24(4g), 384.25, 384.26

Cities may operate an airport under the council or by an airport commission if approved by a majority of the voters. Joint operation may be done with another governmental subdivision. Chs. 28E and 330A.

7. Cemetery

Secs. 384.24(3k), 566.14

Cities may operate a cemetery and finance acquisition by general obligation bonds.

8. Memorial hall

Ch. 37, Sec. 384.12(2)

A board of commissioners is in charge of the facility. The council can change the use of the property to a municipal hall from a memorial building when the memorial building has not been given by a private landowner. Op. Atty. Gen., Feb. 19, 1968. Cities may levy a tax not to exceed eighty-one cents per thousand dollars valuation for development, operation, and maintenance of a memorial building or monument if approved by the voters.

9. Operate and maintain a transit system

Secs. 384.12(9,10), 384.24(2i), 384.24(4a),
384.81, 392.1-4, .7

Cities may now acquire and operate transit systems under their general home rule authority. A board of transit trustees can be established. A joint operating authority may be established with other cities. Sec. 28E.17.

10. Subsidize a public transit system

Sec. 384.12(9,10)

A city may levy a tax of three and three-eighths cents per thousand dollars valuation outside of the general fund levy limit to aid a public transportation company, subject to an election and petition procedure.

11. Acquire and lease industrial projects

Ch. 419 as amended by Ch. 90, Acts,
68th G.A. (1979)

These include air or water pollution control facilities for private industry; nonprofit hospitals, clinics, or health care facilities; or colleges or universities as well as industrial and certain commercial enterprises.

12. Construct and operate a television
translator system

Sec 384.24(3p)

13. Infirmary

Sec. 364.1, 384.24(4i)

14. Parking lots and other parking facilities

Secs. 384.24(2a) and (4a), 384.26, 384.37(1k),
384.38, 384.80(2), 384.81

Cities can own, operate, and lease parking facilities, and incur indebtedness to do this by either general obligation or revenue bonds, or special assessments.

B. Let the Public Know What Your City is Doing

Government is a public matter. What a city has done or is doing should be made known to the people of the community. In this country we believe that informed citizens make the best

citizens. As an elected official of your community, it is important that you strive to inform people about your municipal affairs. State law requires that some things you do be made public. You must publish a summary of the minutes of each council meeting, your city's ordinances, and certain of your community's financial statements (summary

of proposed budget and annual report). Also, every council meeting must be open to the public and the news media notified of the time and place of the meeting.⁶⁵ The law does not prohibit executive sessions of your council, but limits them to certain prescribed purposes. However, it is a good practice to conduct all the municipality's business openly. And, of course, you cannot transact any official business except at a council meeting that is open to the public.

We suggest that you go further than this in letting the public know what your city government is doing. Oftentimes much of what you are required to publish appears only in small print in your newspaper. This fulfills the law, but it is not enough to discharge the obligation, and the opportunity, that you and the other officials of your community, and the press, have in informing the people.

Here are some of the ways in which you can let the people know what you are doing:

1. Personal contact. When you want to get ideas about some municipal program or service, go around and talk to people you know. You will give them a better idea of what you are attempting to do, or are trying to prevent from happening, and, at the same time,

you will undoubtedly receive some helpful suggestions.

2. Invite the public to attend meetings. Let the people know when your meetings are going to be held, going beyond the formal requirements of the open meetings law, and encourage them to attend these meetings. Don't hesitate to have public, "town" meetings once in a while on important issues. These hearings can be helpful to you in making decisions, and they help keep the people interested in what the city government is doing. Above all, see to it that any person who attends one of these meetings has a fair chance to be heard.

3. Welcome reporters to the city hall. Establish good relations with your local newspapers and radio and TV stations. They are important links between you and the people you represent. If you do your utmost to help the reporters get the city hall news, you will be serving the public just that much better because you will be helping to keep the record straight. Don't hesitate to put out a news release, or to encourage the mayor or a department official to do this, if it will make any municipal affair easier for the reporters to

understand. Do your part to make your government's news releases frank and clear.

4. Summarize the year's activities. In any enterprise, it is good to stop and take stock of what you have done. City governments do this in annual reports. Most of the time, these appear only as financial statements. In some communities, however, reports are published that tell much more: they tell what the city government has done the past year, how much services and projects have cost, what projects and programs are under way, and what programs are being considered by municipal officials. In some of the larger communities that publish such reports, a good deal of the information is shown in pictures or in diagrams. These reports often are distributed to many people. Whether your community is large or small, you can summarize your year's activities in more than a dollar-and-cents fashion. If you live in a small town, you might see to it that a news release is put out telling about the work of your government during the previous year.

C. Taking Care of Inquiries and Complaints

In providing public services, you can expect many inquiries, and some complaints. By answering questions and complaints promptly and frankly you can help make your own job, and the jobs of other city officials, much easier. Many times you personally can give a satisfactory answer to a citizen's inquiry or complaint. Other times you will have to pass the questions or complaint on to some other official. When you do this, make sure that the other official handles the matter promptly and notifies you when the matter has been taken care of. If a citizen has some request that must be decided by your council, it is a good idea to have the request submitted in a letter addressed to the council. Certainly you should welcome all inquiries and complaints as long as they are reasonable. In this way you can get suggestions that will help you improve the municipal services you furnish your people.

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A. Your Powers to Regulate, Prohibit, and License

What are the “police powers” of the city? What is planning? Zoning? A restricted residence district? What things can a council regulate? License? What can your council do about nuisances? How are franchises granted?

Is your community moving ahead? Is it a better place to live in now than it was five or ten years ago? Will it be a better place to live in five or ten years from now?

Once in a while it is a good idea to sit back and take a careful look at what has been done and what is being done to make your community a good place in which to live. Note especially the things your municipal government has done and is doing. You probably will be surprised that you and your fellow council members play such an important part in the development of your community. For example, you have a wide range of regulating powers, licensing powers, and powers to prohibit or to do away with nuisances. You also have the power to plan and develop your governmental facilities and to make rules regarding private construction of buildings and homes. These are big responsibilities.

There are many activities in your community that your council has the power to control, if it desires, by regulating, prohibiting, or licensing. You can do these things under what is commonly known as the police power.⁶⁶

Your police power authority is much broader under the home rule act. You are no longer restricted to the elaborate Code listings of things which you may regulate, license, and prohibit. You can decide what licensing requirements, restrictions, and prohibitions your community needs and you can enact them. In your ordinance you can put the rules, regulations, penalties, and enforcement procedures that you think are necessary to carry out the purpose of the ordinance.⁶⁷

The following lists contain two things: (1) what remains in the state law concerning regulations, licensing, and prohibitions, and (2) the scope of regulations, licensing, and prohibitions available to municipalities prior to the home rule act.⁶⁸ The state laws which remain are noted by citation of the controlling Code section and are considered procedures for exercise of the city powers. You must follow these specific requirements carefully. The prior regulations, licensing, and prohibitions

are mentioned without citation simply as a checklist of options for cities which can now be accomplished under the city's general home rule authority and tailored to the city's needs under the city's home rule authority.⁶⁹

The lists have been broken down into headings. Under each heading the city may examine the items and decide if regulation,

licensing, or prohibition of the item would be best for the city. Regulation will include determining conditions for permitting a practice, occupation, or business. Licensing involves issuing permits for a practice, occupation, or business. Prohibiting may include limiting the number of or restraining things within the community. These formerly listed activities and establishments are:

Operation of Certain Industries

Bone Factories
Chemical manufacturers
Fertilizer manufacturers
Packing houses
Rendering works

Slaughterhouses
Soap factories
Tallow chandleries
Tanneries

Certain Commercial Establishments

Basins
Bill posters
Billboard advertising agencies
Docks
Ferries
Gasoline curb pumps
Hospitals

Hotels
Infirmaries
Markets
Piers
Scales
Wharves

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Packing houses
Rendering works

Slaughterhouses
Soap factories
Tallow chandleries
Tanneries

Certain Commercial Establishments

Basins
Bill posters
Billboard advertising agencies
Docks
Ferries
Gasoline curb pumps
Hospitals

Hotels
Infirmaries
Markets
Piers
Scales
Wharves

Making Certain Sales

Beer and liquor retailers⁷⁰
Cigarette sellers⁷¹

Milk distributors⁷²
Restaurants and eating houses⁷³

Sales by Certain Means

Auction sales
Sales by bankrupt and dollar stores
Sales by transient merchants (including peddlers)

Certain Business Practitioners

Clairvoyants
Electricians
Engineers
Fortune tellers
House movers

Junk dealers
Palmists
Pawn brokers
Peddlers
Scavengers

Certain Recreational Places

Beer taverns⁷⁴
Billiard halls
Dance halls
Menageries
Parades
Shooting galleries

Bowling Alleys
Circuses
Skating rinks
Swimming pools
Shows and exhibitions of all kinds
Theaters and theatrical exhibitions

Other

Animals and dogs running at large
Barbed wire
Begging
Burial of the dead
Keeping animals
Storage, handling, and use of flammables and explosives
Use of parks and playgrounds

B. Requiring a Property Owner to Take Action

From time to time, certain health, safety, and fire hazards will be pointed out to you and the other members of your council. If the hazard is on private property, your council may order the property owner to take care of the matter. If the property owner does not take the necessary action to get rid of the hazard, your city can take the necessary action to get rid of the hazard and charge the property owner for the cost of doing this.⁷⁵ This cost may be added to the property tax bill.⁷⁶ Property owners may be required to do the following:⁷⁷

1. Abate any nuisance, public or private, in a reasonable manner.

2. Remove diseased trees or dead wood on their property.

3. Remove, repair, or dismantle a dangerous building or structure.

4. Number buildings.

5. Connect to public drainage systems from abutting property.

6. Connect to public sewer systems from abutting property, install sanitary toilet facilities, and remove other toilet facilities.

7. Cut or destroy weeds or growth.

8. Repair or replace dangerous sidewalks, and remove snow, ice, and other accumulations from sidewalks abutting the owner's property.

C. Restriction on Use of Streets by Vehicles

Your council may limit the right to use of streets by vehicles.⁷⁸ These restrictions can be applied only to streets under the municipality's jurisdiction, and the rules the council makes must be reasonable exercises of the police power. You may make rules:

1. To regulate the standing or parking of vehicles.⁷⁹
2. To regulate traffic by means of police officers or traffic control signals.⁸⁰
3. To regulate or prohibit processions or assemblages on the highways.⁸¹
4. To designate one-way streets.⁸²
5. To regulate vehicles' speed in public parks.⁸³
6. To designate through highways and stop intersections.⁸⁴
7. To license and regulate vehicles for hire intracity.⁸⁵
8. To restrict the use of highways by vehicles of certain weights and by certain kinds of vehicles.⁸⁶
9. To regulate or prohibit the turning of vehicles at and between intersections.⁸⁷
10. To regulate the operation of, and to require the licensing and registration of bicycles.⁸⁸

11. To establish speed limits in public alleys.⁸⁹
12. To establish snow routes and facilitate snow removal.⁹⁰
13. To exclude vehicles from cemeteries or parks, if signs are posted so indicating.⁹¹
14. To establish school zones.
15. To regulate vehicles from other states if vehicles from this state are regulated in that state.⁹³
16. To designate streets that may be used by snowmobiles.⁹⁴

D. Regulation of Building Construction

Your council has the power to adopt a building code, electrical code, fire code, mechanical code, and plumbing code.⁹⁵ These codes are for these purposes:

1. To provide for the regulation and inspection of construction, major repairs, and remodeling of buildings.
2. To provide for the regulation and inspection of the installation of electrical, heating, ventilating, air conditioning, and plumbing fixtures.

