

Chapter 1: General Provisions

- 1.1 Home Rule Authority.** Municipal corporations are granted home rule power and authority, not inconsistent with the laws of the General Assembly, to determine their local affairs and government, except that they shall not have power to levy any tax unless expressly authorized by the General Assembly. The rule or proposition of law that a municipal corporation possesses and can exercise only those powers granted in express words is not a part of the law of this state. (Iowa Const. art 111, § 38A.)
- 1.2 Title.** This code of ordinances shall be known and may be cited as the "2014 Avoca City Code". Legal and official citations to the 2014 Avoca City Code shall be made in the following format:
- A.** Avoca City Code, Chapter X.XX (2014) as amended in 2019.
- 1.3 Form of Government.** The City of Avoca has adopted the Mayor-Council form of government, with an appointed City Administrator.
- 1.4 Incorporated Territory.** The boundaries of the City of Avoca are set out and maintained in the records of Pottawattamie County, Iowa and the State of Iowa.
- 1.5 Exercise of Home Rule.** The City may, unless expressly limited by the Constitution, and if not otherwise inconsistent with State Law, exercise home rule authority.
- A.** Each provision of the Code that is not expressly authorized or limited by the Constitution or State Law shall be deemed to be an exercise of Home Rule Authority. Home Rule Authority is exercised for the following purposes:
 - 1.** To protect and preserve the rights, privileges, and property of the City and of its residents; and
 - 2.** To preserve and improve the peace, safety, health, welfare, comfort and convenience of its residents.
 - B.** The Code may not set standards and requirements which are lower or less stringent than those imposed by State Law but may set standards and requirements which are higher or more stringent than those imposed by State Law, unless a State Law provides otherwise.
- 1.6 Construction of Terms.** In the construction of the Code the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the Council or repugnant to the context of the provisions.
- A.** Verb Tense and Plurals. Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular.
 - B.** May. The word "may" confer a discretionary power.
 - C.** Must. The word "must" is used to state a requirement.
 - D.** Shall. The word "shall" imposes a duty.
 - E.** Preceding and Following. "Preceding" and "following" mean next before and next after, respectively.
 - F.** Interpretation. All general provisions, terms, phrases, and expressions contained in the Code shall be liberally construed in order that the true intent and meaning of the Council may be fully carried out.

2. The hearing officer or chairman of the body shall first call upon the appellant to present any relevant evidence on the matter. The time limit for this presentation shall be reasonable and will be set by the hearing officer or the chairman of the body.
3. The hearing officer or chairman of the body shall then allow any other party, if any, aggrieved by the matter to present any relevant evidence. The hearing officer or the hearing body shall retain its discretion over allowing other parties to participate in the hearing and remotely affected parties will not be allowed to participate. The time limit for these presentations shall be reasonable and will be set by the hearing officer or the chairman of the body.
4. A representative of the City shall then present any evidence relevant to the subject matter of the request. The time limit for this presentation shall be reasonable and will be set by the hearing officer or the chairman of the body.
5. The hearing officer or chairman of the body shall then allow the appellant to rebut any evidence presented by any other party. The time limit for this presentation shall be reasonable and will be set by the hearing officer or the chairman of the body.

D. Relevant Evidence. Relevant evidence tends to make an assertion of a party more or less probable than it would be without the evidence and relates to a fact that is of consequence in determining the action. The source of relevant evidence may be case law or statutes, surveys, plats, photographs, plans, expert opinion, competent witnesses with personal knowledge of the matter, or any other information whose probative value is not outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the hearing officer or body, undue delay, wasting time, or needlessly presenting cumulative evidence.

