

Chapter 2: Officers of the Municipal Corporation

2.1 Municipal Officers. Each municipal officer shall exercise the powers and perform the duties prescribed by law or this Code.

2.2 Oath. The oath of office shall be required and administered in accordance with the following:

A. Qualify for Office. All elected officers and the following appointed officers shall qualify for office by taking the prescribed oath:

1. **Mayor**
2. **City Council**
3. **Mayor Pro Tem**
4. **Manager**
5. **City Attorney**
6. **City Clerk**

B. Prescribed Oath. The prescribed oath is: "I, (name), do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of Iowa, and that I will faithfully and impartially, to the best of my ability, discharge all duties of the office of (name of office) as now or hereinafter required by law."

C. Officers Empowered to Administer Oaths. The following are empowered to administer oaths and to take affirmations in any matter pertaining to the business of their respective office:

1. **Mayor**
2. **City Clerk**
3. **Manager**
4. **Members of all boards, commissions or bodies created by law**

2.3 Bonds. The City shall provide a surety bond running to the City and covering the Mayor, Mayor Pro Tem, Manager, Clerk, Council, and such other officers and employees as may be necessary and advisable.

2.4 General Responsibility of Appointed Officials. The responsibility of appointed officers shall be as follows:

A. Council. Manager and City Attorney shall be directly responsible to the Council.

B. Manager. All other appointed officers shall be directly responsible to the Manager.

2.5 Duty to Defend. The City shall defend any of its officers, employees and agents, whether elected or appointed, and shall save harmless and indemnify the officers and employees against any tort claim or demand, whether groundless or otherwise, arising out of an alleged act or omission occurring within the scope of their employment or duties. However, the duty to save harmless and indemnify does not apply to awards of punitive damages. The duty to save harmless and indemnify does not apply and the City is entitled to restitution by an officer or employee if, in an action commenced by the City against the officer or employee, it is determined that the conduct of the officer or employee upon which the tort claim or demand was based constituted a willful and wanton act or omission. The duty to defend, save harmless and indemnify shall apply whether or not the City is a party to the action and shall include but not be limited in cases arising under 42 U.S.C. 1983. In the event the officer or employee fails to cooperate in the defense against the claim or demand, the City shall have a right of indemnification against that officer or employee.

2.6 Liability Insurance. The City shall purchase a policy of liability insurance insuring against all liability which might be incurred by the City, or its officers, employees and agents.

2.7 Mayor. The powers and duties of the Mayor shall be as follows:

A. Duties Delegable. The Mayor shall have the powers and duties provided by law and ordinance except to the extent that any of such powers or duties shall be specifically delegated to another officer of the City by ordinance or resolution.

B. Presiding Officer. The Mayor shall act as presiding officer at all regular and special Council meetings. The Mayor Pro Tem shall serve in this capacity in the Mayor's absence.

C. Mayor's Veto. The Mayor may sign, veto or take no action on an ordinance, amendment or resolution passed by the Council. If the Mayor exercises the veto power, the Mayor must explain the reason for such veto in a written message to the Council at the time of the veto. Within thirty (30) days after the Mayor's veto, the Council may override the Mayor's veto by a two-thirds majority of the Council members.

D. Appointments. The Mayor shall appoint a council member as Mayor Pro Tem, and shall appoint and dismiss the Chief of Police. However the appointment and dismissal of the Chief of Police is subject to consent of a majority of the City Council. The Mayor shall make other such appointments as set forth in other chapters of this Code of Ordinances.

E. Voting. The Mayor is not a member of the Council and may not vote as a member of the Council.

2.8 Mayor Pro Tempore. The Mayor Pro Tempore shall be vice president of the Council.

A. Powers and Duties. Except for the limitations otherwise provided herein, the Mayor Pro Tempore shall perform the duties of the Mayor in cases of absence or inability of the Mayor to perform mayoral duties. In the exercise of the duties of the Mayor Pro Tempore's office, the Mayor Pro Tempore shall not have power to employ or discharge from employment, officers or employees that the Mayor has the power to appoint, employ or discharge without the approval of the Council.

B. Voting. The Mayor Pro Tempore shall have the right to vote as a member of the Council.

C. Compensation. If the Mayor Pro Tempore performs the duties of the Mayor during the Mayor's absence or disability for a continuous period of fifteen (15) days or more, the Mayor Pro Tempore may be paid for that period such compensation as determined by the Council, based upon performance of the Mayor's duties and upon the compensation of the Mayor.

2.9 City Council. The Council shall possess and may exercise all executive, legislative, and judicial powers not inconsistent with statutes applicable to cities and conferred by law upon councils or cities organized under the general laws of this state. The powers and duties of the Council shall include, but are not limited to the following:

A. General. All municipal authority of the City is vested in Council except as expressly or impliedly delegated to any of the following by this Code:

1. Manager
2. Library Board of Trustees
3. Park Board
4. Golf Board
5. Water Board of Trustees
6. Sanitary Sewer Board of Trustees
7. Stormwater Board of Trustees
8. Board of Adjustment

B. Wards. By ordinance, the Council may divide the City into wards based upon population, change the boundaries of wards, eliminate wards or create new wards.

C. Fiscal Authority. The Council shall apportion and appropriate all funds, and audit and allow all bills, accounts, payrolls and claims, and order payment thereof. It shall make all assessments for the cost of street improvements, sidewalks, sewers and other work, improvements or repairs which may be specially assessed.