3. To maintain safe conditions in buildings after construction.

By having a code, you may require that a person who wants to do any building or installing must receive a permit from your city government and that the work done must be inspected to see that it meets the rules set out in the code.

You may also provide for the licensing and examining of electricians, plumbers, and other building trades who do work in your community.⁹⁶

You can set by ordinance the distance that buildings on public or private property must be set back from the street. You should publicize your intention of doing this and hold a hearing. The city must compensate the owner of property if there are losses caused him by the ordinance. Secs. 364.1, 380.11.

E. Revoking Licenses

In general, the council may revoke any license that it has granted.⁹⁷ There are limits on your

right to do this, however, and you should check your ordinance for any revocation procedures it contains and you should get legal advice whenever you plan to take away a person's license. Problems have arisen particularly where licenses are revoked without a fair hearing on the charges constituting grounds for the revocation.

State law permits the council to revoke the cigarette license of any licensee who violates the cigarette law.⁹⁸ A beer permit may be revoked or suspended for not more than one year for a violation of permit requirements.⁹⁹ If it is established that any business has violated the gambling laws, the council must revoke any license it has granted that business.¹⁰⁰

F. Planning and Zoning

Planning and zoning are methods of achieving the orderly physical development of the community. Planning is directing development along orderly lines while zoning provides the machinery to put the plans into effect.

Planning—The importance of a community's "looking ahead" and planning for

the future is now recognized by more and more communities throughout the nation. Good planning is identified with progressive communities—those communities that are on the upswing and are getting things done. You and the other members of your council have an important role in the immediate and long-range plans of your community. You make decisions as to the projects your city government will undertake. Obviously, it is important that your city government take the lead in planning for your community. Agencies outside of the city government also make plans that affect your community's development, and you must decide how closely you will work with these agencies and how this will be done.

It is a good idea to have a plan of development for your community—for municipal streets, sewer lines, water lines, buildings, parks, etc., and for land for private building. And you should have these plans down on paper so that any person who is interested can see what facilities the city government has, what matters are being considered, and what projects have been agreed to for the immediate future. This information is also valuable as a permanent record to be used for future study. Even if you are a council member in a small community, your government should have maps and other records showing the facilities you now have

and what you are planning to do.

The members of your council may do the planning, or you may give this task to a planning commission under your general authority to create administrative agencies.¹⁰¹ A planning commission acts in an advisory capacity to you in planning matters. After the planning commission makes its recommendation, the council can go ahead with the improvement, or, if it chooses, it can decide not to go ahead.

Zoning—Zoning is of a more restrictive nature than planning. When you have zoning, you need a zoning ordinance.¹⁰² This ordinance makes specific requirements concerning how certain land can be used and the type of buildings that may be placed on such land. On the other hand, zoning is a positive approach to city development in that it is helpful in maintaining your good developments and in carrying out your long-range plans. Zoning, in other words, provides a legal basis for your plans for community development.

If you want to have zoning in your community, the council must appoint a zoning commission, or the planning commission can also serve as the zoning commission.¹⁰³ The

zoning commission acts in an advisory capacity to you in setting up and in making changes in your zoning law. If you have zoning, you must also have a board of adjustment to which the property owners may go to seek variances and exceptional use permits under the zoning ordinance.¹⁰⁴ Zoning regulations must be made only in accordance with a comprehensive plan which includes a land use plan. Without a comprehensive plan your zoning might be attacked as arbitrary.

Subdivision Control—Your council can control, to some extent, the kind of subdivision for new building developments in your community. You can do this by requiring that the person who subdivides a piece of land must meet some or all of these standards—that the streets be graded; that utility services and streets, alleys, and sidewalks be put in; and that the subdivision be laid off in blocks of about the same size as your other city blocks.¹⁰⁵ Under the state law that permits you to set these standards, the original subdivider is required to submit a drawing (plat) of the proposed subdivision to the city for approval. The approval is made by the council, and if there is a planning commission, it must approve the proposed subdivision, too. If a city has a subdivision regulations ordinance, these

regulations apply to subdivisions within two miles beyond the city limits except when another city is closer than four miles; then the regulations apply to half the distance.¹⁰⁶

G. Annexation

Your municipality may annex unincorporated territory adjacent to the city. Annexation means the addition of territory to a city¹⁰⁷ and is regulated now by the rule-making authority of the city development board.¹⁰⁸

Cities may agree with another city or cities to refrain from annexing specific territory for up to ten years. This agreement may be extended for subsequent periods not to exceed ten years each.¹⁰⁹ Any petitions or plans which are brought before the city development board and which violate the terms of the agreement would then be dismissed.¹¹⁰

State law provides several methods by which annexation may be accomplished:

I. Voluntary: Owners of property may petition the city council for annexation to an adjoining city, including in their application a map of the territory, showing its relationship to

the city. When the territory is within the urbanized area of a city other than the city to which the request for annexation is directed, the application must be approved by the city development board as well as the council which receives the application.¹¹¹ Annexation of territory not within an urbanized area requires filing with the board the annexation plat and resolution, and also filing the same with the secretary of state, county recorder, and state department of transportation district office. The plat should be accompanied by a legal description.

2. Involuntary: A petition may be filed with the city development board by a city council, a county board of supervisors, a regional planning authority, or 5 percent of the qualified electors of a city or territory. Elements of the petition are: (1) a general statement of the proposal; (2) a map of the territory, city, or cities involved; (3) assessed valuation of platted and unplatted land; (4) names of property owners; (5) population density; (6) description of topography; (7) plans for disposal of assets and assumption of liabilities (in cases of severances or discontinuances); (8) description of existing municipal services, including but not limited to water supply, sewage disposal, and fire and

police protection; (9) plans for agreements with any existing special services district; (10) if land is to be annexed or incorporated, the petitioner must state that none of the territory is within a city.¹¹²

After making studies, holding a hearing, and considering the proposal, the board may approve the annexation. It may not be approved, however, if the territory is not joined to the city to which it will be annexed, and the board finds that the city will be unable to provide the territory with substantial municipal services and benefits, or that the motivation for annexation is solely to increase revenues to the city.¹¹³

After board approval, within ninety days the board will hold an election. Qualified voters of the territory and of the city may vote, and the proposal is authorized if a majority of the total number of persons voting approves it.¹¹⁴

Requirements restricting incorporation within certain distances from an existing city were repealed by the home rule act. It is now up to the city development board to approve or refuse these requests based on the particulars of each case.¹¹⁵

The board must file copies of the applicable portions of any completed incorporation, discontinuance, or boundary adjustment

proceeding with the secretary of state, the recorder of each county containing a portion of any city or territory involved, and a copy of the plat and legal description with the state department of transportation.

Restricted Residence Districts—

You may establish restricted residence districts within the city after notice and hearing. Reasonable rules for the use and occupancy of buildings of all kinds within the district are required. However, once a zoning ordinance is adopted the restricted residence district ordinance can no longer be in effect and should be removed from the municipal code.¹¹⁶

H. Taking Care of Municipal Property

The responsibility for taking care of municipal property—land, buildings, equipment, supplies, etc.—is chiefly the council's. You have the right to buy, sell, dispose of, and lease

property, subject to some restrictions.¹¹⁷ For example, if you plan to dispose of any real property, you must set out the proposal by resolution and publish this fact and give notice of hearing, and after the hearing make final determination by a resolution.¹¹⁸

Sometimes, in making an improvement, you will find it necessary for your city government to get possession of some pieces of private property. You are permitted to condemn and take possession of such land under your municipal power of eminent domain. Your attorney has charge of these proceedings.

It is a good idea to have a record of all municipally-owned property, showing for each piece of property such data as when it was bought, what it cost, and what it is used for. You must maintain records relating to real estate transactions permanently, preferably all documents which show compliance with the statutory procedures.¹¹⁹ Information on cityowned property can be helpful when you purchase new equipment, materials, and supplies. If such an inventory is kept, especially of municipally-owned personal property, all persons concerned have the opportunity to see what such property is being used for and how it is being disposed of.

I. New Buildings – Determining Life Cycle

Chapter 116, Acts of the General Assembly (1979), requires municipalities to make a study of the projected costs of owning and operating a public building before it is constructed or major renovation is under taken on an existing building. This study must be approved by the city council before contracts for construction or renovation are let.

electrical energy, gas, or water without the approval of the voters.¹²¹

Any city having established a utility which operates an electric generating facility may enter into and carry out joint agreements with other participants. Before a city may enter into a joint agreement, the governing body shall adopt a proposal and hold a public hearing and the proposal is subject to appeal to the state appeal board.¹²²

The law specifies that the powers to form joint electrical utilities are given to cities and not to “city utilities” since such utilities are not municipal corporations.¹²³

J. Utility Franchises and Rates

Your community may grant a franchise to a private utility company to supply a utility service within the city limits. This is done through an election, and a majority of the voters who vote must approve granting, extending or changing a franchise agreement before it can become effective.¹²⁰ These franchises may not be granted for more than twenty-five years at a time. The council or board of utility trustees may contract for the exchange, interchange, or purchase of

The council also has the power to authorize and regulate the placing of utility lines along the streets, alleys, and other public places.¹²⁴ Rate regulation for public utilities is controlled by the Iowa Commerce Commission. The municipality may appear before the commission in rate proceedings to represent the interests of the citizens.

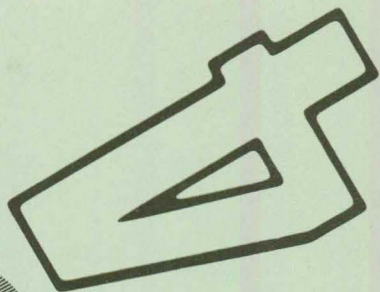
K. Promoting Your City

Your municipal government may support a program of promoting your community. It

could set up a department of publicity, development, and general welfare whose function would be to advertise the advantages and resources of your community. The home rule act removed any specific reference to such a department from the Code,¹²⁵ so the council may set up such an activity in any manner that it chooses under its general authority to establish administrative agencies. It may designate the powers and duties of the department or of a designated officer and it may authorize the department or activity for a set period of years or with no restrictions. It can be financed by property tax money or other sources.

Another way of promoting your community is by purchasing or building industrial facilities to rent to an industry, old or new, for your city. This must be financed through the sale of revenue bonds which can be issued only after notice and public hearing.¹²⁶ Your council should have legal and bond counsel if it undertakes this kind of project.

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Who can hire and dismiss employees? Who sets their pay? Is management the council's responsibility? What do boards and commissions do? What services can you provide jointly with other units of government?

There are two steps that have to be taken to get most things done in a municipal government. The first step is deciding what shall be done, and the second is getting the thing done. The first is known as policy making, the second is known as management. The first is normally handled by the elected legislative body—the council, and the second by the elected executive—the mayor, who has direct control over the department heads. Only where a city manager or administrator has been provided for by election or ordinance is this situation modified.

In most municipalities, things just aren't that simple and clear-cut. Experts on the theory of government talk about the necessity for the council to have one function and the mayor another. When we look at what actually takes place in our cities, however, we see that this division is generally true but that there is much overlapping into each other's "theoretical" jurisdiction.

A. Iowa Laws Regarding Powers of Mayor and Council

In Iowa, for example, the laws pertaining to the mayor-council form of government do not clearly set forth that the council shall have only policy-making powers and that the mayor shall have only management or executive powers. In fact, some of the statutory provisions on these matters seem to conflict, as the following paragraphs show. This seems to be clear: this matter is left largely to local decision, but the general tone of the law is that the council is supreme in most matters.