E. Conduct. The following rules shall also apply to the conduct of an administrative hearing.

1. Each side shall proceed without interruption and all arguments shall be addressed to the hearing officer or body.
2. No argument between individuals will be permitted.
3. A party may, upon reasonable request, receive approval from the hearing officer or chairman of the body, to ask questions of witnesses offered by another party.
4. During the hearing, the hearing officer or members of the body will be given an opportunity to ask questions and to make any appropriate comments.
5. No party shall cause undue delay or needlessly present cumulative evidence.
6. If an applicant or appellant fails to appear for any appeal, in the hearing officer or body's sole discretion, the hearing officer or body may deny the appellant's request.
7. The hearing officer or body may recess and continue the appeal to another hearing as necessary or defer action on any appeal whenever it concludes that additional evidence is needed or that alternate solutions need further study.
8. The hearing officer or body, as appropriate, shall render a decision on the matter at any time within forty-eight (48) hours from the conclusion of the hearing process. A decision on more than one request within one type of appeal may be issued at the same time. The concurring vote of a majority of members of a body shall be necessary to take any decision.
9. A hearing officer or member of the body that has a substantial interest in the outcome of the matter shall recuse himself or herself from participating in the manner. Legal Counsel to the City shall advise the hearing officer or body on any potential conflict of interest that may exist.

1.12 Collection of Debts. The City Administrator shall be authorized to collect any debt owed to the City through all lawful means, including but not limited to, the imposition of liens, use of debt collection services, small claims court, vehicle licensing restrictions, and the Income Off-Set Program of the State of Iowa.

1.13 Effect of Repeal. If any section of the Code is repealed, the repeal does not revive the ordinance or section of the Code which had been superseded by the repealed section of the Code. Repeal of any section will not affect any rights which have accrued, any duty imposed, any penalty incurred, or any proceedings commenced under or by virtue of the section of this code repealed.

1.14 Severability. If any chapter, section, provision or part of the Code is adjudged invalid or unconstitutional, such adjudication will not affect the validity of the Code as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

1.15 OFFICIAL ORGANIZATIONAL, OPERATIONAL, AND PROCEDURAL RULES

RULE I: PURPOSE AND AUTHORITY: Iowa Code Section 372.13(5) requires that "the Council shall determine its own rules." The following rules shall be in effect upon their adoption by the Council and until such time as they are amended, or new rules adopted. The rules as adopted shall apply to the Governing Body of the organization, which is the Mayor and City Council. An additional purpose of the chapter is to provide definition for the following concepts:

1. Willful or habitual neglect for the duties of the incumbent's office; refusal to perform the incumbent's duties of the office; and, willful misconduct or maladministration in the incumbent's office.

RULE II: COUNCIL MEETING LOCATION: All regular meetings of the Avoca City Council shall be held in the Fire Hall at the Avoca City Hall, 201 N Elm Street, Avoca, Iowa, unless determined by Council resolution to hold a meeting at another location.

RULE III: COUNCIL MEETING DATES AND TIME: The regular meeting of the Avoca City Council shall be held at 6:00 PM on the 3RD Tuesday of each month. If such day shall fall on a legal holiday, the meeting shall be held on the next succeeding day that is not a legal holiday at the same hour unless a different day or time is determined by motion of the Council. Additional regular meeting dates and times may be approved by Council resolution.

RULE IV: PRESIDING OFFICER: The Mayor shall preside at all meetings of the Council. In case of the Mayor's absence or temporary disability, the Mayor Pro Tempore shall act as Mayor during the Mayor's absence. In the event the Mayor resigns, the Mayor Pro Tempore shall temporarily act as the Presiding Officer. In case of the absence or temporary disability of the Mayor and the Mayor Pro Tempore, a Mayor Pro Tempore selected by members of the Council shall act as Mayor Pro Tempore during the joint absence or disability of both. Both the Mayor and Mayor Pro Tempore are referred to as the "Presiding Officer" from time-to-time in these Rules:

1. Council member, while serving as Mayor Pro Tempore, shall retain all the powers of a Council member, including the power to debate and vote on measures. Their presence shall be counted as a Council member when determining whether a quorum of the Council exists.
2. The Mayor Pro Tempore shall exercise all the Mayor's executive powers and perform all Mayoral duties during the Mayor's absence, including the duty to affix their signature on documents that require the Mayor's signature. Regarding measures passed by the Council, the Mayor Pro Tempore may sign the measure or may take no action as provided by Iowa Code Section

380.6(3), in which case the measure becomes effective pursuant to Section 380.6(3). However, the Mayor Pro Tempore shall not have the power to veto a measure. In the event the Mayor Pro Tern takes no action on a measure and the Mayor resumes their office within fourteen days of the measure's passage by the Council, the Mayor may sign or veto the measure within the fourteen-day period.

