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*Your Job as*

# COUNCILMAN

Institute of Public Affairs

the State University of Iowa

*in cooperation with the*

League of Iowa Municipalities

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## Date Due

JUL-4 '59			
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Price \$1.00

## Foreword

**T**HIS is a pamphlet about the job you have been elected to do. It deals more with the tools you have to work with—the powers and duties given to you and your fellow councilmen by state law—rather than how to get the job done. But a few tips on how to do the job are passed on to you with the hope that they will be helpful to you in your important service to your community.

Undoubtedly you have many questions about your job as councilman. Well, the purpose of this book is to attempt to answer as many of your questions as possible and to furnish you a handy reference for helping you with any questions you may have later on. We hope the answers to most of your questions are between these covers; certainly all of them aren't. It is hoped also that what is written here will be especially helpful to you if you are a new councilman. And if you are an old-timer around the council table, we hope you will want to keep a copy handy anyhow.

This book does not deal with a lot of legal technicalities. But the fact is that state statutes have much to say about what cities and towns in this state can and cannot do. So in discussing your job as councilman, we must refer often to the state laws that affect city and town government. We suggest that you use these references only as a starting point in considering any matter. Your attorney, of course, will be able to help you with the technicalities. The code chapters and sections referred to in this handbook are those of the 1954 Code as amended by the 1955 and 1957 legislatures.

In 1950 the Institute and League published *A Handbook for*

*Iowa Councilmen.* That booklet was written by Professor Russell M. Ross of the University and Mr. Max A. Conrad. Since then many changes have been made in the state laws that concern city and town government, and it was our thought that a new book would be very helpful to you. Therefore, this completely new and different book was written in its first edition by Mr. Clayton L. Ringgenberg in March, 1954, and is presented now in a revised form.

Some of the matters discussed in a general way in this handbook have been discussed rather thoroughly in other publications of the Institute and the League. Consequently, instead of repeating this information in detail in this handbook, we refer you to the parts of our previous publications in which these matters have been discussed.

MAX A. CONRAD  
*Executive Secretary-Treasurer*  
League of Iowa Municipalities

ROBERT F. RAY, *Director*  
Institute of Public Affairs  
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Iowa City  
January, 1958

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# Your Community Is Incorporated Under State Law

*What does it mean for your community to be incorporated? What have the courts said about state control of city and town affairs? What is the role of the legislature in city and town affairs? What do the statutes say about your position as councilman?*

**Y**OUR community is a creature of the state; it depends on the state government for its very existence. These few words sum up pretty well what your community's relationship is, as an incorporated city or town, to the state government. It is a relationship of dependence upon the state constitution and the state legislature to receive power to be and to act. You, as a municipal official, should keep this fact constantly in mind as you go about your work as a councilman.

## *The Meaning of Incorporation*

Incorporation of a community in Iowa simply means that a community has taken on legal status under the law. This means, first, that certain geographical boundaries are set. But more important, the municipal government created receives many powers and benefits it did not have as an unincorporated area; at the same time it becomes subject to the restrictions placed on municipalities by state law.

Since 1857 the Iowa Constitution has required that all cities and towns be incorporated in the same way.\* (Art. VIII, sec. 1) In other words, your community could not have been incorporated by a special act of the legislature; rather

\* There are, however, four Iowa communities that still operate under special charters.

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 and towns may be found in the Iowa Code. (ch. 362) This same law tells the steps that must be taken to discontinue an incorporated community; it also tells how to combine communities that are located next to each other and how to combine unincorporated land with an incorporated place. The Constitution states that any law providing for municipal corporations may be changed at any time, and of course this applies to the law on incorporation. (Art. VIII, sec. 12)

### *The State Grants Power to Your City or Town*

From its right to incorporate cities and towns, the state receives its right to determine the powers of these incorporated places. A comprehensive statement of the powers given to your city or town by the state appears in the statute entitled, "General Powers of Municipal Corporations." It says:

Cities and towns are bodies politic and corporate, . . . with the authority vested in the mayor and a common council, together with such officers as are in this title mentioned or may be created under its authority, *and shall have the general powers and privileges granted, and such others as are incident to municipal corporations of like character, not inconsistent with the statutes of the state*, for the protection of their property and inhabitants, and the preservation of peace and good order therein, and they may sue and be sued, contract and be contracted with, acquire, lease, and hold real and personal property, and have a common seal. (sec. 368.2) (italics supplied)

### *What the Iowa Constitution Says About Municipal Government*

The major effect the Iowa Constitution has on your community is the one stated above—that the legislature must provide for the incorporation of communities, and therefore, the powers of cities and towns. Your city or town is also prohibited by the Constitution from holding stock in a bank.

(Art. VIII, sec. 4) There are two other constitutional provisions that affect your city or town, as an incorporated community: one places an important limitation on the kind of laws the legislature may enact concerning cities and towns, and the other limits the amount of debt a municipality may have. The limitation on the legislature is discussed in the next section of this chapter, and the limitation on city and town debt is discussed in chapter 5.

### *The Role of the Legislature in Municipal Affairs*

The important position of the legislature in connection with municipal affairs is obvious. By now, as a councilman, you may well be asking, "How far does this power of the legislature go?"

#### *A Statement of the Iowa Supreme Court*

First of all, let's see what the Iowa Supreme Court has said on this subject. The Court has said over and over again that before a city or town may do anything, there must be no doubt that the legislature has given the city or town the power to act. Here is how this was stated in one case:

It is fundamental that municipal corporations are wholly creatures of the state legislature. \* \* \* They possess and can exercise only the powers (1) expressly granted by the legislature (2) 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. (*Gritton v. City of Des Moines*, 247 Iowa 326, 73 N.W. 2d 813 (1955))

#### *Statutes Must be Uniform*

The Iowa Constitution limits the legislature to this extent—that the statutes it enacts must be general and must apply uniformly to each city and town throughout the state. (Art. III, sec. 30) That is, the legislature cannot pass a law that would require that your city or town government have, for example, a board of health and at the same time let all other cities and towns of the state choose whether or not they

wanted a board of health. On the other hand, the legislature can, and does, require that all cities and towns have a board of health. Or, if it wanted to, the legislature could prohibit any local boards of health.

Notwithstanding the fact that such laws must be general and uniform, the legislature has enacted some laws that apply only to communities of certain sizes of population. For example, some laws apply to communities classified as cities (generally meaning all communities that have more than 2,000 people) but not to towns (with a few exceptions, those communities with less than 2,000 people). In general, however, the laws on municipalities apply to all cities and towns regardless of size. This one exception to the general rule is pointed out here as a word of caution so that you and your fellow councilmen, when undertaking anything, will have the Code checked to see whether the particular general law granting this power applies to your community.

#### *Statutes May Be Compulsory or Permissive*

Sometimes the statutes point out that a city or town "shall" do so and so; other times the statutes merely state that a city or town "shall have power to" or "may" do so and so. These are important words to watch for in reading over a state law; they govern whether your community must do a certain thing and whether or not that thing must be done in a certain way, or whether your municipal government can choose to do a certain thing and can choose the way you want to do it.

#### *Statutes May Be General or Detailed*

In some cases, the laws passed by the legislature go into great detail to inform cities and towns of the exact steps that must be taken to fulfill the law. The handling of elections and the handling of special assessments are two examples of such laws. In both these cases, the local officials responsible for handling these jobs have to follow many rules

and steps that are set forth in these particular laws. On the other hand, some statutes are of a very general nature, and your council, or other officials, are permitted, generally, to carry out the power granted in about any way you choose.

Obviously, the legislature cannot and should not provide by law for all the many details involved in running your municipal government. This is, of course, a practical matter, and the Iowa Supreme Court has realized this in its decisions. In one comparatively recent case, the Court said:

It is elementary that, unless expressly or impliedly restrained by statute, a municipal corporation may, in its discretion, determine for itself the means and method of exercising the powers conferred thereon. (*Lyons v. Civil Service Commission*, 203 Iowa 1203, 1209, 212 N.W. 579, 581 (1927))

### *Municipal Affairs Section of the State Code*

Title XV of the Iowa Code, which covers approximately forty subjects, is devoted to city and town affairs. Whenever you use the Code to check some law that may affect your community, you will usually be able to find the information you need in this part of the Code. There are, however, some important laws that apply to cities and towns that are found elsewhere in the Code.