What does the law say about the statutory powers of the mayor and the council?¹²⁷ The following is a summary of the most important provisions:

1. The power of the city is vested in the city council, unless a state law provides otherwise.¹²⁸ This means that any power possessed by a city lies with the council unless a law provides that another agency exercises it. These acts, of course, can be either of the "decision making" or of the "getting the job done" variety. The council can pass the job of getting things done on to the mayor or to

boards or commissions through administrative code ordinances granting powers and duties to certain officials and boards.

2. The mayor is designated by law as the chief executive officer of the city.¹²⁹ Therefore, all executive functions and powers (which include management) are to be centered in the mayor and boards and commissions, unless otherwise stated. The council cannot have any executive powers except those given to it by law.

3. Although the council's powers and duties are made rather clear in the law, this is not true for the position of mayor. By law, the mayor has the power to suppress disorders,¹³⁰ and can take command of the police and govern the city by proclamation in time of emergency or public danger.¹³¹ The mayor has the right to veto any ordinance, amendment or resolution passed by the council.¹³² Further, the mayor supervises city officers and departments which are not delegated by law to the city manager.¹³³ And yet there is no certainty that the mayor will have appointed officers who are subject to supervision, for the mayor's power of appointment under state law is limited to certain boards and commission members (usually with council approval), the marshal or chief of police, and only such other officers as the council may provide by ordinance as

mayoral appointees. The mayor is neither empowered nor prohibited by law from preparing the budget, which is an important management tool of any executive. In fact, other than the responsibilities listed above, the mayor's executive powers are much dependent upon each community's ordinances and customs since these powers are not listed in the statutes.

4. Unless stated otherwise in the law, the council may appoint each municipal officer or it may give this power to the mayor, city manager, or a city administrator by ordinance.¹³⁴ The council may also remove city officers and employees appointed by it.¹³⁵ The council is required to set the wages for city officers and employees.¹³⁶

5. The council, however, is specifically assigned the power by law (372.13(3)), to appoint the clerk and the mayor has no power over that appointment.

B. Division of Powers in Practice

Because the state law is not entirely clear and

because the law permits, to some extent, each community to divide certain of its powers between the council and the mayor, responsibility for management in Iowa communities varies quite a bit. The mayors of some Iowa communities have most of the powers of management; in addition, some of these mayors exert great influence on the decisions of the council. On the other hand, in some communities the council has almost complete charge of both the legislative and management functions, and the council works directly with the department heads.

The question of the jurisdiction of the council and mayor has had to be worked out in each community. And changes in jurisdiction have not been uncommon as new personalities have been elected to office. These matters have been and are being worked out by ordinance, by agreement and, in some cases, by default on the part of the council or the mayor.

C. Hiring and Dismissing Employees

The appointment of officers to your city government was covered in the preceding

discussion; who shall appoint whom is largely for the council to decide. The council is required to fix by ordinance the terms of office of all appointed officials whose terms are not set by state law¹³⁷ and the maximum term of two years was eliminated by the home rule act.¹³⁸ Therefore, terms of appointed officers can be set to coincide with those of elected officials, can be staggered, and can be set for any time period the council decides, including “at the pleasure of” the appointing body or officer. This does not mean, however, that these officials have tenure; they may be dismissed at any time by the person or body who appointed them.¹³⁹

You can determine by ordinance the method for hiring and dismissing other municipal employees, subject to these restrictions:

1. Some boards and commissions are entitled by state law to employ and dismiss their employees.
2. If your city has more than 8,000 residents and either a paid police or fire department, you must follow the civil service rules in hiring and dismissing certain employees.¹⁴⁰ A civil service commission must be appointed under this law,¹⁴¹ and any appointments or advancements of persons under civil service must be made by or with the approval of the council, except in

cities under the manager plan, and of police and fire department employees, by the respective chiefs, from a list of names that has been approved by the commission. However, the police chief and fire chief are appointed by the mayor.¹⁴² Persons employed under civil service are entitled to have a hearing if they are dismissed.¹⁴³

3. In employing persons, you must give preference to honorably discharged veterans who are citizens and residents of Iowa.¹⁴⁴

4. Generally, municipal officials are prohibited from hiring relatives except when the wage or salary is less than \$600 per year, or where the council approves such hiring.¹⁴⁵

D. Powers and Duties of Officers and Employees

In most cases, your council can set the powers and duties of your municipal officers. This usually is done by ordinance.¹⁴⁶ Some responsibilities of the city clerk and of a few boards and commissions, however, are set by statute, and your council cannot take away any of these powers and duties.

The council may create by ordinance the

position of city manager and give the person who holds this position any powers and duties not prohibited by state law. The council also determines the city manager's compensation.¹⁴⁷

The duties of other employees can be written into ordinances, but as a general rule it is considered better practice to list the duties and requirements of each position in a position classification plan. Then, if the nature of the job changes, it is not necessary to amend an ordinance to reflect the changed duties. Usually the department heads are responsible for letting each employee know what is expected of him.

E. Boards and Commissions

In a few cases, the statutes still require your city government to place some service or function under the supervision of a board or commission. The major advantages of such boards are that they take some of the work off the shoulders of the mayor and council, they give emphasis to some service or function that might otherwise be partly or wholly neglected, and they provide a means whereby citizens who have special knowledge about a certain

service or function can be of service to the community. The major disadvantages of such boards are that they split up responsibility in the municipality and, therefore, take away some of the authority of the mayor and council and open the door for "buck-passing"; they sometimes overemphasize one service to the detriment of others; and the board members usually are not responsible to the voters, except indirectly through the council and mayor.

The powers and duties of these boards and commissions that may be set up in Iowa communities vary considerably. If you are thinking of setting up a board or are wondering about the responsibilities of one of your boards, you should check the law permitting or requiring the boards. In most cases you will find that these laws leave the council discretion in determining the functions of these special agencies. You may decide to give some boards and commissions the power to do about anything they choose in performing their functions or services, with one major exception: they cannot levy a tax to operate.¹⁴⁸ The council, of course, levies taxes under specific statutory authority. Other boards have very little power; for example, they simply act as advisers to the council.

The council's control over boards and

commissions, in most cases, is two-fold: (1) the council determines how much funding will be given to these agencies each year for their needs and (2) the council names, or approves the naming of, the persons who serve as board members of these agencies. There are some good opportunities, however, for boards to cooperate with the council and mayor in getting the municipal work done.

Administrative agencies are established by the city council by passage of an ordinance. The ordinance must spell out the powers and duties of the agency, and provide for the selection, qualification, compensation, and terms of its members.¹⁴⁹ The council may not delegate any revenue financing duties to the agency, but it may empower it to make and enforce rules.

Following is a list of the more important boards that may be found in Iowa communities, some information regarding the capacity in which the board acts, whether your community can have or must have such a board, and who appoints the board members.

Airport Commission ¹⁵⁰ —This board acts in an administrative capacity. It is put in charge of the airport upon the vote of the electors. The council submits the question to

the voters either voluntarily or in response to a voter petition. The council appoints the commission members. Once an airport commission has been created, it can be abolished by the same method of election in response to voter petition or on council initiative.

Civil Service Commission¹⁵¹—This board acts in two capacities: administrative and administrative review. All cities that have more than 8,000 population must have this commission if they have a paid police or fire department. Cities under 8,000 population may set up this commission. The mayor appoints the commission members with the approval of the council in cities over 8,000 population. In other cities, the council makes these appointments, or the council itself may act as the commission.

Health Board¹⁵²—If your city has a population of 25,000 or more, according to the latest federal census, you may appoint a city board of health. Alternatively, you may appoint yourselves to act as the city board of health. The city board of health has jurisdiction within

the municipal limits. If you do not want a city board of health, then the county board of health assumes all the duties of the city board. The statute provides that a doctor of medicine and surgery or an osteopathic physician and surgeon licensed in Iowa shall be one of the five members of the county board of health.

Hospital or Health Care Facility Board¹⁵³—This is an administrative board that may be created in any city that has 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.

Library Board of Trustees¹⁵⁴—Library boards have been protected in the home rule act and will continue to function as before until altered or discontinued through the procedures set out in the law. This board acts in an administrative capacity. The trustees are appointed by a mayor, with the approval of the council. Their funding is from the general fund and they have sole power to expend what is appropriated to the library services account though they do not have a separate fund for the appropriation.

Park board—This is an administrative board. Any city may have a board to manage its parks under its general authority to set up administrative agencies. The board may be appointed or elected, and its duties should be prescribed by the council. The council may grant it powers similar to ones which were specified by statute. The council may also expand or decrease these powers. The board of park commissioners and you, as members of the council, may by resolution agree that you shall have exclusive control over any swimming pool or golf course. It doesn't matter whether such swimming pool or golf course is located on land owned by the city or on land held in the name of the board of park commissioners. Nor does it matter if the land is within or without the corporate limits of the city. If the board of park commissioners and the council determine that such exclusive control by the city council will facilitate the orderly and efficient operation of the swimming pool or golf course, then such control is desirable.

Planning Commission—Cities are not required to have a planning commission, although most cities will find it desirable. This commission may act in both administrative and advisory capacities. The commission

members may be appointed in the manner the council designates. The planning commission may also be designated as the zoning commission.¹⁵⁶

Metropolitan Planning Commission¹⁵⁷—This is an administrative commission created by neighboring local government units. Cities, counties, and districts (such as school districts, benefited fire districts, sanitary districts, and others) may be included in the commission. The commissioners are appointed by the respective governing bodies.

Urban Renewal Agency¹⁵⁸—When a municipality undertakes an urban renewal program, the city council may act as the urban renewal agency, or a separate agency may be created to administer the program. When a separate urban renewal agency is selected, members are appointed by the mayor with the advice of the council.

Utility Board of Trustees¹⁵⁹—This is an administrative board. The voters can put a board in charge of a single city utility or all city utilities or a combined utility system after the

question has been submitted to them by the council, acting voluntarily or in response to a voter petition. City utilities include waterworks, gasworks, sanitary sewage systems, electric light and power plants and systems, and heating plants which are owned by the city.¹⁶⁰ The mayor appoints the trustees with the approval of the council.

Zoning Commission¹⁶¹ —This is an advisory board. It is required in any city that has a zoning law. The council appoints the commission members; it may designate the planning commission as the zoning commission.

Zoning Board of Adjustment¹⁶² — This board acts in an administrative review capacity. It is required in any city that has a zoning law. The members of the board are appointed as provided by ordinance and should, where the mayor is ex officio the zoning administrator, be appointed by the council. Some larger cities provide that the mayor appoint these members with the approval of the council, where conflict of interest or incompatibility is not involved.

Under home rule, cities have broad authority to

establish administrative agencies aside from these agencies listed in the Code. The council needs only to include certain things in the authorizing ordinance: the title, powers, and duties of the agency; the method of appointment or election, qualification, and terms of members; and any other matters necessary for the agency to function.¹⁶³ Agencies may make and enforce rules within the scope of the agency's powers and duties, and penalties may be prescribed for violation of the agency's rules if the council adopts the rules by ordinance.¹⁶⁴ Cities which have administrative agencies which are no longer enumerated in the Code should adopt an ordinance listing the agency's powers and duties to insure the continuation of that agency and providing its authority to act in specific matters. The council may change the powers and duties of an administrative agency or discontinue an agency altogether by ordinance, after a public hearing.¹⁶⁵

F. General Personnel Policies

Most personnel policies may be set by your council. For example, the law leaves it up to

each community to make its own personnel rules on salaries and wages, vacations, sick leaves, and in most cases, hours of work.