3. The Presiding Officer shall preserve order and decorum, prevent attacks on personalities and the impugning of members' motives, confine members in deliberation and debate to the question under discussion and decide all questions of order. Their decision shall be final unless an appeal shall at once be raised. Such appeal shall then be decided by majority vote of the Council.

RULE V: QUORUM: At all Council sessions, three Council members who are present and eligible to vote shall constitute a quorum for the transaction of business. If a quorum is not present, the names of those in attendance shall be recorded and they shall adjourn to a later time or date.

RULE VI: COUNCIL MEMBER'S NON-ATTENDANCE: Members of the Governing Body who are unable to attend shall contact the Mayor prior to the meeting and state their reason for their inability to attend the meeting. If the member is unable to contact the Mayor, the member should contact the City Clerk.

RULE VII: SPECIAL COUNCIL MEETINGS: Special meetings shall be held upon the 1.) written or oral call of the Mayor or 2.) upon the written request of a majority of the members of the Council submitted to the Clerk. 3.) Notice of a special meeting shall specify the date, time, place and subject of the meeting and such notice shall be given personally or left at the usual place of residence of each member of the Council, Mayor, and the business office of each local newspaper, radio and television station which has on file a written request for notice of special meetings. 4.) Unless an emergency meeting is required such notice must be delivered at least twenty-four (24) hours prior to the meeting.

RULE VIII: CLERK OF THE COUNCIL: City Clerk shall be the Clerk of the Council, shall keep minutes and shall perform such other and further duties in the meeting as may be required by the Council. In the absence of the City Clerk, the Mayor shall appoint another qualified staff member to act as Clerk of the Council.

RULE IX: SETTING THE COUNCIL AGENDA: The Mayor and the City Clerk shall prepare the meeting agenda for every Council meeting two business days before the Council meeting and deliver to the members of the Council and the City Clerk who shall post the agenda as required by Iowa Law and enter the agenda into official records.

1. The Mayor and/or City Clerk may place the following items on the agenda without Governing Body approval: **a)** any item where Council action is required by state law or City ordinance; **b)** any item included in the annual City Council Action Plan for further deliberation of the Council; **c)** any item relating to departmental activity requiring the attention of the City Council; **d)** Any two City Council members may direct the Mayor and City Clerk to place items on the current agenda or for subsequent meetings for future consideration.
2. The City Administrator may also place on the agenda any item.
3. Any amended agenda shall be posted no later than 24 hours prior to the Council meeting.
4. A copy of the Agenda and supporting materials shall be distributed to the Council members, the Mayor, the City Administrator, and the press.
5. The Council shall have the option of deleting any item from the Agenda or deferring an item on the Agenda to a subsequent Council meeting.

RULE X: CITY ADMINISTRATOR: The City Administrator or their designee shall attend all meetings of the City Council unless excused by the Council. Any materials to be submitted at the Council meeting shall be prepared two business days in advance of the Council meeting. The City Administrator may participate in the Council's discussion on all matters on the Agenda and other matters concerning the welfare of the City. In the event the City Administrator is unable to attend a Council meeting, the City Administrator shall appoint another qualified staff member to attend the meeting on their behalf.

RULE XI: COUNCIL-MAYOR COMMUNICATIONS WITH CITY STAFF AND EMPLOYEES: The Mayor and individual Council members may communicate and confer with all City staff and employees and members of the various boards and commissions.

1. The Mayor and individual Council members may confer with staff and employee comments and complaints concerning fellow employees, supervisors or working conditions. If an employee or staff member attempts to voice such a complaint with them, the complaining employee should immediately be directed to follow the grievance procedure set forth in the Personnel Policy Manual or their collective bargaining agreement in the case of a union employee. This section shall not be construed as prohibiting or discouraging employees from reporting actual criminal acts or serious acts of personal misconduct.