D. Public Improvements. The Council shall make all orders for the doing of work, or the making or construction of any improvements, bridges or buildings.

E. Contracts. The Council may authorize the making of contracts, and no contract shall bind or be obligatory upon the City unless either made by resolution, unless the Council has delegated authority for the making of the contract to another appointed officer or board of the City.

F. Employees. The Council shall authorize, by resolution, the number, duties and compensation of employees not otherwise provided for by law or this Code.

G. Rules. The Council shall determine the rules of its own proceedings by resolution and the Clerk shall keep such rules on file for public inspection.

2.10 City Manager. The Manager shall be responsible for the administration of all municipal affairs as directed by the City Council. All departments of the City shall be responsible to the Manager. All departmental activity requiring the attention of the City Council shall be brought by to the City Council by the Manager and all City Council policy shall be coordinated through the Manager.

A. Employment Contract. The City Council is hereby authorized, in its discretion, to enter into an employment contract with the Manager as may be necessary for his or her employment.

- B. Residency.** The Manager shall become a resident of the City of Avoca within a term deemed reasonable by the City Council, and continued residency in the City is a requirement for continued employment with the City.
- C. Duties and Responsibilities.** The duties and responsibilities of the Manager include the following:
- 1. General.** See that all resolutions, ordinances, laws, City Council directives and approved operations policies are either faithfully enforced and executed or referred to the proper official for compliance thereof.
 - 2. Attend Council Meetings.** Attend all meetings of the City Council unless otherwise excused by the Mayor and Council.
 - 3. Recommendations.** Recommend to the Council any measures as are necessary or expedient for the good government and general welfare of the City.
 - 4. Supervision.** Supervise, direct, and evaluate the official conduct of all officers appointed by the Mayor and City Council except the Mayor Pro Tem and City Attorney, and be directly responsible to the City Council for proper function of the same.
 - 5. Personnel and Appointments.** Make recommendations for the compensation of all employees, to be fixed by City Council by resolution. Employ and appoint all other employees to fill authorized positions, with the exception the City Clerk, Police Chief, and City Attorney.
 - 6. Annual Budget.** Prepare and submit to the Mayor and Council an annual budget in the manner prescribed by law.
 - 7. Law Enforcement.** Supervise the enforcement and execution of all ordinances and laws within the City.
 - 8. Purchasing.** The Manager shall supervise all purchasing and approve operating expenditures of up to five thousand dollars (\$5,000) and emergency needs or capital purchases up to ten thousand dollars (\$10,000).
 - 9. Financial Condition.** Keep the Mayor and City Council full advised of the financial condition of the City.
 - 10. Combined Offices.** The Council may, by resolution passed by a majority of the entire Council, combine the office of Manager with any other appointed position and so long as the duties of any of those offices are performed by the Manager, there shall be no appointment to those offices.
 - 11. Liaison.** Maintain liaison with citizens, community organizations, businesses, developers, builders, engineers, and other entities important to municipal affairs.
 - 12. Contracts.** Supervise the performance of all contracts for work to be done for the City. The Manager may approve and bind the City into any budgeted contract for services of \$25,000 or less.
 - 13. Investigations.** Investigate, summarily and without notice, the conduct and affairs of any department, agency, officer or employee of the City.

14. Urban Renewal, Economic Development, and Community Development. Direct and oversee the implementation of the City's Urban Renewal Plan, Economic Development Program, and Community Development programs.

15. Delegated Powers. Perform duties and have direct authority on all matters delegated by City Council action.

16. Other Duties. Perform such other duties as may be direct by the City Council.

2.11 City Attorney. The City Attorney shall be appointed by majority vote of the Council.

- A.** The City Attorney shall act as attorney for the City in all matters affecting the City's interest and appear on behalf of the City before any court, tribunal, commission or board. The City Attorney may obtain assistance other qualified legal counsel, subject to approval by the Council.
- B.** The City Attorney shall sign the name of the City to all appeal bonds and to all other bonds or papers of any kind that may be essential to the prosecution of any cause in court, and when so signed the City shall be bound upon the same.
- C.** The City Attorney shall, upon request, make a written report to the Mayor, Council, Manager or boards and commissions, giving an opinion on all contracts, documents, resolutions, ordinances or any other matter submitted to the City Attorney.

2.12 City Clerk. The City Clerk shall be appointed by majority vote of the Council and receive such compensation as shall be established by resolution. The City Council is hereby authorized, in its discretion, to enter into employment contracts with the City Clerk as may be necessary for his or her employment.

- A. Duties and Responsibilities.** The duties and responsibilities of the City Clerk include the following:
- B. Recording Measures Considered.** Promptly record each measure considered by the City Council, with a statement where applicable indicating whether the Mayor signed, vetoed or took no action on the measure, and whether the measure was repassed after the Mayor's veto.
- C. Authentication of Measures.** Authenticate all measures with the City Clerk/Finance Officer's signature, certifying the time and manner of publication, when required.
- D. Records.** Serve as custodian for all public records of the City.
- E. City Seal.** The City seal shall be in the custody of the City Clerk/Finance Officer and shall be attached by the City Clerk/Finance Officer to all transcripts, orders and certificates which it may be necessary or proper to authenticate.