Your council has the power to tell the city attorney, or to employ an attorney on its own, to defend any municipal employee or officer against any claim arising in the course of or out of municipal employment. The municipality must also pay the costs of such defense. You have the power to buy and pay the premiums on property and liability insurance covering municipal employees during the course of their employment and also when operating a motor vehicle owned or used by the municipality.¹⁶⁶

You can establish group insurance, and hospital or medical service plans for your municipal employees.¹⁶⁷ Surety bonds may be required of some officers, and your council can purchase such bonds for most officers and employees or you can cover them with a “blanket” surety bond covering all officers and employees. The purpose of these bonds is to protect you against any loss which may occur through the failure of the officers and employees to faithfully perform their duties or through their dishonest acts.¹⁶⁸

Your council may require that any employee attend a short course and may pay the employee’s expenses with municipal funds.¹⁶⁹

G. Retirement Programs

All your full-time employees, other than those who are required to participate in a local retirement program, must be included in the state-wide retirement system for public employees and most must also be covered by the federal social security system. To help finance these programs, employees must contribute a certain part of their salary, up to a specified amount, to each system, and the city government must also contribute.¹⁷⁰ The law governing retirement programs is changed periodically. Up-to-date information about the law can be obtained from the Iowa Department of Job Service.

If your community has an organized police department or a paid fire department, you are required to continue pensions to those employees and their dependents who are receiving payments under the previous state law.¹⁷¹ All other such employees are to be covered by IPERS and social security except in cities where policemen and firemen are appointed under civil service which must provide the retirement program set forth in the law for these employees.¹⁷² The firemen and policemen pay part of the costs of this program out of their salaries and the city pays the rest of the costs.¹⁷³

H. Working with Other Units of Government

In your work as a council member, you will find that you can get much help and advice from officials of other governmental units, especially from the officials of some of the state agencies. Here are some of the problems you may get help with from the state government:

Beer and liquor licenses and control—Beer and Liquor Control Department

Election procedures—Secretary of State

Employee development—Institute of Public Affairs, The University of Iowa

Financial problems—Supervisor of Municipal Accounts, State Auditor's Office; State Comptroller's Local Budget Office; and League of Iowa Municipalities

Fire protection problems—Engineering, Extension, Firemanship Training, Iowa State University, and the State Fire Marshal

Health and sanitation problems—Department of Health and Department of Environmental Quality

Highway and street problems—State Highway Division, Department of Transportation

Issuance of Cigarette permits—State Department of Revenue

Library problems—State Library Department

Police protection problems—Bureau of Police Science, The University of Iowa

Police training—Iowa Law Enforcement Academy

Printing and public notice rules, copies of Iowa Code and sessions laws—Printing Division, Department of General Services.

Promotion of your community—Iowa Development Commission

Property tax problems—Department of Revenue, Property Tax Division

Research problems—Institute of Public Affairs, The University of Iowa; Local Government Programs, Iowa State University

Retirement programs—Iowa Department of Job Service, IPERS Division

Sales tax problems—Department of Revenue, Sales Tax Division

Traffic and safety problems—Department of Public Safety and Department of Transportation.

There may be times when it would be advantageous for your community to

cooperate with another unit of government in providing a service or making an improvement. The advantages of doing such things on a joint basis are that you can avoid duplicating the work of the other governmental unit, you can share the cost, and you can provide the service for more people than might otherwise be possible. The law authorizes you to enter into agreements with other local units, state governments, and the federal government for the joint exercise of any commonly held governmental powers.¹⁷⁴ The Iowa Attorney General has stated that Chapter 28E authorizes cities to do jointly what they are able to do individually, whether it is a proprietary enterprise or a governmental function.¹⁷⁵ Other state laws allow numerous types of agreements on specific topics. Following is an illustrative list:

Airport¹⁷⁶—with another city, a township, or the county

Bridges¹⁷⁷—with the county

Fire protection¹⁷⁸—with another city, a benefited fire district or township

Governmental buildings¹⁷⁹—with the county

Health¹⁸⁰—your community can be part of a county unit

Library¹⁸¹—with a college or university located

in your community

Low rent housing¹⁸²—cooperation with other municipalities

Metropolitan planning¹⁸³—with adjoining cities, counties, and/or with districts

Playground¹⁸⁴—with school districts

Police protection¹⁸⁵—with another city or your county; including jail service

Sanitary sewer system¹⁸⁶—with another city, political subdivision, or the state

Street improvements¹⁸⁷—with the Department of Transportation

Swimming pool¹⁸⁸—with another city

Work projects for the poor¹⁸⁹—with the county

If the federal government undertakes the construction or repair of a public improvement, you are authorized to enter into any agreements with the United States as may be necessary to meet federal requirements.¹⁹⁰

The law also provides for programs of interchange of employees. Through these programs you may interchange employees for a period of one year with agencies of the federal government, another state, or this state or its instrumentalities.¹⁹¹

Be sure that you check the Code when you plan to undertake any of these joint projects; in a number of cases the law tells you how you must do these things jointly.

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Why must you have a budget and what is the council's job in budgeting? What changes have been made in city financial procedures in the home rule act? How is the property tax rate figured? What do you have to do to issue bonds?

The public purse of your community is in your council's hands. Not a dollar of the municipality's money can be spent until the council has given its permission by an appropriation and approval of claims against the appropriation. You have a big responsibility to see to it that this money is handled correctly and carefully and that the community gets a fair dollar's worth of services for each dollar you spend. Your city's finance officer will be of much help to you in handling financial matters, but you should be informed on these matters, too.

A. Major Requirements of the State Law

The state government has placed a number of controls over the financial dealings of cities,

and you, of course, must be careful to follow the procedures and rules and stay within the limits set up by the statutes.

To give you a general idea of the extent to which the state has established certain basic financial practices in the statutes, some of the more important controls are summarized here. Some of these requirements will be explained in more detail in the pages that follow. These are the major requirements:

1. All moneys received by the city are credited to a general fund, except for money for certain specified funds. This differs from past practice which divided most city money into seven functional funds. The maximum tax levy for the general fund of the city is eight dollars and ten cents for each thousand dollars of assessed valuation (full and true value).¹⁹²
2. You must prepare a budget each year showing all the money your city government, including every board, commission, and agency whether self-supporting or not, plans to take in and pay out for the next fiscal year.¹⁹³ The budget and any amendment is adopted, following notice and hearing, by a resolution which constitutes the appropriation. No public money however derived, may be expended except under an appropriation by council.
3. 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, be it by warrants or some other system.¹⁹⁴

4. The city must keep a record of the money taken in and paid out.¹⁹⁵ This may be done by a clerk, a treasurer, or another financial officer designated by the council.

5. Your city must prepare and publish financial report before October first each year and send a copy of the publication to the state auditor by that date.¹⁹⁶

6. A financial audit of the city's records will be conducted periodically. Cities of 2,000 or more population will be audited every year; cities of 700, but less than 2,000 population, will be audited at least once every four years; and cities of less than 700 population will be audited upon application of the voters, or when requested by the council.¹⁹⁷

7. Your city debt, for general purposes and repayable from property taxes, cannot exceed 5 percent of the actual value of taxable property in your community.¹⁹⁸

8. You must publish: (1) your budget,¹⁹⁹ (2) a list of expenditures you approve at each council meeting,²⁰⁰ and (3) your annual

report.²⁰¹ In addition you must advertise for bids on certain purchases and projects.²⁰²

B. Changes Made by the Home Rule Act

The two most important additions made by the home rule act are the creation of the city finance committee and the adoption of program budgeting and accounting for cities.

The City Finance Committee—

This state-wide committee has rule-making authority relating to budget amendments, transfer of money between funds, and other matters relating to city finance.²⁰³ Further, it is given responsibility for preparation of program budgeting and accounting requirements and capital improvement plan requirements. It will review the form of city budgets and it will conduct studies of municipal revenues and expenditures.²⁰⁴

Program Budgeting and Accounting—Cities are required to change gradually from the line-item budget to

a program budget, which might be termed a goal-oriented budget. This must be done in accordance with procedures which are set by the city finance committee.²⁰⁵ Generally, cities over 2,000 population are encouraged to prepare budgets for one to two year periods following the next fiscal year and prepare a capital improvements plan for a five year period. Performance budgeting may be required by the city finance committee.²⁰⁶

C. Accounting and Budgeting

Most of the accounting in a community is usually done by the city clerk, although the city may designate a financial officer to keep accounts.²⁰⁷ The clerk or financial officer will be able to give you, in most cases, any financial information you want. Several boards and commissions, however, can keep their own records or can arrange for the city's finance officer to do it for them.²⁰⁸ At the end of the year, these agencies must file a financial report with your council. After each council meeting the clerk is required to publish a list of expenditures from city funds, including all claims allowed, a summary of all receipts, and

the gross amount of each claim.²⁰⁹ Failure by the clerk to publish the information is a simple misdemeanor.²¹⁰

Funds—The former seven functional funds have been replaced by a general fund.²¹¹ The total levy for this general fund may not exceed eight dollars and ten cents per thousand dollars valuation, except for certain levies, chiefly those approved by an election for levying on a continuing basis.²¹²

In addition to the general fund, the following specified funds are permitted, and money raised by taxation for these funds may be in addition to the general fund levy limitation.²¹³

1. Debt service fund—This fund is to be used to pay principal and interest on all bonds, except revenue and special assessment bonds, and to pay all judgments not designated to be paid from another fund.²¹⁴
2. Trust and agency funds—These funds are to be used for accounting for pension and related employee benefit funds as provided by the city finance committee.²¹⁵
3. Emergency—The purpose of this fund is to permit you to levy a tax, not exceeding twenty-

seven cents per thousand dollars of taxable value, to raise money for emergencies. This levy may be transferred to the general fund in accordance with rules promulgated by the city finance committee.²¹⁶

4. The capital improvements reserve fund— This fund is new under the home rule act. The fund allows you to accumulate money to finance capital improvements or to carry out a capital improvement plan. The question of the establishment of a capital improvements reserve fund, the time period during which a levy will be made for the fund, and the tax rate to be levied for the fund is subject to approval by the voters.²¹⁷

You may temporarily borrow money by tax anticipation warrants to pay your municipality's bills, subject to this restriction: the amount you borrow cannot exceed the amount you estimated in your budget as income for the current fiscal year.²¹⁸ In other words, you cannot borrow this year in anticipation of the next fiscal year's income.

Budgeting and Accounting Terms—When you first work with the other members of your council in handling your community's financial affairs, you will undoubtedly run into several words and

phrases that will be strange to you. As time goes by, however, you will hear these words many times, and before long you probably will be using them frequently yourself. If you are still not quite sure of the meaning of some of these words and phrases, perhaps the following explanations of some of the more common budget and accounting terms will be helpful to you.

Since July 1, 1975, cities are operating on a fiscal year for their financial operation from July 1 to June 30.²¹⁹ 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.

Cash basis accounting—Most Iowa communities may 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.

Accrual basis accounting—Iowa communities may also keep their records on an accrual basis, that is, a record is made when liabilities are incurred or accounts become receivable. Cities over 2,000 population must 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.

Budget—This is the plan for receiving and spending money for the fiscal year.

Budget preparation—This is the process of estimating all your income and all your expenditures for current operation during the next fiscal year. Responsibility for preparing the budget is discussed later in this chapter.

Budget Certificate Summary form—This summarizes the detailed budget and is adopted by the formal certificate of your income and expenditure estimates and tax askings. The statutes require that you file two certificates, budget summaries and details with the county auditor, who calculates the tax rate and sends one copy of the certificate, summary, and detail on to the state comptroller's office for approval. Under home rule the complete budget that you prepare for your own use and available for public inspection must be in more detail so that it will show the different types of income you plan to take in and the different kinds of expenditures you plan to make and, as stated above, two copies of the detail accompanies the certificates to the county auditor who sends one to the state comptroller. The city finance committee will review the form of your complete budget and advise on improvements.