### *Check the Law Before You Act*

Because of the extent of state control over your community's affairs, this suggestion is made to you and the other members of your council. Whenever you plan to do anything—whether it be to pass an ordinance, to create a new department or service, or anything else—check the state statutes to answer this question for yourselves, "Can we do this under the law?" Then if the laws permit you to do it, find out what the law says about how you should go about doing it. In finding these things out, you should, of course, seek the aid and advice of your attorney. Play safe; find the law and follow what it says.

## *State Law Affects Your Position as Councilman*

As examples of what the state laws require, some of the laws that apply to you personally as a councilman are discussed in the following paragraphs.

### *Number and Election of Councilmen*

If you live in a community that is classified as a town, your community must have five councilmen, and they must be elected at large. If you live in a community that is classified as a city, your municipality can have a five-man council with each member elected at large, or it can have a council composed of two members elected at large and a member elected from each ward. If your city has two or more townships within its limits, you should check the law because in your case there are special rules given for the election of members at large. (sec. 363A.2)

### *Requirements for You to Take Office*

To be elected to the position of councilman, you must live in the community in which you run for office, and if you are to represent a ward, you must live in that ward. (sec. 363.23) You also must be a qualified voter.

After the election is over, the only thing you have to do to take office officially is to take the required oath. Taking this oath is known as qualifying for office, and you must qualify each time you are elected. The law now requires that officials must qualify before noon of the second working day in January in the first year of their term. Taking the oath is a simple matter. Be sure to do so on time.

You aren't required to furnish a bond. (sec. 64.1) You go into office officially on the second working day of January. (sec. 363.28)

### *Length of Time You Can Be in Office*

Normally, you are elected for a term of office of two years. This term may be changed to four years, however, if the voters of your community vote in favor of such a change.

(sec. 363.9) Of course, there is no limit on the number of times you may be elected to office. You can resign from your office by notifying the clerk or mayor in writing. (sec. 69.4)

### *Your Pay*

The amount you can be paid for your work as a councilman depends on the size of your community and, in communities of less than 15,000 population, the number of meetings you attend. (sec. 363.39) Your clerk will know what the pay is in your city or town.

### *You, Personally, Can't Have Business Dealings with Your City or Town*

Since you are a member of the council, you cannot be interested "directly or indirectly" in contracts or purchases made by your city or town government. (sec. 368A.22) In other words, you cannot benefit, either directly or indirectly, from the business your city or town gives the business people of your community or other business people. The Iowa Supreme Court has made a clear-cut interpretation of this law, and you as a councilman must be careful to see that you do not benefit in any way from your official actions.

### *Liability for Your Actions as a Councilman*

You and the other members of your council cannot be held liable either individually or collectively for the decisions that you make that are permitted or required of you by the statutes. However, you may be held liable for damage caused by any action you take that is not legally authorized, or by your failure to carry out your regular duties as set forth in the law. There is no state law on this matter; rather, the courts have set up these rules.\* Again you can see the importance of getting advice from your attorney if you are not sure that something your council plans to do is all right under the law.

\* In a recent case, the Iowa Supreme Court held that city or town council members have only limited immunity from prosecution for statements they make in council session. *Mills v. Denny*, 245 Iowa 584, 63 N.W. 2d 222 (1954)



## Your Council Directs a Service Agency

*What kinds of services can a city or town 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?*

**B**Y 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.

You and the other members of your council have the responsibility for making most of the major decisions for your community. For the most part, these decisions will be of two types: (1) decisions regarding furnishing services to the people of your community, and (2) decisions regarding the protection of the present physical condition of your community and providing for its growth. These—providing services for the people's protection and benefit and providing for the development of your community—are the chief purposes of your city or town 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 your community are discussed.

### *The Kind and Extent of Services You May Furnish*

As was pointed out in the preceding chapter, the legislature, by statute, determines which services your community and other cities and towns may provide. 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 laws require that each municipality must provide certain services.

### *Extent of Services You May Furnish*

Many of these laws simply state that your community "shall have power to provide for" this service or that service; nothing is said about how your community must go about providing the service. With this kind of authorization, 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 on you has already been pointed out: you must be careful to follow the procedures and rules set forth in the law. You have no choice but to do this.

In some cases, the law requires that a board of trustees have charge of a certain municipal service. This takes this 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 limitation on the extent of services you can provide involves the money angle. The law that applies to city and town finances puts an over-all limit on the amount of property taxes your community can levy each year to provide services. Furthermore, this same law limits the amount of property taxes that may be levied for certain groups of services. (ch. 404) For example, you can't levy a tax for your recreation programs of more than five dollars for each \$1,000 of assessed value in your city or town. In a few cases, the laws require that certain revenues of your 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. Two examples are that your community must have a court and some form of police protection.

### *Municipal Services*

Obviously, in your job as councilman you can't be expected to know about all 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 attorney to get this information for you as you need it.

The following is a list of the many kinds of municipal services permitted by state law. An attempt has been made to make this list complete, but some services may not be listed. It is felt that this list can be helpful to you in these ways: (1) it will give you, here in one place, a summary of the services that may be furnished; (2) it will show you where you can find the Iowa Code authorization for each service, and (3) it will show you whether the service can be provided in your city or town.

<i>The Kinds of Services that May Be Furnished</i>	<i>Where to Find the Law in the 1954 Code</i>	<i>Which Communities May Furnish the Services</i>
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### PUBLIC WORKS SERVICES

- |  |                     |  |
|--|---------------------|--|
| 1. Construction and repair of streets, alleys, curbs and gutters | chs. 389, 391, 391A | All cities and towns have power to do this |
|--|---------------------|--|

*(Chapter 389 gives your community general power to establish, construct, and repair streets. Chapters 391 and 391A set forth in detail two sets of steps your council can take to make street improvements if the street work is to be financed by charging benefited property owners. You can improve your streets under the provisions of any one of these three laws. You can choose the law you want to follow. It is suggested that you get legal assistance in making this choice.)*

- |                                 |                           |                        |
|---------------------------------|---------------------------|------------------------|
| 2. Improvement of primary roads | secs. 391.71-.74, 391A.37 | All cities may do this |
|---------------------------------|---------------------------|------------------------|

*(You must receive approval from the state highway commission to improve such roads with primary road money.)*

- |                                     |             |   |
|-------------------------------------|-------------|---|
| 3. Maintaining and cleaning streets | sec. 389.12 | All cities and towns are responsible for doing this |
|-------------------------------------|-------------|---|

- |  |                                  |  |
|--|----------------------------------|--|
| 4. Lighting of streets and other public places | secs. 389.16, 391.2(1); ch. 391A | All cities and towns have power to do this |
|--|----------------------------------|--|

- |                           |             |   |
|---------------------------|-------------|---|
| Street lighting districts | sec. 389.17 | Cities over 15,000 population may form such districts |
|---------------------------|-------------|---|

- |   |                            |  |
|---|----------------------------|--|
| 5. Construction and repair of sidewalks | secs. 389.31-.38; ch. 391A | All cities and towns have power to do this |
|---|----------------------------|--|

*(You can choose the law you want to follow in making sidewalk improvements. Certain procedures must be followed.)*

- |  |         |   |
|--|---------|---|
| 6. Construction, repair, and maintenance of bridges, culverts, viaducts, overpasses, underpasses, and railroad grade crossings | ch. 381 | Cities, and seemingly, towns, have power to repair and construct bridges, and are responsible for maintenance of bridges* |
|--|---------|---|

\*Towns are not independently authorized to construct and repair bridges, but section 381.9 authorizes towns to help pay the cost of constructing county bridges and section 404.7 authorizes all municipalities to levy a tax for bridge purposes.