Beginning cash 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 plan to have in the bank the day your next year's budget starts, together with all investments. There is a column to show a working balance (cash reserve) and possibly accumulations for depreciation and long-range capital projects, which are to be deducted from the beginning cash balance to determine the money that will be available for expenditures in the next fiscal year.

Nonproperty tax income—Estimates of revenues from licenses, fees, federal aids, county and township contributions, charges, rents, fines, and miscellaneous revenues.

State shared revenues—Road use taxes for the R.U.T. fund; and liquor profit and municipal assistance for the general fund.

Property tax asking—The amount in dollars to balance your budget after all other revenues have been included in the two other revenue columns.

Tax levy—It is expressed as a tax rate of a certain number of dollars and cents on every thousand dollars of taxable property in your community, the latter being the actual full

valuation against which the rate is applied to produce the tax asking.

Budget hearing—The public meeting where taxpayers may express their views for or against the items in the proposed budget to the council.

Budget appeal—This is a request by taxpayers to make a change in the budget after it has been adopted by the council, but before it goes into effect.

Appropriation—This is an authorization to spend. Your budget certificate contains the appropriation resolution to allocate appropriations to programs at the time of the adoption of the budget. Under the home rule law, the budget is more than the summary and certificate. It is a more detailed documentation, and includes the appropriation allocations to activities, or purposes, within the programs. If you want to appropriate money for programs or purposes not included in the originally adopted budget, or increase the amounts to any of them, you will need to go through the budget-amending process.²²⁰

Cash balance—This is the amount of money the city has in the bank and includes investments. Each month the city should receive a report of the cash balance by funds

from the treasurer or designated finance officer.

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 has nothing to do with the cash balance. The appropriation balance can be helpful to you in planning the future spending of the part of each appropriation remaining as of that date. You will also want to check to see that your income is meeting expectations. If it isn't, 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, and on actual money taken in and the amounts yet to be collected.

Transfer—This is a shift of money and/or appropriations after the budget has been approved. If you want to make a shift from one fund to another, you must follow procedures set by the city finance committee.²²¹

Warrant—For all practical purposes, this has been combined with a check. Under former law, warrants had to be turned in to the treasurer who then issued a municipal check in

payment. The necessity for using warrants, except for borrowing, has been eliminated by the home rule act, and alternative procedures can be used, such as combining the warrant and check. The term is now usually applied to warrants drawing interest for short-term borrowing.

General obligation bonds, revenue bonds, and special assessment bonds—These differ from each other primarily in the way they are paid off. General obligation bonds are paid off from general property tax money; revenue bonds are paid off from money received from enterprises such as the utilities or parking lots; special assessment bonds are paid off from special charges against benefited properties. When you issue bonds, be careful to keep the bond proceeds that you receive in a separate fund, usually called a project fund, identified by its purpose, and not in funds derived from tax money and other kinds of income, which project fund shall be appropriated and be used only for the purpose stated in the bond issue.

Budgeting—State law does not specify which city official or officials must prepare the budget; it is suggested that your council make this clear, by ordinance if necessary, and that one person or group be given the overall responsibility for doing this. Under what is generally considered the best practice, the mayor should do this unless there is a manager or administrator; this is known as the preparation of an executive budget. But there is nothing to prohibit you from giving this job to the clerk, to a council committee, or to any other municipal official. Regardless of who prepares the budget, the council must approve it, and you can eliminate from or add to it in any way you see fit as long as you stay within the tax rate limits.

The budget should include estimates of expenditures by activity or purpose, by program, together with nonproperty tax income, and property taxes needed, and include revenue and expenditure comparisons for several years.²²²

Given below is a sample calendar of events that take place in setting up the budget; the dates marked by an asterisk (*) are required by the budget law.

Date	Things to Do
November 15	Mayor, council, and person responsible for overall preparation of the budget discuss general policies relating to next year's budget in light of the city financial plan.
December 1	The chief fiscal officer prepares instructions and budget estimate sheets which are forwarded to the city departments. The instructions may properly include a policy statement to guide department heads in preparation of the estimates, and detailed instructions for the completion of forms.
December 1-cities 5,000 population or over	Prepare and send three copies of the street construction and reconstruction program to the district office of the state department of transportation. Sec. 312.12.
December 1 to December 20	The department heads fill in their budget estimate sheets, by entering their requests. Supporting data such as department work programs for the ensuing year should be included. The chief fiscal officer must prepare a statement of the debt-service requirements for payment of principal and interest and any fixed charges which the city must pay. He must also make an estimate of all the revenues which the city will receive.

December 30

The financial officer must review the budget estimates and prepare a summary statement for the coming fiscal year. The fiscal or budget officer should confer with department heads and an analysis must be made of the validity of departmental requests and estimated revenues which are best evaluated if there is a three-year plan. If the expenditures exceed the revenues or conflict with the city financial plan the chief executive will find it necessary to prune departmental requests or to suggest new revenue sources.

December 31-cities of 1,001, to 4,999 population

Prepare and send three copies of the street construction and reconstruction program to the district office of the state department of transportation. Sec. 312.12.

Late December or early January

Mayor or manager (administrator) holds an executive budget hearing open to the public following notice. This is a requirement of the federal revenue sharing law, but is a good practice even without being required.

First meeting in January

Give preliminary budget to council and set date for preliminary budget hearings with the council and fiscal or budget officer.

Late January, but not later than February 23*

Adopt preliminary budget and set date of public hearing required by law. Publish notice and the budget estimate summary and have copies of the detailed budget at the mayor and clerk's offices and library. (If there is no library, then post one detail at one of the official posting places.)

First meeting in March, but not later than March 15*

Hold hearing and certify the adopted budget and levy in duplicate, and send to the county auditor who will forward one copy to the state comptroller after the tax levy is made by the board of supervisors. Proof of publication of the notice of hearing must be sent to the county auditory.

July 1

Beginning of the fiscal and budget year.

July 1, but not later than October 1*

An annual report must be published as in Sec. 362.3, *Code of Iowa*, setting out all financial data of the city, and a copy of the published report must be furnished to the state auditor. Sec. 384.22.

September 10

Prepare and send road use tax and other street expenditures report to the district office of the State Department of Transportation. Sec. 312.14.

D. Getting the Money to Pay Your Bills

Probably the greatest share of the money needed to operate your city government comes from the property tax. The amount of tax money you will need is computed in this way: from the total amount you plan to spend for various city programs subtract (1) your estimate of the beginning cash balance less working balance (cash reserve); (2) any income you plan to take in by means other than property taxation; and the amount that is left will be the amount you will have to raise through a property tax levy. And, of course, the total levy for your community will be the total of levies for the general fund and other funds.²²³

You may be asking, "Where do we get our other money to operate?" The law does not permit you to levy any kind of tax, other than the property tax, and this is levied for you through the county government.²²⁴ Therefore, you are limited to sources of income such as the following:

- License, permit, and inspection fees, including beer-only permit fees

- Money from the sale and rental of city property

- Money from the federal government

- Money from the state government

- Money from the operation of your utilities

- Court fines

- Parking meter money

- Parking lot money

- Sewer Rental money

- Garbage fees

- Money from the operation of the cemetery, library, and parks

- Money from municipal enterprises such as airport, transit, housing, etc.

The money your community receives from the state comes from state road use taxes, the operations of the state liquor stores, bank franchise taxes, state assistance payments, state grants, and from liquor license fees. The road use tax money, state assistance, and the liquor profit money are distributed on a population basis. A city gets 65 percent of the license fees for the liquor-beer licenses issued in it and all the beer permit fees.²²⁵ You have to spend the road use tax money for certain kinds of street work.²²⁶ You can spend the money from state assistance, bank franchise tax,

liquor profits, and license fees for any purpose you choose.²²⁷ However, money from any of these sources must be appropriated (see definition on page 70 of this chapter).

You should be aware that many departments and agencies of the federal government are authorized to assist local governments. A variety of loans and grants are available to assist municipalities in planning programs and construction of facilities. Many of the state agencies are able to inform you of federal assistance in their particular areas. For example, the Division of Local Affairs in the Office for Planning and Programming can inform you about federal grants for preparing a comprehensive community improvement plan or your regional planning commission or association of governments can help, as can Iowa State University Extension through FAPRS, a computer-based inquiry system. The public transit and the aeronautics divisions of the Department of Transportation can inform you about receiving funds for city transit or airport development. The Department of Environmental Quality administers federal and state grants for sewage treatment works construction. Also, the League of Iowa Municipalities collects information about federal aids to municipalities and can advise you regarding aids available.

E. Making Purchases

The law does not set up a lot of purchasing rules for your city to follow. Buying goods and services for your community, for the most part, is left for your officials to do in their best judgment. The main requirements of the law are these:

1. You should have plans and specifications, hold a hearing, publicise your intended action, and ask for bids when you plan to make any public improvement that is estimated to cost more than \$10,000.²²⁸
2. You must make a contract when you do certain things.²²⁹
3. You must give preference to Iowa products and labor in purchasing and making improvements.²³⁰
4. No bill can be paid until the council approves the expenditure.²³¹
5. You must be sure that in making purchases you do not violate the requirements of the conflict of interest law.²³²

Here are a few suggestions that may be helpful to you and your community in the matter of purchasing:

1. Ask for sealed bids whenever you think the

city can get a better price, and a satisfactory quality of goods or services by doing this.

2. Play safe and make written contracts on more costly items, rather than depend on verbal agreements.

3. Send a purchase order with adequate specifications when you buy anything so that the seller will understand exactly what you want and you will have a record of what you ordered, which should be checked with the proper budgetary account to determine if there is adequate appropriation to cover the purchase.

4. Buy in bulk when you can, and avoid making a lot of small purchases. (A practice used in some communities is to buy some articles on long-term price agreements at quantity prices and obtain delivery in small lots as the articles are needed.)

5. Keep the number of persons who make purchases to a practical minimum.

6. Whenever practicable, get a number of quotations on prices on an anticipated purchase, and take advantage of all discounts offered.

F. Financial Reports

Use the financial reports that are given to you. They are not profit and loss statements or balance sheets like businesses have, but they can be of real help to you in checking on your city government's operations. Find out what those dollars spent mean in terms of services and new equipment and new property for your community. See how closely you have come to your budget estimates of income and expenditures for the year. Check whether your debt has gone up or down in recent years. If you have such information in mind, it should be helpful to you as you are called on to make decisions at the council table.

G. Financing with Bonds

This part of this chapter is intended merely to summarize the requirements of the various statutes regarding the issuance of general obligation bonds. Perhaps this information will be helpful to you and the other members of your council when you give preliminary consideration to financing a project through the sale of bonds. However, your council

should obtain legal advice whenever it actually intends to issue bonds.

Debt Limitation—The Iowa Constitution states that no municipal corporation shall become indebted in any manner, or for any purpose, to an amount exceeding five percent of the actual value of the taxable property within the city.²³³ Long-term indebtedness is usually defined as a financial obligation of the municipal corporation that cannot be paid in full out of the current fiscal year's tax revenue. Such indebtedness is usually in the form of general obligation bonds or other similar certificates of indebtedness that are to be paid from a tax on all property within the taxing power of the city, levied annually over a period of years. Revenue bonds and special assessment bonds do not constitute general indebtedness because they are not liabilities on all taxable property within the municipal limits.