- |   |                                    |   |
|---|------------------------------------|---|
| Purchase and construction of interstate bridges                           | secs. 381.17-.19;<br>chs. 382, 383 | Certain cities may do this, with the approval of the voters |
| Require railroad company to construct and maintain a viaduct or underpass | ch. 387                            | Cities over 5,000 population have power to do this          |

*(The Iowa State Commerce Commission must determine that the viaduct or underpass is necessary for the public safety and convenience, and approve plans.)*

- |   |                             |  |
|---|-----------------------------|--|
| 7. Construction and repair of storm sewers and drainage systems | sec. 368.26; chs. 391, 391A | All cities and towns have power to do this |
|---|-----------------------------|--|

*(Section 368.26 is a general authorization, while chapter 391A sets forth in detail the steps you must take if the improvement is made under this law.)*

- |  |                          |   |
|--|--------------------------|---|
| 8. System of flood control                   | ch. 395; secs. 459.8-.12 | All cities and towns have power to do this                                  |
| 9. Parking lots and other parking facilities | ch. 390                  | All cities and towns have power to acquire and construct parking facilities |
| 10. Construction and repair of water mains   | chs. 401, 391A, 397-399  | All cities and towns that own and operate waterworks may do this            |

*(You can choose the law you want to follow in making improvements of water lines.)*

- |  |             |                                  |
|--|-------------|----------------------------------|
| 11. Care and control of trees and shrubbery along public streets | sec. 368.32 | All cities and towns may do this |
|--|-------------|----------------------------------|

*(Your council may give the park board this job.)*

- |                                |         |  |
|--------------------------------|---------|--|
| 12. Improvement of river front | ch. 372 | All cities divided by a stream may do this |
|--------------------------------|---------|--|

*(Your city cannot provide this service until 500 voters petition the governor for it. A river-front commission has charge of making such improvements.)*

- |   |             |                                  |
|---|-------------|----------------------------------|
| 13. Construction and maintenance of garage for municipal vehicles | sec. 368.41 | All cities and towns may do this |
|---|-------------|----------------------------------|

- |  |                    |  |
|--|--------------------|--|
| 14. Urban renewal to remove or revamp blighted or slum areas | Laws 1957, ch. 197 | All cities and towns may do this if the local governing body determines such an area exists and is detrimental to the health, safety, morals, or welfare of the community. |
|--|--------------------|--|

*(An urban renewal agency must be appointed by the mayor, with the council's consent.)*

### SANITATION AND HEALTH SERVICES

- |  |                      |  |
|--|----------------------|--|
| 1. Collection and disposal of garbage and refuse | sec. 368.24; ch. 394 | All cities and towns have power to do this |
|--|----------------------|--|

*(You may provide for a disposal plant and for a dump ground.)*

- |   |                             |  |
|---|-----------------------------|--|
| 2. Construction and repair of sanitary sewers | sec. 368.26; chs. 391, 391A | All cities and towns have power to do this |
|---|-----------------------------|--|

*(Section 368.26 gives your community the general power to construct and repair sanitary sewers. Chapters 391 and 391A set forth in detail two sets of steps your council can take in making these improvements if a project is to be financed by charging benefited property owners. Your council may choose the law it wants to use to do such work.)*

- |  |                                       |  |
|--|---------------------------------------|--|
| 3. Construction and operation of sewage disposal plant | sec. 368.26; chs. 391, 391A, 393, 394 | All cities and towns have power to do this |
|--|---------------------------------------|--|

*(You can choose the law you want to use to make this improvement. You may make sewer rental charges under chapter 393. If the population of your city or town is less than 50,000, you may place the management of your sewage disposal plant in the hands of a board of trustees.)*

- |  |         |                                   |
|--|---------|-----------------------------------|
| 4. Enforcement of state health laws, quarantining of sick, and abatement of health nuisances | ch. 137 | All cities and towns must do this |
|--|---------|-----------------------------------|

*(A health board is required. The members of your council, your mayor, and your health physician make up this board.)*

- |                    |                             |  |
|--------------------|-----------------------------|--|
| 5. Milk inspection | secs. 368.25, 192.10, 366.7 | All cities and towns have power to do this |
|--------------------|-----------------------------|--|

*(Your council can set standards or regulations that are more restrictive than those provided by the state secretary of agri-*

*culture, but they must not be more restrictive than those established by the U.S. Public Health Service.)*

### PUBLIC SAFETY SERVICES

- |   |             |   |
|---|-------------|---|
| 1. Fire protection,<br>inside and outside city<br>limits  | sec. 368.11 | All cities and towns<br>have power to do this |
| 2. Fire prevention<br>and regulation of han-<br>dling of flammables,<br>combustibles, and ex-<br>plosives | sec. 368.11 | All cities and towns<br>have power to do this |

*(Municipal regulations cannot conflict with regulations issued by the State Fire Marshal.)*

- |                      |  |   |
|----------------------|--|---|
| 3. Police protection | secs. 368.15,<br>368A.2,<br>368A.17-19 | All cities and towns<br>must do this          |
| Jail                 | sec. 368.15                            | All cities and towns<br>have power to do this |

*(Cities and towns also have the right to use county jails, but the counties must be paid for the cost of keeping prisoners there.)*

- |                               |              |  |
|-------------------------------|--------------|--|
| 4. Traffic control<br>devices | sec. 321.255 | All cities and towns<br>have this responsibility |
|-------------------------------|--------------|--|

*(In doing this, your council must follow the rules set forth in the state highway commission publication: Manual of Uniform Traffic Devices for Streets and Highways.)*

- |                |              |                                      |
|----------------|--------------|--------------------------------------|
| 5. Speed signs | sec. 321.289 | All cities and towns<br>must do this |
|----------------|--------------|--------------------------------------|

*(Your council must provide the necessary signs on all main highways of the city, except on primary roads and extensions of primary roads.)*

### RECREATION FACILITIES

- |  |  |   |
|--|--|---|
| 1. Parks, playgrounds,<br>and swimming pools | sec. 368.30; ch.<br>394; Laws 1957,<br>ch. 188 | All cities and towns<br>have power to do this |
|--|--|---|

*(This gives your council the general authority to establish, purchase, maintain, and regulate the use of these facilities. Parks and playgrounds each are provided for in more detail under separate laws. Two or more cities or towns may construct and operate a swimming pool jointly.)*

2. Parks ch. 370 Cities and towns may provide this service

*(A park commission must be in charge of this service in cities over 30,000 population. In other cities and towns, the council or a commission may be in charge.)*

3. Playgrounds and recreation centers ch. 377 All cities may do this, if the voters have voted for the service

*(A playground commission may be put in charge.)*

4. Community centers ch. 374 All cities and towns have power to do this

*(A community center board may be put in charge.)*

5. Band ch. 375 All cities and towns may do this, if the voters have voted for the service

6. Library ch. 378 All cities and towns may do this

*(A board of trustees must be in charge of the library.)*

7. Art gallery ch. 379 Cities over 20,000 population may do this

*(A board of trustees must be in charge of the art gallery.)*

8. Golf course ch. 394 All cities and towns may do this

#### SERVICES OF A BUSINESS NATURE

1. Markets, public scales, wharves, piers, basins, and ferries secs. 368.27, 394.2 All cities and towns have power to own and operate these

*(These laws permit your council to set up and operate these facilities. You also may fix rates to be charged for the services. The voters may have to approve some of these services.)*

2. Docks ch. 384; sec. 394.2 All cities and towns located on navigable waterways may do this if the voters have approved this service.

*(A dock board must have charge of the dock facilities.)*



3. Heating plants, gas works, and electric light and power plants ch. 397 All cities and towns may own and operate these, if the voters have approved municipal ownership

*(The job of operating these utilities may be given to a board of trustees by your council or the voters.)*

4. Water works chs. 357, 397, 398, 399 All cities and towns have power to own and operate this utility, if the voters have approved municipal ownership

*(These laws permit alternative ways of owning and operating a water works in communities of different sizes. In cities using chapters 398 and 399, the job of operating the water works is given to a board of trustees.)*

5. Hospital ch. 380; secs. 368.27, 407.3 All cities and towns may own and operate

*(A hospital board may be put in charge of this service.)*

- Infirmaries sec. 368.27 All cities and towns may own and operate

6. Airport, inside or outside city limits ch. 330 All cities and towns have power to own and operate

*(The job of operating the airport may be given to a commission by your council or the voters.)*

7. Cemetery secs. 368.28, 566.14 All cities and towns have power to do this

8. Parking lots and other parking facilities ch. 390 All cities and towns have power to own, operate, and lease parking facilities

9. Memorial hall ch. 37 All cities and towns may do this if authorized by a vote

*(A board of commissioners must be in charge of this facility.)*

10. Operate and maintain a transit system Laws 1955, ch. 196 Cities over 12,000 population and cities and towns adjacent to such cities may do this; must be approved by sixty per cent of the voters in a special election

## COURTS

- |  |   |
|--|---|
| 1. Municipal, superior, chs. 367, 602, 603<br>or police court* | Cities over 15,000<br>population must have<br>one of these courts |
|--|---|

*(Cities over 5,000 population may have a municipal court and cities over 4,000 population may have a superior court. Either kind must be set up by the voters.)*

- |                                      |         |  |
|--------------------------------------|---------|--|
| 2. Police court or<br>mayor's court* | ch. 367 | Cities under 15,000 must<br>have one of these courts |
| 3. Mayor's court*                    | ch. 367 | All towns must have<br>this court                    |

### *Let the Public Know What Your City Is Doing*

Government is a public matter. What a city or town has done or is doing should be made known to the people of the community. We believe in this country that informed citizens make the best citizens, and so as an elected official of your community, it is important that you do as much as you can to let your people know about your municipal affairs.

State law requires that some things you do be made public—that the minutes of each of your council meetings be published, that your ordinances be published, and that certain of your community's financial statements (proposed budget and annual report) be published. Also, every council meeting must be open to the public. (sec. 368A.1 (2)) The law does not prohibit executive sessions of your council, but it is a good practice to conduct all the municipality's business openly; the law seems to imply that this should be done. 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 or town government is doing. So much of what you are required to publish appears often-

\* Mayors' courts are discussed in detail in the League and Institute publication, *A Handbook for Iowa Mayors*. See *Iowa Model Ordinances*, Title 1, chapter 9, for a discussion of police courts and a model ordinance establishing a police court.

times 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, and encourage them to attend these meetings. Don't hesitate to have public hearings once in awhile on important issues. These hearings can be helpful to you in making decisions, and they help keep the people interested in what the city or town 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've done. City and town 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 or town government has done the past year, how much services and projects have cost, what projects and programs are underway, 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.\*

### *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 question 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 him submit the request 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.

\* Copies of printed reports may be borrowed from the Institute of Public Affairs.

## You Play an Important Part in Developing Your Community

*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?*

**I**S 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 awhile 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 councilmen 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.

### *Your Powers to Regulate, Prohibit, and License*

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 your police power. The statutes state specifically the things you may regulate, prohibit, or license; your council decides the restrictions that will be made in your community. In your ordinance to regulate, prohibit, or

license anything as permitted by the statutes, you can put in the rules and regulations, penalties, and enforcement procedures that are within the state law and that you think are necessary to carry out the purpose of the ordinance.

### *Regulating*<sup>o</sup>

Here is a list of things your council can regulate: (Note: motor vehicle and building regulations are listed in a later part of this chapter.)

#### OPERATION OF CERTAIN INDUSTRIES

Bone factories	Slaughterhouses
Chemical manufacturers	Soap factories
Fertilizer manufacturers	Tallow chandleries
Packing houses	Tanneries
Renderies	

#### CERTAIN COMMERCIAL ESTABLISHMENTS

Basins	Gasoline curb pumps
Bill posters	Pawnbrokers
Docks	Piers
Hospitals	House movers
Hotels	Junk dealers
Ferries	Scales—public
Garbage collectors	Wharves
Markets	
Billboard advertising agencies	
Handlers of flammables and explosives (sec. 368.11)	
Milk distributors (sec. 368.25)	
Restaurants and eating houses	
Trailer parks and trailer parking (ch. 135D)	

#### CERTAIN RECREATIONAL PLACES

Billiard halls	Bowling alleys
----------------	----------------

<sup>o</sup> Except where noted otherwise, your authority to regulate the activities listed may be found in sections 368.5, 368.6, 368.8, and 368.27 of the Code.

Circuses	Shooting galleries
Dance halls—public	Skating rinks
Parades	Swimming pools
Menageries	
Shows and exhibitions of all kinds	
Theaters and theatrical exhibitions	

#### CERTAIN PERSONS

Clairvoyants	Palmists
Engineers—stationary	Peddlers
Fortune tellers	Scavengers
Itinerant doctors, physicians, and surgeons	

#### CERTAIN SALES

Auction sales  
Sales by bankrupt and dollar stores  
Sales by transient merchants

#### OTHER

Dogs running at large  
Burial of the dead (sec. 368.28)  
Use of parks and playgrounds (sec. 368.30)

#### *Licensing*<sup>°</sup>

This is a listing of the things your council may license, or may regulate by issuing permits:

#### CERTAIN COMMERCIAL ESTABLISHMENTS

Bill posters	House movers
Garbage collectors	Junk dealers
Gasoline curb pumps	Pawnbrokers
Hotels	
Billboard advertising agencies	

<sup>°</sup> Except where noted otherwise, your authority to license the activities listed may be found in sections 368.6 and 368.8 of the Code. See *Iowa Model Ordinances*, Title III, Chapter 3, "Licensing."

Milk distributors (sec. 368.25)  
Restaurants and eating houses

CERTAIN RECREATIONAL PLACES

Billiard halls	Shooting galleries
Bowling alleys	Skating rinks
Circuses	Dance halls—public
Menageries	Swimming pools
Shows and exhibitions of all kinds	
Theaters and theatrical exhibitions	

CERTAIN SPECIAL BUSINESSES

Clairvoyants	Palmists
Engineers—stationary	Peddlers
Fortune tellers	Scavengers
Itinerant doctors, physicians, and surgeons	

BUSINESSES MAKING CERTAIN SALES

Sellers of cigarettes (You must follow the provisions of the state law when you do this. See ch. 98)  
Sellers of beer at retail (You must stick to the provisions of the state law when you do this. See ch. 124)  
Auction sales  
Sales by bankrupt and dollar stores  
Sales by transient merchants

*Restraining and Prohibiting\**

In addition to the restrictions placed on the following activities by state law, your council may restrain or prohibit them in your community:

See Chapter 657 of the Code for a list of nuisances that may be restrained or prohibited

\* Your authority to restrain, prohibit, or limit the number of the activities listed here may be found in sections 368.7 and 368.8 of the Code. See *Iowa Model Ordinances*, Title III, Chapter 2, "Regulation of the Sale of Beer," Title III, Chapter 3, "Licensing," Title V, Chapter 1, "Nuisances," Title V, Chapter 2, "Regulation and Licensing of Dogs," Title V, Chapter 7, "Misdemeanors."



Animals running at large  
Barbed wire, use of  
Begging  
Disorderly assemblies  
Disorderly houses  
Gambling houses and devices  
Materials with offensive odors, deposit and removal of  
Refuse and junk, deposit and removal of  
Riots  
Tainted provisions, sale of (Your city government may  
seize and destroy such provisions.)

*Limiting the Number of or Prohibiting\**

This is a list of things your council may limit the number of, or may prohibit:

CERTAIN RECREATIONAL PLACES

Beer taverns (sec. 124.5)	Menageries
Billiard halls	Shooting galleries
Bowling alleys	Skating rinks
Circuses	Swimming pools
Dance halls—public	
Shows and exhibitions of all kinds	
Theaters and theatrical exhibitions	

CERTAIN SPECIAL BUSINESSES

Clairvoyants  
Fortune tellers  
Palmists

OTHER

Sales at auction in streets, alleys, and public places

\* Your authority to restrain, prohibit, or limit the number of the activities listed may be found in sections 368.7 and 368.8 of the Code. See *Iowa Model Ordinances*, Title III, Chapter 2, "Regulation of the Sale of Beer," Title III, Chapter 3, "Licensing," Title V, Chapter 1, "Nuisances," Title V, Chapter 2, "Regulation and Licensing of Dogs," Title V, Chapter 7, "Misdemeanors."

Cigarette licenses (sec. 98.13)  
Gasoline curb pumps  
Dogs running at large

### *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 can request the property owner to take care of the matter. If he does not take the necessary action to get rid of the hazard, your city can take such action and charge the property owner for the cost of doing this. This cost may be added to his property tax bill. (sec. 368.4) The statutes outline specifically that property owners may be required to do the following:

1. Get rid of nuisances (sec. 368.3)
2. Connect to storm or sanitary sewers (sec. 368.26)
3. Destroy weeds, brush, or undergrowth (sec. 368.30)
4. Take care of trees outside the lot and property lines and inside the curb line on public streets (sec. 368.32)
5. Remove snow and ice from sidewalks (sec. 368.33)

### *Restriction on Use of Streets by Vehicles*

Two parts of the law (secs. 321.236-321.251 and 389.39-389.41) set forth your council's right to limit by ordinance the use of streets by vehicles. These restrictions can apply only to streets under your municipality's jurisdiction, and the rules your council makes must be reasonable exercises of the police power given you. These are the kinds of rules you may make:

#### SECTIONS 321.236-321.251

1. To regulate the standing or parking of vehicles
2. To regulate traffic
3. To regulate or prohibit processions or assemblages of vehicles
4. To provide for one-way streets

5. To require vehicles to stop at intersections
6. To regulate the speed of vehicles in parks and in school zones
7. To regulate and license vehicles for hire
8. To prohibit the use of streets by vehicles of certain weights and by certain kinds of vehicles
9. To regulate or prohibit the turning of vehicles at intersections
10. To regulate the operation of, and to require the licensing and registration of bicycles
11. To inspect motor vehicles of persons who are residents of, or gainfully employed in, the community

#### SECTIONS 389.39-389.41

1. To fix the rates to be charged by persons who have vehicles for hire
2. To determine where stands for vehicles for hire shall be located
3. To require vehicles for hire to have certain widths of tires
4. To require vehicles and bicycles to carry lamps giving sufficient light
5. To require railroad companies to place flagmen or signals at crossings

#### *Regulation of Building Construction*

Your council has the power to adopt a building code, electrical code, and plumbing code. (sec. 368.9) You are required to have a set of plumbing regulations if your city has more than 6,000 population. (sec. 368.17) 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

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 or town government and that the work done must be inspected to see that it meets the rules set up in the code.