Indebtedness Election—For the following public improvements, indebtedness generally must be approved in a municipal election.²³⁴ In lieu of calling an election, a council may institute proceedings for the issuance of bonds for a general corporate

purpose not exceeding the amounts given in the next paragraph by publishing notice of the amount and purpose of the bonds in a newspaper at least ten days prior to the meeting at which they will be acted upon. If a petition requesting an election, signed by 10 percent of the persons who voted at the last regular city election, is received before the time of the hearing, an election must be held or the issuance of bonds dropped.

If no petition is filed, the bonds may be issued subject to the following limitations:

1. In cities of 5,000 population or less, the amount of bonds issued without an election cannot exceed \$25,000.
2. In cities of more than 5,000 and not more than 75,000 population, the amount of bonds issued without an election cannot exceed \$75,000.
3. In cities with a population of more than 75,000, the amount of bonds issued without an election cannot exceed \$150,000.²³⁵

These are the improvements for which an election is required to create general obligation debt except as provided above:

1. City utilities, city enterprises, public improvements of the type financed by special assessments, other than those which are

essential corporate purposes.

2. Community center houses, recreation grounds, recreation buildings, juvenile playgrounds, swimming pools, recreation centers, parks, and golf courses.

3. City halls, jails, police stations, garages, libraries, and hospitals.

4. Tree removal or planting other than on the public right-of-way.

5. Greenhouses, conservatories, horticultural centers.

6. Projects undertaken jointly with another government body which if undertaken by your city alone would be for a general corporate purpose.

7. Dams at time of acquisition.

8. Airports at time of establishment.

9. Any other facilities and improvements needed for operation of the city or the health and welfare of its citizens, not essential corporate purposes.²³⁶

Certain city functions are termed "essential corporate purposes"²³⁷ and do not require an election for approval:

1. Street repair and construction, traffic control devices, dead or diseased tree removal.

2. Street lighting fixtures.

3. Sidewalks, underpasses, and overpasses.

4. Sewage and solid waste collection and disposal, and storm drainage.

5. Bridge, culvert, viaduct, underpass, grade crossing construction and repair.

6. Refunding or settlement of general obligation bonds, warrants, or judgments.

7. Joint projects with another government which, if undertaken by your city alone would be for an essential corporate purpose.

8. Air, noise, or water pollution control construction and repair.

9. Flood control protection.

10. Equipping of fire, police, sanitation, street, and civil defense departments.

11. Cemetery acquisition and improvement.

12. Ambulance acquisition.

13. Urban renewal programs, except that an election can be petitioned.

14. Reconstruction and improvement of dams, airports, parks, and TV translator systems already owned.

Before these bonds may be issued, the council

must publish notice of the amount and purposes of the bonds and announce the time and place of a hearing, at which time the council should receive oral and written objections. The council may vote to issue the bonds after this hearing by a simple majority vote.²³⁸

Bond Election, Issuance, and Sale—In most cases, indebtedness is incurred in the form of bonds. Those Code provisions that authorize issuance of general obligation bonds for municipal projects requiring a bond election need a 60 percent majority for approval.²³⁹

The sale of bonds follows the provisions of Code Chapter 75.

H. Special Assessment Procedures

Many of the public works improvements of your community probably will be financed entirely or partially through charges to the

owners of properties that benefit directly from the improvements. Improvements that are financed in this way are called special assessment improvements.²⁴⁰ You will need legal assistance in setting up special assessment programs.

I. Investment of Funds

Your city may invest funds not immediately needed for current operating expenses in savings accounts or time certificates of deposit.²⁴¹ You must offer banks the opportunity to pay interest on the portion of current operating money which you decide to invest. If you make a written bona fide offer to all qualified approved depositories to deposit public funds, and they all decline to accept such funds at the rate requested, then the money can be invested in government bonds, notes, or certificates which will pay such rate of interest.

Your city can invest sinking funds and any funds resulting from a vote of the people in government bonds without the requirement that banks must be offered the opportunity to take the money first.

Before you make a specific investment, it will be necessary for you to make an analysis of past and anticipated cash balances which might be available for investment. A table showing the monthly cash balance in each fund and a total for the city may be prepared from the monthly treasury report. Then, by plotting this information for each of the past four or five years on a chart or graph, you will have a good idea of when money is most available for investment and the amount you can invest, leaving enough for your day-to-day financial needs.

Investment of these funds may be handled by the council, but it is a good idea for the council to assign this task, by resolution, to the city clerk, treasurer, or finance officer.

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How are council meetings conducted? What is the difference between an ordinance and a resolution? What are the advantages of having an agenda for your council meeting? What notice must be given to the public that your council has passed a law?

You will have to make a lot of decisions during the time you are serving your community as a member of the city council. Most of these decisions will be minor, routine, and sometimes monotonous to you. Others will range from the not so minor to the kind that will be really difficult to make. You may have many sideline activities as an elected official, but the important job you have been elected to do is this: say “yes” or “no” at the council table.

This chapter sets forth the formal procedures involved in making council decisions—the organization of the council, the routine of the meeting, the rules for handling motions under parliamentary procedure, and the procedures necessary to make an idea into a law. No advice is given about the “informal” techniques to be used by you and your fellow council members in arriving at your decisions.

A. Organization and Meetings of the Council

The only requirements of the law in regard to organization of your council are (1) that the mayor must be the presiding officer;²⁴² (2) that the mayor must appoint a member of the council as mayor pro tem;²⁴³ (3) that the council must appoint a clerk;²⁴⁴ (4) that a majority of the council members must be present before you can transact any municipal business legally.²⁴⁵ If the mayor is absent from a meeting, the mayor pro tem must preside.²⁴⁶ All other matters of council organization, including rules of procedure, are left for the council to decide.²⁴⁷

Council Committees—Much of the detailed work of the council may be done by council committees. The statutes are silent on this subject and your council can have as many committees as it chooses, or it can operate without committees. Likewise, it can do away with any committee at any time. The matter of who shall appoint the council committees is up to the council, too. The members can divide the committee assignments among themselves, or they can ask the mayor to appoint the committees.

It is a good idea for your council to have written rules defining the use of the council committee system. These rules should tell the titles of each standing committee, who is responsible for appointment of committee members, the number of members on each committee, and the responsibilities of each committee. The rules should also describe who is responsible for appointing special committees and other details about the functions of special committees, as determined by the council.

Time and Place of Meetings—Your council can decide the time and place for holding its regular meeting under its general authority to determine its own rules and procedures. Attendance at council meetings can be compelled through use of statutory procedures for removal of public officials.²⁴⁸ You can also provide by ordinance for special meetings, including who can call special meetings, and how members should be notified when special meetings are called.²⁴⁹

All council meetings are open to the public, no matter where the meeting is held or whether it is a formal or informal meeting.²⁵⁰ Cities must give notice of the time and location of public meetings at least twenty-four hours before the meeting. “Notice” means advising the local

media, posting notice in a prominent location, and other means local officials can think of for informing the public. Closed meetings are allowed in special circumstances, upon agreement of two-thirds of the council members present. These special circumstances are narrowly defined by state law, as public policy heavily favors open meetings.²⁵¹

B. Routine of a Typical Meeting

This is the routine of a typical council meeting:

1. Meeting called to order by the presiding officer.
2. Roll call.
3. Reading, correction, and approval of the minutes of the last meeting. (If copies are distributed to the council members before the day of the meeting, the reading can be omitted and the minutes be approved “as presented.”)
4. Receiving of reports of officers and department heads.
5. Receiving the clerk’s budgetary report and the treasurer’s monthly report.
6. Discussion and approval of bills of the last month.

7. Receiving and considering council committee reports.
8. Handling of old business.
 - a. Second and third consideration of proposed ordinances. Each proposed ordinance should be disposed of completely (motion, discussion, and vote) before another proposal is brought up.
 - b. Other old business.
9. Handling of new business.
 - a. First considerations and discussion of proposed ordinances.
 - b. Introduction, discussion, and vote on resolutions.

four hours before the meeting but it can be made more useful by making it available to each member several days before the meeting so that members can familiarize themselves with matters that are going to be brought up at the meeting. This agenda could be prepared by a council committee, the clerk, or the mayor. In addition to giving each council member an opportunity to prepare better for the meeting, the advantages of using an agenda are: (1) each member gets an idea of how much has to be covered at the meeting and can judge actions accordingly so that the meeting will not be too long, and (2) matters are considered in an orderly fashion and, therefore, each member knows what is going to be discussed next.

C. Council Meeting Agenda

An agenda is now required by the open meeting law and it can also be helpful to council members.²⁵² This involves preparing, posting—and following—a council agenda. The agenda may be simply a list of the matters that will be considered at a particular meeting, or it may be a list of topics plus information and comment on the more important matters that will be considered. The tentative agenda is required by law to be posted at least twenty-

If a new subject comes up before the twenty-four hour deadline it must be added to the tentative agenda that is posted and also be given to the newspaper and radio media, if any are on your request list. Matters that come up within the twenty-four hour period are best postponed unless a good case can be made for its emergency nature.²⁵³

D. Handling of Motions

In addition to the rules your council sets for conducting its business at meetings, it is a good idea for you to follow the well-established rules of parliamentary procedure. The presiding officer has the major responsibility to see to it that these orderly procedures are followed, but it will be helpful to you as a member of the council to be familiar with these procedures, too. You can probably find a book on parliamentary procedures in your community's library.²⁵⁴

The following is a short review of some of the accepted rules for handling motions:

1. A main motion is simply a motion that is made to begin consideration of some matter. Such a motion may be debated, may be amended, and may have another motion applied to it. A main motion cannot be made while some other motion is being considered. Otherwise, unless a definite order of business has been agreed to, a main motion can be made at any time.

2. The person who has made a main motion can withdraw or change the motion simply by making this request, if this is done before the proposal is under consideration. If the matter is under consideration, the presiding officer

may announce that the motion is withdrawn or changed. However, if anyone objects to the presiding officer's action, the matter of the withdrawal or change of the motion must be voted on.

3. Certain motions are considered "privileged"; they may be brought up at any time and have to be decided before the group can get back to any other motion that it may have been considering. For example a motion for adjournment must be decided, if it is brought up during consideration of a main motion, before any other business is carried on and before the main motion is considered any further. Some "privileged" motions are more privileged than others. This is the order of their importance:

- a. Motion to set the time and place of the next meeting.
- b. Motion to adjourn.
- c. Motion to take a recess.
- d. Motion on questions of privilege.
- e. Motion to keep the meeting to the agreed order of business.

(Note: motion "a" is more privileged than "b", "b" more than "c", etc.)

4. When a main motion has been made, certain

other motions can be made to take action on the proposal, to change it, or to set it aside. This is the order of importance of these motions:

- a. Motion to table the main motion (that is, to lay it aside until later).
 - b. Motion to request that discussion end and that any motion being considered be voted on.
 - c. Motion to limit discussion to a certain amount of time.
 - d. Motion to postpone any action on a motion until some stated future time.
 - e. Motion to refer the proposal to a committee.
 - f. Motion to amend the main motion.
 - g. Motion to postpone to an indefinite time any action on the proposal.
5. A motion to request that the rules be enforced, or that the arranged order of business be followed, may be made even while another person has the floor.
6. All the motions listed above must be seconded before they may be voted on, except the motions to enforce the rules, to keep the meeting to the agreed order of business, and on questions of privilege.

7. No vote is required on a motion to enforce the rules or to keep the meeting to the agreed order of business; the presiding officer decides these matters. A two-thirds vote is necessary to approve a motion calling for a time limit on discussion or calling for an end to discussion so that a vote can be taken on a pending motion. All other motions listed above require majority approval.