You may also provide for the licensing and examining of plumbers who do work in your community. (sec. 368.17)

You can set by ordinance the distance that buildings on public or private property must be set back from the street. You must publicize your intention of doing this, hold a hearing, and, once the ordinance is in effect, compensate any owner of property for certain losses the ordinance causes him. (sec. 368.9)

### *Revoking Licenses*

In general, your council may revoke any license that it has granted. There are certain limits to your right to do this, however, and you should get legal advice whenever you plan to take away a person's license.

State law permits your council to revoke the cigarette license of any licensee who violates the cigarette law. (sec. 98.22) A beer permit must be taken away if a license holder violates the liquor or beer laws. (secs. 124.30, 124.34) If it is established that any business has violated the gambling laws, your council must revoke any license it has granted that business. (ch. 99A)

### *Planning and Zoning\**

By statute, your council is given certain powers that you may use to encourage the orderly development of your community, both of public and private property. These are the powers to plan, to zone, to provide restricted residence districts, and to have control over the laying out of subdivisions.

\* For a more detailed discussion of municipal planning and zoning and restricted residence districts see the League and Institute publication, *Iowa Model Ordinances*, Title VI, chapters 1 and 2.

## *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, of course, have an important role in the immediate and long-range plans of your community. You make decisions as to the importance of planning in your municipal government and decisions as to the projects your city or town government will undertake. Obviously, it is important that your city or town government take the lead in planning for your community. Agencies outside of the city or town 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 good to have a plan of growth 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 or town 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 councilman 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 plan commission appointed by the mayor with your approval. A plan commission acts in an advisory capacity to you in planning matters. The law requires, however, that the recommendation of the plan commission is necessary before municipal improvements can be made or subdivisions for private construction can be set up.

After the plan commission makes its recommendation, your council can go ahead with the improvement, or if it chooses, it can decide not to go ahead. (ch. 373)

### *Zoning*

Zoning is of a more restrictive nature than planning. When you have zoning, you need a zoning ordinance. 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 and town 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 plan commission can also serve as the zoning commission. 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 exceptions to the zoning ordinance. (ch. 414)

### *Housing Law and Restricted Residence Districts*

The statutes provide two ways in which your community can have a form of zoning without actually having what is properly termed "zoning." If your city has more than 15,000 population, you must enforce the requirements of the housing law (ch. 413) or have an ordinance regarding the construction of houses that includes as a minimum the regulations of the state law. If your community has less than 15,000 people, this law, or parts of it, may be written into ordinance by your council, and you can set up the methods by which these housing regulations are to be enforced. (sec. 413.2)

Restricted residence districts may be set up by your council upon its own choosing or upon the request of sixty

per cent of the landowners who live in the district to be restricted. The law gives your council some leeway in what you may put in a restricted residence district ordinance—mostly as to the type of new construction that may be done in the district. (ch. 415)

### *Subdivision Control*

Your council can control, to some extent, the kind of subdivisions 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 land 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. (ch. 409) 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 your city or town for approval. The approval is made by your council, and, if you have a plan commission, it must approve the proposed subdivision, too.

### *Taking Care of Municipal Property*

The responsibility for taking care of municipal property—land, buildings, equipment, supplies, etc.—is chiefly the council's. The law gives you the right to buy, sell, dispose of, and lease property, subject to some restrictions.\* For example, if you plan to get rid of any real property, you must publish this fact, and any of your actions to dispose of municipal property may be appealed by a voter to the district court. (secs. 368.35, 368.36, 368.39, 368.40)

Sometimes, in making an improvement, you will find it

\* The general authorization to do these things can be found in chapter 368 of the Code. However, the rules regarding the handling of certain kinds of property may be found elsewhere in the Code, and you should have your attorney check the Code each time you plan to obtain, lease, or get rid of a piece of property.

necessary for your city or town government to get possession of some piece 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 and he must follow the steps outlined in chapter 472 of the Code. (secs. 368.37-.38)

It is a good idea to have a record of all municipally-owned property, showing for each piece of property such things as when it was bought, what it cost, and what it is used for. This information should be compiled into one list so that it can be used by the mayor, the council, and the department heads. For example, this information 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.

### *Utility Franchises and Rates*

Your community may grant a franchise for a private utility company to supply a utility service within the city or town 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. However, the council may contract for the exchange, interchange, or purchase of electrical energy without approval of the voters. These contracts may not be effective for more than five years at a time. (secs. 386.3, 397.5) Your council has the power to authorize and regulate the placing of utility lines along the streets, alleys, and other public places. (secs. 386.1, 397.28)

You have a voice in fixing the rates charged by the private utilities that provide the following utility services: gas, light, power, heat, water, and street transportation. (sec. 397.28) This is the way this is usually done: the utility company asks



your council for certain adjustments in the existing rates and your council decides whether to permit these changes.\*

### *Promoting Your City*

If you are a councilman in a city, your municipal government may support a program of promoting your community by setting up a department of publicity, development, and general welfare. This department's function would be to advertise the advantages and resources of your community. To set up such a department, the proposal must be submitted to the voters, and to pass, the proposal must be voted on favorably by sixty per cent of the persons who vote in that election. You cannot pay for this department's operation with property tax money. (ch. 364)\*\*

\* In fixing rates, you should keep in mind the recent ruling of the Iowa Supreme Court in the case of *Iowa-Illinois Gas and Electric Co. v. City of Fort Dodge* (1957).

\*\* See also the Institute's publication, *Improving Iowa's Communities*.

## Management: the Council's Part in Getting the Work Done

*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, and the second is known as management. The first normally is handled by the elected legislative body—the council, and the second normally is handled by the elected executive—the mayor, who has direct control over the department heads.

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

### *Iowa Laws Regarding Powers of Mayor and Council*

In Iowa, for example, the laws pertaining to the mayor-council form of government do not set forth clearly 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 is shown in the following paragraphs. This

much 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 in cities and towns.

Let's take a look at some of the things the law says. The statutory powers of the council and mayor are discussed in detail in the publication of the League and the Institute entitled *Iowa Model Ordinances*, and that discussion is merely summarized here. (These matters are covered, for the most part, in chapters 363A and 368A of the Code.)

1. The council is the responsible governing body of a city or town. Unless otherwise stated, any power given a community by state law gives the power to act to the council. These acts, of course, can be either of the "decision making" or of the "getting the job done" variety. Presumably, the council can pass the job of getting things done on to the mayor.

2. 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, he is directly responsible for law enforcement and preserving the peace, and he has the right to veto any measure passed by the council. Further, he is supposed to supervise the conduct of all municipal officers. And yet there is no certainty that he will have appointed all the officers he is supposed to supervise, for he is limited to making appointments of board and commission members (usually with council approval) and the marshal, and such other officers as the council may provide by ordinance. He is neither empowered nor prohibited by law from preparing the budget, which is an important management tool of any executive. In fact, other than for 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 by ordinance.\* The council is required to set the wages for all officers and employees.

### *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.

This question of the jurisdiction of the council and the mayor has had to be worked out in each community. And changes in jurisdictions 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, by politics, and in some cases, by default on the part of the council or the mayor.

### *Hiring and Dismissing Employees*

The appointment of officers to your city or town government was covered in the preceding discussion; who shall appoint whom is largely for your council to decide. Your council is required to fix by ordinance the terms of office of all your

\* Section 368A.1(7) provides that the council shall "have power to appoint an attorney, city clerk, engineer, health officer, and such other officers, assistants and employees as are provided by ordinance and are necessary for the proper and efficient conduct of the affairs of the municipal corporation. . . ."

appointed officials whose terms are not set by state law, and the maximum term which can be set is two years. (sec. 368A.1(9)) 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 simply by filing a written order with the clerk. (sec. 363.40)

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 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 set forth in chapter 365 of the Code in hiring and dismissing certain employees.\* A civil service commission must be appointed under this law, and any appointments or advancements of persons under civil service must be made by your council, 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. Persons employed under civil service are entitled to have a hearing if they are dismissed.

3. In employing persons, you must give preference to honorably discharged veterans who are citizens and residents of Iowa. (ch. 70)

4. You and other municipal officials are prohibited from hiring relatives except as chapter 71 of the Code permits.

### *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. The responsibilities of the city clerk, city treasurer, and most

\* If your community is classified as a city but does not have 8,000 people, your council can adopt this civil service statute. In this situation the council may act as the civil service commission or it may set up a separate commission.

boards and commissions, however, are set by statute, and your council, of course, 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. (ch. 363D)

The duties of other employees can be written into ordinance, or they can be agreed upon as each person is hired. Usually the department heads are responsible for letting each employee know what is expected of him.

### *Boards and Commissions*

In a number of cases, the statutes permit, or require, your city or town 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 over-emphasize 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 closely the law permitting or requiring the boards; you will find, in most cases, that these laws are quite definite about the functions of these special agencies. Some boards and commissions have 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. The council, of course, does this. Other boards have very little power; for example, some simply act as advisers to the council. Usually a board acts in one or more of the following capacities: administrative, administrative review (judicial-like), or advisory.

The council's control over boards and commissions, in most cases, is two-fold: (1) the council determines how much 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; the joint use of certain municipal or board equipment is one example of this.

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.* This board acts in an administrative capacity. Your council can put a commission in charge of the airport, or the voters can do this. The mayor appoints the commission members, with the approval of the council. Once an airport commission has been created, it can be abolished only by the voters. (ch. 330)

*Civil Service Commission.* 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. (ch. 365)

*Health Board.* This is an administrative board that all cities and towns must have. The mayor, council, and health physician make up this board. (ch. 137)

*Hospital Board.* This is an administrative board that may be created in any city or town that has a municipal hospital. The members of the board must be elected. (ch. 380)

*Library Board of Trustees.* This board acts in an administrative capacity. It is required in all communities that have a public library. The trustees are appointed by the mayor, with the approval of the council. (ch. 378)

*Park Board.* This is an administrative board. Any city or town may have a board manage its parks, and in cities over 30,000 population, a board is required. Park board members are elected to office. (ch. 370)

*Plan Commission.* This commission acts in both administrative and advisory capacities. All cities and towns may have this commission. The board members are appointed by the mayor, with the approval of the council. (ch. 373) The plan commission also may be designated as the zoning commission. (sec. 414.6)

*Utility Board of Trustees.* This is an administrative board. Your council can put a board in charge of your utility, or the voters can do this. The mayor appoints the trustees with the approval of the council. (ch. 397)

*Waterworks Utility Boards in Cities Operating Under Chapters 398 or 399.* These are administrative boards. Cities over 10,000 population and over 50,000 population respectively, may operate their water works under these two laws, and if they do this, a board must be set up. Under chapter 398, the mayor appoints the board members; under chapter 399, the council makes these appointments from the mayor's nominations.

*Zoning Commission.* This is an advisory board. It is required in any city or town that has a zoning law. The council appoints the commission members; it may designate the plan commission as the zoning commission. (ch. 414)



*Zoning Board of Adjustment.* This board acts in an administrative review capacity. It is required in any city or town that has a zoning law. The members of the board are appointed by the council. (ch. 414)

### *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 mayor and council can decide how they want to deal with employee unions, but there is no statute that permits your city to make contracts with these organizations.

Your council can purchase liability and property damage insurance for certain municipal employees and on certain municipal property; such insurance is effective while these persons are performing their duties and operating city or town vehicles and machinery. (sec. 368A.1 (12)) You also may establish group insurance, hospital, or medical service plans for your municipal employees. (ch. 365A) Surety bonds are required of some officers, but your council can purchase such bonds for any employee who handles municipal money. (sec. 368A.1(13))

Your council can require that any employee attend a short course and may pay the employee's expenses with municipal funds. (sec. 368.13)

### *Retirement Programs*

All your full-time city and town employees, other than those who participate in a local retirement program, must be included in the state-wide retirement system for public employees, and most full-time employees must be covered by the federal social security system. To help finance these programs, each employee must contribute a certain part of his salary, up to a maximum amount, to each system, and the

city or town government must contribute an equal amount.  
(chs. 97B and 97C)

If your community has an organized police department or a paid fire department, you are required to give pensions to these employees and their dependents who qualify under the state law. Any city or town that has an organized fire department may provide such pensions. (ch. 410) Cities in which policemen and firemen are appointed under civil service must provide the retirement program set forth in the law for these employees. 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. (ch. 411)

### *Working with Other Units of Government*

In your work as councilman, 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:

Election procedures—Secretary of State

Financial problems—Supervisor of Municipal Accounts,  
State Auditor's Office, and State Comptroller

Fire protection problems—Engineering Extension Division,  
Firemanship Training, Iowa State College

Health and sanitation problems—Department of Health

Highway and street problems—State Highway Commission

Issuance of cigarette and beer permits—State Tax Commission

Library problems—State Traveling Library

Police protection problems—Bureau of Police Science, Institute of Public Affairs, State University of Iowa

Printing requirements—State Printing Board

Promotion of your community—Iowa Development Commission

Property tax problems—State Tax Commission

Research problems—Institute of Public Affairs, State University of Iowa

Retirement programs—Employment Security Commission  
Traffic and safety problems—Department of Public Safety

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 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. Some of the services and facilities you may provide jointly with other governmental units follow:

Airport—with another city or town or with a township or the county (sec. 330.4)

Bridges—with county (secs. 381.1, 381.9)

Fire protection—with another city or town or with a township (sec. 368.12)

Governmental buildings—with county (sec. 368.19)

Health—your community can be a part of a county health unit (ch. 138)

Library—with a college or university located in your community (sec. 378.9)

Playgrounds—with school district (ch. 377)

Police protection—with another city or town, if your voters authorize this (sec. 368.15)

Sanitary sewer system—with another city or town (ch. 392)

Street improvements—with the State Highway Commission (secs. 313.21-.23)

Swimming pool—with another city or town, if your voters authorize this (Laws 1957, ch. 188)

Work projects for the poor—with the county (sec. 252.42)

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.

## Handling the Financial Side of the Municipality's Business

*Why must you have a budget and what is the council's job in budgeting? How is the property tax rate figured? What is a fund? An appropriation balance? What do you have to do to issue bonds?*

**T**HE public purse of your community is in your council's hands. Not a dollar of the municipality's money can be spent until you have given your permission. 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 clerk will be of much help to you in handling financial matters, but you should be informed on these matters, too.

### *Major Requirements of the State Law*

The state government has placed quite a number of controls over the financial dealings of cities and towns, 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 gone in an attempt to establish certain basic finance practices in every city and town, 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. The expenditures of your municipality must be made

\* For a more detailed discussion of the statutory requirements concerning municipal finances, see the Institute and League publication *A Manual of Accounting and Financial Procedures for Iowa Towns and Cities*, especially chapter 1.

from certain accounting classifications known as funds. Each fund includes a group of like expenditures; for example, all community expenditures that have to do with public safety matters are grouped in the public safety fund. Only certain amounts of property tax money can be raised for each fund, and the maximum tax levy that can be made for the seven main funds is thirty mills.

2. You must prepare a budget each year showing *all the money* your city or town government plans to take in and pay out.

3. Whenever money is spent, the council must approve the expenditure, and the payment must be made by a warrant.

4. Your clerk and treasurer each must keep a record of the money taken in and paid out.

5. Your city or town must prepare a financial report at the end of each year and give it to the state auditor.

6. If your community is classified as a city, you must have your financial records audited each year.

7. Your city or town debt, at least for general purposes, cannot exceed five per cent of the actual value of taxable property in your community.

8. You must publish: (1) your budget, (2) a list of expenditures you approve at each council meeting, and (3) your annual report. In addition, you must advertise for bids on certain purchases and projects.