8. Certain special motions cannot be made when any other motion is under consideration. These are:

- a. Motion to bring up a tabled matter for consideration. (This can be done at the same meeting the matter was tabled, or at the next meeting.)
- b. Motion to reconsider a matter that has been decided previously. (This has to be done by a person who voted with the winning side and must be done at the same meeting the matter was decided unless a council rule is made to permit consideration at the immediately following meeting.)

Both these motions must be seconded and may be passed by a majority vote.

E. Making the Laws

The official decisions of your council take legal effect when they are passed as ordinances and resolutions. You should get to know the steps which have to be taken to make laws in your community. These steps are set forth in detail in Chapter 380 of the Code. It is important to remember that the subject matter contained in an ordinance or amendment must be generally described in the title of the ordinance, although there is no longer a prohibition against each ordinance containing more than one subject.²⁵⁵

Difference between an Ordinance and a Resolution—The enactment of an ordinance is the most authoritative act your council can perform. If your ordinance is passed in due form and is not in conflict with any higher form of law, it will have the same force as a state law within your community. An ordinance is intended to be the permanent law of your city, although, of course, an ordinance may be amended or repealed by your council at any time.

When a council is called upon to make a decision about some detail of the city's business, it usually enacts a resolution to make

its action official. This is the customary use of the resolution, although a resolution also can be used to make council statements of general policy and other official statements that a council does not see fit to put into an ordinance.

Ordinarily, a resolution is easier to enact than an ordinance. In Iowa, a proposed ordinance or amendment to an ordinance must be considered and voted on for passage at two council meetings prior to the meeting at which it is to be finally acted upon, unless three-fourths of the council vote to do away with the requirement.²⁵⁶ However, if a summary of the proposed ordinance is published as provided in sec. 362.3 prior to its first consideration, and copies are available at the time of publication at the office of the city clerk, the ordinance or amendment must be considered and voted on for passage at one meeting prior to the meeting at which it is to be finally passed, unless this requirement is suspended by a recorded vote of not less than three-fourths of the council members.²⁵⁷ There is no such rule for passing a proposed resolution. You can approve a resolution after one reading and at the same meeting the proposal is brought up.

Most commonly, resolutions are used to set wages and salaries, to let contracts, to make

appropriations, to set up special assessments, and to grant licenses and permits. The most common use of the ordinance, of course, is to set up standards, rules, and penalties to regulate persons, businesses, sales, and handling of property. Other primary uses of the ordinance are to set up the permanent organization and procedures for the operation of the city government and to grant franchises.

Vote Necessary—Unless specifically provided otherwise in a particular statute, the state law requires that a majority of the council members must approve a proposed ordinance or resolution before it becomes a law.²⁵⁸ A roll call vote must be taken and the vote of each member present must be recorded when you vote on any ordinance or resolution.²⁵⁹

Mayor's Vote and Veto—The mayor cannot vote on a proposed ordinance or resolution or ordinary motion, inasmuch as the mayor is not an elected member of the council.²⁶⁰ If your mayor signs any ordinance or resolution, within fourteen days from the day your council passed it, the resolution becomes law upon signing and the ordinance upon publication. If the mayor does not sign it or return it to your council within fourteen

days, it goes into effect without further council action. But if your mayor wants to, an ordinance or resolution may be vetoed. However, the reasons for the veto must be explained in a message (preferably in writing) to the council at the time of veto. The council may repass the measure again if done within thirty days of the veto, but two-thirds of the members of your council must vote in favor of a vetoed ordinance or resolution before it may become effective.²⁶¹

Obviously, the mayor's influence, through the veto power, is strongest when a council is closely divided on an issue. When a council is unanimous, or nearly so, the mayor has little influence on a council's actions through the use of the veto, except to slow the effective date and possibly allow reconsideration if passage was over-hasty or due to undue pressure.

Publication of Ordinances—Each ordinance you pass, revise, or amend must be published or posted in the following manner:²⁶²

1. When an ordinance is enacted, it must be published in a newspaper published at least once weekly and having general circulation in the city; except, if your community has 200 population or less, and/or has no newspaper,

copies of the ordinance may be posted in three public places in your community. These three places must be permanently designated by ordinance.

2. When you revise or amend an ordinance, the original ordinance, section, or subsection that you revise or amend must be repealed by your new ordinance, and the amended ordinance, section, or subsection must be stated in full.²⁶³ In other words, you cannot substitute or insert words and phrases without rewriting and enacting in full the parts of the ordinance in which the substitutions or insertions are made. The amending ordinance must then be published in the same manner as a new ordinance.

3. Any law you pass goes into effect as soon as it is published, or on any subsequent date your council specified in the ordinance.²⁶⁴

Codification of Ordinances—With the passage of the home rule act, all cities must now revise and rearrange their ordinances every five years by compiling a code of ordinances containing all of the city ordinances in effect, except that grade, bond, and zoning ordinances, and ordinances vacating streets and alleys do not have to be included.²⁶⁵ This is known as codification.²⁶⁶

When you do this, the ordinances can be put in a bound or loose-leaf booklet.²⁶⁷

When you codify your ordinances, if only existing ordinances are compiled even though they are edited and brought up to date in the codification without changing the substance or intent, the codification is adopted if regular ordinance procedures are followed.²⁶⁸

However, when new ordinances or amendments are contained in the codification, a public hearing must be held, after notice is published, and the council may adopt the proposed codification within thirty days after the hearing. The codification becomes law upon publication of the adopting ordinance.²⁶⁹

Whenever you codify your ordinances in a loose-leaf booklet, all ordinances subsequently passed are compiled as supplements in the same manner as any new ordinance. You may then add these ordinances to your municipal code by issuing replacement pages.²⁷⁰ The ordinances or amendments must still be entered in chronological order into a permanent ordinance record book.

You can adopt the provisions of any state-wide or nationally recognized standard code by reference. These include complete milk, traffic, fire prevention, building, plumbing,

mechanical, or electrical codes, or any other complete code relating to the construction, maintenance, and operation of buildings. When you undertake to adopt a complete code by reference, you must follow the same procedures used in adopting a municipal code where new material is included.²⁷¹ The ordinance must identify the code to be adopted by subject matter, source, and date, and must state that the code's provisions are being incorporated by reference.²⁷²

FOOTNOTES

¹The distinction between cities and towns, formerly based on the 2,000 population limit, was removed by the legislature in the home rule act. The word "city" will be used throughout this handbook, as it now is in state laws to refer to cities or towns of any size. All references are to the *Code of Iowa*, 1979. Legislation enacted in 1979 is cited as Acts, 68th General Assembly (1979).

²Iowa Const., art. VIII, sec. 1

³There are, however, four Iowa communities that still operate under special charters. They are: Davenport, Muscatine, Wapello, and Camanche.

⁴Ch. 368

⁵Sec. 368.9

⁶*Ibid.*

⁷Secs. 368.11-.18

⁸Iowa Const., art. VIII, sec. 12

⁹Iowa Const., art. III, sec. 38A

¹⁰J. Dillon, *Commentaries on the Law of Municipal Corporations* at 448-49 (5th ed. 1911)

¹¹Ch. 364

¹²Sec. 364.1

¹³Sec. 372.1, .9

¹⁴Sec. 372.10

¹⁵Sec. 372.9

¹⁶Sec. 372.4. An exception is provided for cities currently having two council members elected at large and four council members from wards.

¹⁷Sec 372.6

¹⁸Sec. 372.7

¹⁹Sec. 372.5. Note that an existing council composed of a mayor and two council members is permitted to continue.

²⁰Sec. 372.10

²¹Sec. 376.4 Sec. 362.2(16) defines eligible elector by reference to Sec. 39.3(1) which states: "a person who possesses all the qualifications necessary to entitle him to be registered to vote, whether or not he is in fact so registered." In other words, you need not be a "qualified elector"—one who is registered.

²²U.S. Const., 26th Amen. effective July 5, 1971. This has been found to be self-executing. Op. Atty. Gen., Aug. 4, 1971

²³Sec. 47.4

²⁴Iowa Const., art. II, sec. 5. You can hold public office, however, if you obtain a certificate of restoration of rights from the governor. *State ex rel. Dean v. Haubrich*, 248 Iowa 97B, 83 N.W. 2d 451 (1957). 1936 *Atty. Gen's Biennial Report*, 417-419.

²⁵Iowa Const., art. II, sec.5

²⁶Sec. 69.2(3)

²⁷Sec. 63.1

²⁸Sec. 63.12

²⁹Sec. 63.10

³⁰Secs. 78.1, .2(4)

³¹Sec. 63.11

³²*Ibid.*

³³Sec. 721.2(6), 903.1

³⁴Sec. 376.2

³⁵*Ibid.*

³⁶*Ibid.*

³⁷Sec. 372.13 (8)

³⁸*Ibid.* Note the exception for council members with two years remaining of a four-year term.

³⁹Sec. 362.5

⁴⁰*Ibid.*

⁴¹Sec. 362.6

⁴²Sec. 362.5

⁴³Sec. 362.6

⁴⁴Sec. 362.5

⁴⁵*Lacy v. City of Des Moines*, 253 Iowa 621, 113 N.W. 2d 279 (1962)

⁴⁶Sec. 613A.1

⁴⁷Sec. 384.12(19)

⁴⁸Sec. 613A.7

⁴⁹Sec. 613A.9

⁵⁰Sec. 69.4(5)

⁵¹Sec. 69.2(4)

⁵²Op. Atty. Gen., 1932, p.1

⁵³Sec. 69.2

⁵⁴*State ex rel. LeBuhn v. White*, 257 Iowa 606, 133 N.W. 2d 903 (1965)

⁵⁵The following have been found to be incompatible with the office of council member: county supervisor, member of county conservation board, paid milk

inspector, paid park caretaker, unpaid street commissioner, school director, fire chief (including volunteer), building inspector, magistrate, marshal, state legislator, utility manager, member of library board, airport commissioner, low-rent housing director, election official, park commissioner, city clerk, health officer, utility trustee, and deputy sheriff. However, a council member who is a member of a volunteer fire department may have a conflict of interest instead of an incompatibility. Such a case would be where an ordinance requires that members of the department nominate a fire chief to the council for approval. As council member, under common law, he must abstain from voting when the approval of the chief is acted upon. Op. Atty. Gen., Sept. 13, 1972. In such an instance it is further recommended that he refrain from voting when the department votes on the chief.

⁵⁶Secs. 374.13(2) and 69.12 which describe certain situations where an earlier election may be held.

⁵⁷Sec. 66.1

⁵⁸Sec. 66.29

⁵⁹*Ibid.*

⁶⁰Sec. 66.30

⁶¹Sec. 372.13(9)

⁶²*Ibid.*

⁶³Sec. 372.13(8)

⁶⁴When a procedure is established by state law, a city must "substantially comply" with it. Sec. 364.6

⁶⁵Ch. 28A

⁶⁶Your police powers are stated in Code Sec. 364.1.

⁶⁷You are restricted in enforcement to abatement if it is a nuisance (Sec. 364.12(3a)) or penalties of a fine not exceeding \$100 or more than 30 days in jail. Sec. 364.3(2)

⁶⁸Sec. 364.6

⁶⁹Sec. 364.1. See *Iowa Model Ordinances* for relevant ordinances.