### *Accounting and Budgeting*

Most of the accounting in your community is done by the clerk. He will be able to give you, in most cases, any financial information you want. Several boards and commissions, however, can keep their own records. At the end of the year, these agencies must file a financial report with your council. Each month, the treasurer is required to give you a report on the money you have in the bank.

## *Funds*

These are the funds, and the maximum property tax levies permitted for each fund: (ch. 404)

1. General fund, seven mills
2. Street fund, seven mills
3. Public safety fund, twelve mills
4. Sanitation fund, seven mills
5. Municipal enterprises fund, ten mills
6. Recreation fund, five mills
7. Utilities fund, five mills

*Total levy for these funds may not exceed thirty mills.*

You may set up a fund called the "Operating Fund" in which you can consolidate the expenditures of the general, street, public safety, and sanitation funds. But you are still limited to the mill levy limits for each of these funds.

In addition to the funds listed above, the following special funds are permitted, and money raised by taxation for these funds may be in addition to the thirty mill limitation:

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.

2. Trust and agency funds—these funds are to be used for accounting for gifts received by your community that are to be used for a particular purpose, and for accounting for money and property handled by your community as a trustee, custodian, or agent.

3. Emergency fund—the purpose of this fund is to permit you to levy a tax not exceeding one mill to raise money for emergencies. This levy must be made in your original budget, and you must get state approval both to levy this tax and to spend the money you get from the levy. (sec. 24.6)

You may borrow money to pay your municipality's bills, subject to these restrictions: (1) the amount you borrow cannot exceed the amount you estimated in your budget as

income for the fund or purpose for which you are borrowing, and (2) you cannot borrow this year in anticipation of the next fiscal year's income. (sec. 404.18)

### *Budget 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.

*Fiscal year*—This can be any twelve-month period of financial operations for your government. It so happens that in Iowa cities and towns the fiscal year, by law, is the same as the calendar year—from January 1 to December 31. The primary reason for having a fiscal year is so that your city or town government will have the same starting and stopping point year after year for budgeting, accounting, reporting, and auditing purposes.

*Cash basis accounting*—Iowa communities keep their records on a cash basis, that is, no record is made until cash either is actually received or cash is actually paid out to pay a bill, salaries and wages, etc. Normally your municipality doesn't bother with such accounting terms as accounts receivable, accounts payable, depreciation, and the like, as do many businesses. You don't do this for a number of reasons, one important one being that a city or town isn't set up to operate for a profit. One exception to this, however, is your municipally-owned utilities; under best practice, you should use more than simple cash basis accounting for your utilities.

*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 operations during the next fiscal year. Responsibility for preparing the budget is discussed later in this chapter.

*Budget form*—This is the formal statement of your income and expenditure estimates. The statutes require that you file such a statement by funds with the county auditor, who sends a copy of it on to the state comptroller's office for approval, and that you have this statement published in a local newspaper. You will want the budget statement that you keep for your own use to be in more detail than by funds 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.

*Estimated unencumbered balance*—You are required to show this figure on the state-prescribed budget form. It is merely an estimate of the money for *current operating purposes* that you plan to have in the bank the day your next year's budget starts.

*Mill levy*—A mill is a tenth of a cent or a thousandth of a dollar. In most cases, you will find it easier to express your tax rate in these terms: a twenty mill levy is the same as a tax of \$20 on every \$1,000 of taxable property in your community.

*Budget hearing*—The public meeting where taxpayers may express their views on 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 your council, but before it goes into effect.

*Appropriation*—This is an authorization to spend. Your council must make an appropriation for each fund (and preferably this should be done at least for each service and function within each fund) at your first council meeting of



the fiscal year. This must be done before any budgeted money can be spent. This is done in what is known as an appropriation ordinance or resolution. These appropriated amounts cannot exceed the amounts estimated for expenditure in your budget.

*Cash balance*—This is the amount of money you have in the bank. The treasurer notifies you each month of the cash balance of each fund.

*Appropriation balance*—At any one date during the fiscal year, this is the amount you have appropriated for a fund, a service, a function, or an 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 on the appropriation balances and actual money taken in.

*Transfer*—This is a shift of money and appropriations after the budget has been approved. If you want to make such a shift between funds, you must receive the approval of the state comptroller, but if you want to shift merely an appropriation within a fund, you can do this by resolution and without seeking state approval.

*Warrant*—For all practical purposes, this is the same as a check. In theory, warrants should be turned in to the treasurer who then issues a municipal check in payment. In practice, banks will accept a warrant just like any personal check.

*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 your

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 money you receive separate from your regular tax money and other kinds of income.

### *Budgeting*

Chapter 5 of the League and Institute publication entitled *A Manual of Accounting and Financial Procedures for Iowa Towns and Cities* explains in considerable detail what is involved in city and town budgeting. Three of the matters discussed in that chapter are discussed again here, in summary form, for your convenience.

State law does not specify which city or town official or officials must prepare the budget; it is suggested that your council make this clear in your community, by ordinance if necessary, and that one person or group be given the overall responsibility for doing this. Under what is generally considered to be best practice, the mayor should do this; 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, your 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 millage limits.

This is the calendar of events that take place in setting up your budget; most of these dates are required by the budget law. (ch. 24)

Before July 1—Distribute budget estimate forms to department heads

July 1 to July 25—Collect the budget estimate forms, discuss estimates with department heads, and complete budget estimates

July 25 to August 4—Publish the budget and the date and place the hearing will be held

August 4 to August 14—Hold the hearing and adopt the budget

Before August 15—Send budget and request for the tax levy to the county auditor

Before first Tuesday in September—Appeals to budget may be filed

First meeting in January—Make appropriations

During the fiscal year in which your budget is in effect, you can make changes in it so that you may make some additional expenditures not specified in the original budget. (sec. 24.9) The following rules must be followed when you do this:

1. The income to pay for these additional expenditures cannot come from taxation; it must come from cash balances that exceeded the cash balance estimates of your budget, or from income other than tax money that exceeded your estimates of such income in your budget.

2. To make these changes you must go through the same steps you did when you set up your original budget.

### *Getting the Money to Pay Your Bills*

Probably the greatest share of the money needed to operate your city or town government comes from the property tax. The amount of tax money you will need for each fund is computed in this way: from the total amount you plan to spend for a fund, subtract your estimate of the unencumbered balance for the fund plus any income you plan to take into the fund by any means other than from property taxation; 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 all the fund levies.\*

You may be asking, "Where do we get our other money

\* Since you do not receive any tax money until several months after your budget goes into effect, you should make some provisions to have some money on hand to meet the bills of these months. See the Accounting Manual, pp. 64-66.

to operate?" The state does not permit you to levy any kind of tax, other than the property tax, and this is levied for you through your county government. Therefore, you are limited to sources of income such as the following:

License, permit, and inspection fees

Money from the sale and rental of city property

Money from the state government

Money from the operation of your utilities

Court fines

Parking meter money

Parking lot money

Sewer rental money

Money from the operation of your airport, library, park, cemetery, and other municipal enterprises

The money your community receives from the state comes from state road-use taxes and from the operations of the state liquor stores. Of the total amount the state distributes each year from these sources, your community receives an amount based on the proportion of your community's population to the number of persons living in all cities and towns in the state. You have to spend the road-use tax money for certain kinds of street work. (secs. 312.3 and 312.6) You can spend the money from the liquor profits for any purpose you choose. (sec. 123.50)

### *Making Purchases*

The law does not set up a lot of purchasing rules for your city or town 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 must have plans and specifications, publicize your intended action, and ask for bids when you plan to make any public improvement that is estimated to cost more than \$5,000 (sec. 23.2)

2. You must make a contract when you do certain things

(Note: this requirement is made in various sections of the Code and applies mostly to capital improvement projects.)

3. You must give preference to Iowa products and labor in purchasing and making improvements. (ch. 73)

4. No bill can be paid until your council has approved the expenditure (sec. 368A.14)

5. You can't have a personal interest in what is sold to your city or town. (sec. 368A.22)

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

1. Ask for sealed bids whenever you think your city or town can get a better price, and a satisfactory quality of goods or services, by doing this

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

3. Send a purchase order when you buy anything so that the seller will understand exactly what you want and you will have a record of what you ordered

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

### *Financial Reports*

Use the financial reports that are given to you. They aren't profit and loss statements or balance sheets like businesses have, but they can be of real help to you in checking on your city or town 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.

### *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*

Both the Iowa Constitution and the Code state that no municipal corporation shall become indebted in any manner, or for any purpose, to an amount exceeding five per cent of the actual value of the taxable property within the city or town. (Art. XI, sec. 3 of the Iowa Constitution and sec. 407.2 of the Code) Indebtedness usually is defined as a financial obligation of the municipal corporation that cannot be paid in full out of the current fiscal year's tax revenue. 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 or town, levied annually over a period of years. Revenue bonds and special assessment bonds do not constitute indebtedness because they are not taxes on all taxable property within the municipal limits.

#### *Indebtedness Election*

For the following public improvements, indebtedness, as distinguished from the bonds or other evidences of the

indebtedness, must be approved in a municipal election:  
(secs. 407.3, 407.5)

1. Utility plants
2. Garbage disposal plant
3. Recreation center, playground, and swimming pool
4. City buildings—city hall, police and fire station, jail, and garage
5. Public library
6. Hospital
7. Dam

For some of these projects, the necessary election may be initiated by the council itself; for others, a petition must be signed by a certain number of voters and presented to the council. (sec. 407.6)

At the election to authorize any of these improvements, except for utility plants and hospitals, only a majority vote is required. For utility plants and hospitals, an affirmative vote equal to a majority of the votes cast at the last municipal election is required. (sec. 407.10)

#### *Bond Election, Issuance, and Sale*

In most cases indebtedness is incurred in the form of bonds that usually must be authorized by a sixty per cent vote. Most Code provisions that authorize issuance of general obligation bonds for municipal projects require a bond election, and Chapter 75, Code 1954, requires a sixty per cent majority vote for approval in such elections.

If no other statute requires an election to issue municipal general obligation bonds, Chapter 408A requires that notice of the proposed bond issue must be published if the value of the bonds exceeds certain limits. These limits, which are based on the population of the city or town, are as follows:

Under 5,000 population	\$10,000
5,000 to 75,000 population	25,000
More than 75,000 population	75,000

Then, persons who object to issuing the bonds can sign a

petition asking that an election be called on the matter. The petition must be signed by enough qualified voters to equal two per cent of the total vote cast for governor in the city or town in the last general election. If an election is called, the proposition must be approved by a sixty per cent majority. These restrictions do not apply to bonds that are to be issued for street improvements, bridges, viaducts, sewers, or sewage treatment works, or funding or refunding bonds.

Special rules apply to the issuance of bonds for docks or flood control. (secs. 384.3(11), 395.25)

Whenever a bond election is not required, Code sections 23.12-.16 require that notice be published of the intent to issue bonds. If five or more taxpayers object, the State Appeal Board must determine whether or not the bonds should be issued.

The sale of bonds, as distinguished from their issuance, usually follows the provisions of Code Chapter 76.

### *Special Assessment Procedures*

Many of the public works improvements of your community probably will be financed 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, and they are authorized by several parts of the Code, primarily Chapters 391 and 391A.

Although you will need legal assistance in setting up special assessment programs, it is suggested that you become acquainted with the general procedures involved. For a detailed discussion of special assessment procedures, see the League and Institute publication, *A Reference Manual for Iowa City and Town Clerks*.



## At the Council Table

*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?*

**Y**OU will have to make a lot of decisions during the time you are serving your community as a councilman. 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 side-line activities as an elected official, but the important job you have been elected to do is this: to 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 law. No advice is given about the “informal” techniques to be used by you and your fellow councilmen in arriving at your decisions.

### *Organization and Meetings of the Council*

The only requirements of the law in regard to organizing your council are (1) that the mayor must be the presiding officer, (2) that the mayor must appoint a member of the council as mayor pro tem, (3) that you must appoint a clerk, and (4) that a majority of the councilmen must be present before you can transact any municipal business legally. If the mayor is absent from a meeting, the mayor pro tem must

preside; if the clerk is absent, the council must appoint a temporary clerk. All other matters of council organization, including rules of procedure, are left for the council to decide. (secs. 368A.1, 368A.2)

### *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.

### *Time and Place of Meetings*

Your council can decide the time and place for holding its regular meetings, and you have power to compel the attendance of each member, according to whatever regulations you set up. A special meeting may be called by the mayor or by a majority of the council; each member must be notified of these meetings. All your meetings must be open to the public. (sec. 368A.1)

### *Routine of 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
4. Receiving of reports of officers and department heads
5. Receiving 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 readings 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 reading and discussion of proposed ordinances
  - b) Introduction, discussion, and vote on resolutions
10. Adjournment

### *Council Meeting Agenda*

A technique used in some communities seems to be helpful to council members. This plan involves preparing—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. If an agenda is used, it should be made available to each member several days before the meeting so that he can familiarize himself with the 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 councilman an opportunity to prepare himself 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 his 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.

### *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 procedure in your community's library.\*

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 his motion simply by making this request, if he does this before his 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

\* *Robert's Rules of Order* is the best known book on this subject. An excellent pamphlet that pictures clearly many of the important rules for conducting a meeting was prepared recently by Creative Graphics and the School of Speech of the University of Denver. It is entitled, "Parliamentary Procedure." You might find this useful for quick and handy reference. It was used as a source of information for most of the rules for handling motions that are covered in this section of this booklet.

- 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.)

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

### *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 366 of the Code.\*

#### *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, is authorized by the state, 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 or town, 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

\* See introductory chapters 1 and 2 of Institute and League publication, *Iowa Model Ordinances*, for a thorough discussion of ordinance procedures.

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, for example, a proposed ordinance must be read three times, each time on a different day, before it can be voted on, unless three-fourths of the council wish to do away with this rule. (sec. 366.3) 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 persons *elected to the council* must approve a proposed ordinance or resolution before it becomes a law. 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. (sec. 366.4)

### *Mayor's Vote and Veto*

It would appear that your mayor cannot vote on a proposed ordinance or resolution inasmuch as he is not an elected member of the council. (sec. 366.4)<sup>o</sup> If your mayor

<sup>o</sup> Section 368A.2(6) of the Code says that the mayor can vote in case of a tie, but section 366.4 states that all ordinances and resolutions must be

signs any ordinance or resolution within fourteen days from the day your council passed it, the ordinance or resolution becomes the law. If he does not sign it or return it to your council within fourteen days, it goes into effect anyhow. But if your mayor wants to, he may veto an ordinance or resolution and call a council meeting within the fourteen days to return the proposal to the council. Two-thirds of the members of your council must vote in favor of a vetoed ordinance or resolution before it may become effective. (sec. 366.5)

Obviously, the mayor's influence, through his 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.

### *Publication of Ordinances*

Each ordinance you pass, revise, or amend must be published or posted in the following manner: (sec. 366.7)

1. When an ordinance is enacted, it must be published in a newspaper printed in your community; if your community has no newspaper, copies of the ordinance must be posted in three public places in your community.

2. When you revise or amend an ordinance, the portions of the original law that you revise or amend must be repealed by your new ordinance, and the substituted portions must be stated in full. In other words, you can't substitute or insert words and phrases without rewriting and enacting in full the parts of the ordinance in which the substitutes or inserts are made.

3. Any law you pass goes into effect on the date your

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approved by a majority of all members elected to the council. In *Doonan v. City of Winterset*, 224 Iowa 365, 275 N.W. 640 (1937), the Iowa Supreme Court held that the mayor is not a member of a council and hence is not entitled to vote on the passage of ordinances and resolutions.



council specifies in the ordinance; if you do not set a date, the ordinance goes into effect as soon as it is published.

### *Codification of Ordinances*

When you completely revise and rearrange (codify) your existing ordinances, they can be put in a bound or loose-leaf booklet; if this is done, the revisions need not be printed in your newspaper. However, there are a few rules that must be followed when this is done:

1. A revision in a bound or loose-leaf booklet cannot be published more often than once every ten years.

2. Notice to the public must be given that you are planning to rearrange and publish your ordinances in this way, and a public hearing must be held.

3. The ordinance adopting this code must state that the hearing was held, that the official copy of the ordinance is available in the clerk's office, that bound copies of the revised ordinances may be obtained at the clerk's office, and that a copy of the ordinances is being made available to the state library, the municipal library, and the newspapers and radio stations of your community. (sec. 366.7(5))

These same rules hold true whenever you adopt a complete milk, traffic, fire prevention, building, plumbing, or electrical code, or any other complete code relating to the construction, maintenance, and operation of buildings. (sec. 366.7(6))