⁷⁰Ch. 123

⁷¹Chs. 98, 551A

⁷²Chs. 192, 194

⁷³Ch. 170A

⁷⁴Ch. 123

⁷⁵Sec. 364.12

⁷⁶Sec. 364.12(3h)

⁷⁷Sec. 364.12(3a-3g), 364.12(2b)

⁷⁸Secs. 321.236, .248-.250

⁷⁹Sec 321.236(1)

⁸⁰Sec. 321.236(2)

⁸¹Sec. 321.236(3)

⁸²Sec. 321.236(4)

⁸³Sec. 321.236(5)

⁸⁴Sec. 321.236(6)

⁸⁵Sec. 321.236(7)

⁸⁶Sec. 321.236(8), 321.471-473

⁸⁷Sec. 321.236(9)

⁸⁸Sec. 321.236(10)

⁸⁹Sec. 321.236(11)

⁹⁰Sec. 321.236(12), 321.237, 321.358(14)

⁹¹Sec. 321.248

⁹²Sec. 321.249

⁹³Sec. 321.250

⁹⁴Sec. 321G.9(4a)

⁹⁵Sec. 380.10

⁹⁶Sec. 364.1

⁹⁷You should check the city's general licensing ordinance or the ordinance for the specific license you are revoking to determine the procedures for revoking the license, or the state law provisions (Ch. 123) in case of beer and liquor permits and licenses.

⁹⁸Sec. 98.22

⁹⁹Sec. 123.39

¹⁰⁰Ch. 99A

¹⁰¹Ch. 392

¹⁰²Ch. 414

¹⁰³Sec. 414.6

¹⁰⁴Secs. 414.7, 414.11

¹⁰⁵Ch. 409

¹⁰⁶Sec. 409.14

¹⁰⁷Sec. 368.1(7)

¹⁰⁸Secs. 368.7 and 368.11-.22

¹⁰⁹Sec. 368.4

¹¹⁰*Ibid.*

¹¹¹Sec. 368.7

¹¹²Sec. 368.11

¹¹³Sec. 368.17

¹¹⁴Sec. 368.19

¹¹⁵Sec. 368.17

¹¹⁶Sec. 414.24

¹¹⁷Sec. 364.7

¹¹⁸*Ibid.*

¹¹⁹Sec. 372.13(5)

¹²⁰Sec. 364.2(4)

¹²¹Sec. 384.84(2e)

¹²²Ch. 390

¹²³*Ibid.*

¹²⁴Sec. 364.2(4e)

¹²⁵Formerly Ch. 364

¹²⁶Ch. 419 as amended by Ch. 89, Acts, 68th G.A. (1979)

¹²⁷For a further description of these powers see *Iowa Model Ordinances*, "Powers and Duties of Municipal Officers," Title 1, Ch. 3.

¹²⁸Sec. 364.2

¹²⁹Sec. 372.14(1)

¹³⁰Sec. 372.14(2)

¹³¹*Ibid.*

¹³²However, the mayor may not veto a measure if entitled to vote on the measure at the time of passage, which affects city-manager-by-election and commission cities.

¹³³Sec. 372.14(1)

¹³⁴Sec. 372.13(4). The council is required to appoint the city clerk and cannot delegate this appointment. Sec. 372.13(3)

¹³⁵*Ibid.* Sec. 372.15 provides that all persons appointed to city office may be removed by the officer or body making the appointment. Further, each removal must be by written order and a hearing must be given if requested by the person dismissed.

¹³⁶Sec. 372.13(4)

¹³⁷*Ibid.*

¹³⁸Formerly Code sec. 368A.1(9)

¹³⁹Sec. 372.13(4). See also footnote 135, above.

¹⁴⁰Sec. 400.1. If your city does not have 8,000 population it can still adopt the civil service requirements if it wishes. In this situation the council may act as the civil service commission or it may set up a separate commission. Sec. 400.3. Cities over 15,000 population must cover almost all other employees as well as fire and police. Sec. 400.6

¹⁴¹*Ibid.*

¹⁴²Sec. 400.13

¹⁴³Sec. 400.18

¹⁴⁴Sec. 70.1

¹⁴⁵Ch. 71

¹⁴⁶Sec. 372.13(4)

¹⁴⁷*Ibid.*

¹⁴⁸Sec. 392.2

¹⁴⁹Sec. 392.1

¹⁵⁰Sec. 330.17

¹⁵¹Ch. 400

¹⁵²Ch. 137

¹⁵³Sec. 392.6

¹⁵⁴Sec. 392.5

¹⁵⁵Secs. 392.1-.4

¹⁵⁶Sec. 414.6

¹⁵⁷Ch. 473A

¹⁵⁸Secs. 403.14-.15

¹⁵⁹Ch. 388

¹⁶⁰Sec. 362.2(22)

¹⁶¹Ch. 414, as amended by Ch. 88, 68th G.A. (1979)

¹⁶²*Ibid.*

¹⁶³Ch. 392

¹⁶⁴Sec. 392.1

¹⁶⁵*Ibid.*, Sec. 392.7

¹⁶⁶Ch. 613A

¹⁶⁷Sec. 364.1

¹⁶⁸Secs. 64.2, 64.13. A blanket surety bond may cover the mayor, treasurer, clerk, and all other employees for their faithful performance of their duties including accounting for money and property. The money and property handling positions such as clerk and treasurer, should be covered for larger amounts than the face amount of the bond applicable to all other offices and positions not specifically named in the bond.

¹⁶⁹This can be done under your general home rule authority. Sec. 364.1

¹⁷⁰Chs. 97B, 97C

¹⁷¹Ch. 410, Op. Atty. Gen., Sept. 27, 1972

¹⁷²Sec. 411.8(1a)

¹⁷³Sec. 411.11

¹⁷⁴Ch. 28E

¹⁷⁵Op. Atty. Gen., March 16, 1967

¹⁷⁶Sec. 330.4

¹⁷⁷Sec. 384.12(5)

¹⁷⁸Secs. 357B.15, 359.42, 364.16

¹⁷⁹Secs. 346.26, .27

¹⁸⁰Ch. 137

¹⁸¹Ch 28E

¹⁸²Sec. 403A.9

¹⁸³Ch. 473A

¹⁸⁴Ch. 300, Op. Atty. Gen., Sept. 17, 1968

¹⁸⁵Ch. 28E, esp. Secs. 28E.21-.28, Secs. 356.1(4), 364.1

¹⁸⁶Sec. 384.76

¹⁸⁷Secs. 313.21-.23. You may also make agreements with adjoining communities or your county government. Op. Atty. Gen., June 29, 1966

¹⁸⁸Ch. 28E, Sec. 384.24(4h)

¹⁸⁹Sec. 252.42

¹⁹⁰Ch. 28E, Sec. 73.11

¹⁹¹Ch. 28D

¹⁹²Sec. 384.1, 384.3

¹⁹³Sec. 384.16

¹⁹⁴Sec. 372.13(6). No expenditure may be approved unless there is an available appropriation in the budget. Sec. 384.20. See also Op. Atty. Gen., Sept. 25, 1979

¹⁹⁵Secs. 384.20, 384.22, 384.85, 388.5

¹⁹⁶Sec. 384.22

- ¹⁹⁷Sec. 11.18
- ¹⁹⁸Iowa Const., art. XI, sec. 3
- ¹⁹⁹Sec. 384.16(3)
- ²⁰⁰Sec. 372.13(6)
- ²⁰¹Sec. 384.22
- ²⁰²Sec. 384.102
- ²⁰³Sec. 384.15
- ²⁰⁴*Ibid.*
- ²⁰⁵*Ibid.*
- ²⁰⁶*Ibid.*
- ²⁰⁷This can be done under the general home rule authority. Sec. 364.1
- ²⁰⁸See provisions for the Hospital Board. Sec. 392.6. Since park and library boards are financed from the general fund it is recommended that the clerk write the checks/warrants to avoid some severe accounting problems.
- ²⁰⁹Sec. 372.13(6). Special provisions apply to cities over 150,000 population.
- ²¹⁰*Ibid.*
- ²¹¹Secs. 384.1, .3
- ²¹²Secs. 384.1, .3, .12
- ²¹³This is because these are specified funds, provided for by law. Sec. 384.3
- ²¹⁴Secs. 384.4, .5
- ²¹⁵Sec. 384.6 as amended by Ch. 85, Acts, 68th G.A. (1979)
- ²¹⁶Sec. 384.8; I.A.C. 230-2.5(1)(2)
- ²¹⁷Sec. 384.7 as amended by Ch. 85, Acts, 68th G.A. (1979)
- ²¹⁸Sec. 384.10
- ²¹⁹Sec. 384.2
- ²²⁰Secs. 384.16, .18
- ²²¹Sec. 384.15(1); I.A.C. 230-2.3-2.5
- ²²²Sec. 384.16(1)
- ²²³Since you do not receive any tax money until about three months after your budget goes into effect, the budget summary provides a place for you to make some provision ("cash reserve") to have some money on hand to meet bills during these months so as not to have to borrow with stamped warrants.
- ²²⁴Sec. 384.17
- ²²⁵Sec. 123.53
- ²²⁶Sec. 312.3
- ²²⁷Sec. 123.53(3)
- ²²⁸Sec. 384.96 as amended by Ch. 85, 68th G.A. (1979). See generally secs. 384.95-.103.
- ²²⁹Secs. 384.95, .96, .99
- ²³⁰Ch. 73
- ²³¹Secs. 372.13(6), 384.20
- ²³²See Ch. 1, *supra.*, and sec. 362.5
- ²³³Iowa Const., art. XI, sec. 3
- ²³⁴These constitute general corporate purposes. Sec. 384.24(4)
- ²³⁵Sec. 384.26(5)
- ²³⁶Sec. 384.24(4)
- ²³⁷Sec. 384.24(3)
- ²³⁸Sec. 384.25

²³⁹Sec. 384.26(2) (4)

²⁴⁰Secs. 384.37-.39

²⁴¹Ch. 453

²⁴²Sec. 372.14(1)

²⁴³Sec. 372.4. This applies only to cities with a mayor-council form of government.

²⁴⁴Sec. 372.13(3)

²⁴⁵Sec. 374.13(1). The council can adjourn without a quorum, call on absentees to attempt to assume a quorum.

²⁴⁶Sec. 372.14(3). However, if both are absent, the council may meet and appoint a temporary chairman as a first order of business.

²⁴⁷Sec. 372.13(5)

²⁴⁸Code Sec. 66.1 lists as grounds for removal from office "willful or habitual neglect or refusal to perform the duties of office." Attendance at meetings would probably be considered a duty of office.

²⁴⁹Sec. 372.13(5)

²⁵⁰Sec. 28A.2(2)

²⁵¹Secs. 28A.1, .5

²⁵²Sec. 28A.4

²⁵³Op. Atty. Gen. April 10, 1979, July 6, 1979.

²⁵⁴*Robert's Rules of Order, Revised* is a widely used authority in this area.

²⁵⁵Sec. 380.1

²⁵⁶Sec. 380.3

²⁵⁷*Ibid.*

²⁵⁸Sec. 380.4

²⁵⁹*Ibid.*

²⁶⁰Sec. 372.4. There is one exception. If a city is operating under the mayor-council form composed of a mayor and a council consisting of two council members elected at large, and one council member from each of four wards, the mayor may vote to break a tie vote on motions not involving ordinances, resolutions, or appointments made by the council alone. Moreover, the statement about the mayor's inability to vote refers only to the mayor-council form. Under other forms of government, the mayor is a member of the council and can vote on all matters brought before the council.

²⁶¹Secs. 380.5-.6. However, the mayor may not veto a measure if the mayor was entitled to vote on the measure at the time of passage. (See footnote 260 above.)

²⁶²Sec. 380.7

²⁶³Sec. 380.2

²⁶⁴Sec. 380.6(1,3)

²⁶⁵Sec. 380.8

²⁶⁶*Ibid.*

²⁶⁷*Ibid.*

²⁶⁸*Ibid.*

²⁶⁹*Ibid.*

²⁷⁰*Ibid.*

²⁷¹Sec. 380.8, .10

²⁷²Sec. 380.10