RULE XII: SEATING ARRANGEMENT DURING COUNCIL SESSIONS: Governing Body members shall determine a mutually agreeable seating arrangement for Council meetings.

RULE XIII: CONFLICT OF INTEREST PROTESTS: Anyone seeking to disqualify a Council member from participating in a decision on the basis of a violation of a "Conflict of Interest" must raise the challenge as soon as the basis for disqualification is made known or reasonably should have been made known prior to the issuance of the decision.

RULE XIV: RULES OF ORDER: Rules of order not specified by statute, ordinance or resolution shall be governed by the most current edition of Robert's Rules of Order, Revised.

RULE XV: AFFIRMATIVE MOTIONS ONLY: All ordinances, resolutions, contracts, routine motions and items of business that require Council approval for the expenditure of funds or any type of City action shall be in the form of an affirmative motion to enact, adopt, approve or other appropriate language. The Council members who move and second the motion is not required to vote in favor of the same during the roll-call vote.

RULE XVI: ORDER OF BUSINESS AT COUNCIL SESSIONS: The business of all regular Council meetings shall be transacted as follows; provided, however, that the Presiding Officer may, during a Council meeting, re-arrange items on the agenda for the purpose of conducting business more expeditiously or to accommodate out of town guests who are on the agenda.

The order of the agenda shall be as follows:

1. Call to Order by the Presiding Officer
 2. Pledge of Allegiance
 3. Approval of Agenda
 4. Approval of Consent Agenda
 5. Action Items and Public Hearings Reports
 6. Requests of the City Administrator
 7. Mayor and City Council Comments
 8. Public Forum (limit comments to less than 4 minutes)
 9. Closed Executive Session (followed by appropriate follow-up, if any.)
- Adjournment.

1. No meeting shall continue beyond three hours without approval of a majority of the Council members who are present and eligible to vote. A new time limit must be established before taking a Council vote to extend the meeting. In the event that a meeting has not been closed or continued by Council vote prior to the three-hour limit, the items not acted on shall be deferred to the next regular Council meeting, unless the "council, by majority vote of members present, determines otherwise.

RULE XVII: PREPARATION OF CONSENT AGENDA: The Mayor and/or City Clerk shall place matters on the Consent Agenda which have been 1) based on information delivered to members of the Council by administration that can be reviewed by a Council member without further explanation; 2) are routine or technical in nature that passage is likely; or 3) as directed by the City Council.

1. The motion to approve the consent agenda has the effect of moving to adopt all items on the Consent Agenda. It is assumed that all items listed on the Consent Agenda will be approved without dissent; however, any member of the Council shall have the right to remove any item from the Consent Agenda for separate consideration.
2. Prior to voting on the motion to adopt the Consent Agenda, the Presiding Officer shall inquire if any Council member desires to have an item withdrawn from the Consent Agenda. If any matter is withdrawn, the Presiding Officer shall place the item at an appropriate place on the agenda or direct that it be placed on the agenda of a future meeting.

RULE XVIII. CITIZEN PROCEDURES FOR ADDRESSING THE COUNCIL- AGENDA AND NON-AGENDA ITEMS:

1. Current Agenda Items. By motion, the Council may authorize the Presiding Officer to recognize citizens requesting permission to speak on a pending Agenda measure. The speaker shall begin by first stating their name, address and the general subject of their presentation. The Presiding Officer may change the order of speakers so that comments are heard in the most logical format, e.g., proponents, opponents, adjacent property owners, vested interests, etc. The Presiding Officer may allow the comments subject to a four (4) minute time limit per speaker.
2. Members of the Public in attendance at a Council meeting who desire to address matters not on the current agenda may request time to address the Council during the Public Forum portion of the agenda, when provided. After being recognized by the Presiding Officer, the speaker may address the Council. The speaker shall begin by first stating their name, address and the general subject of their presentation. The Presiding Officer may then allow the comments subject to such time limitations as the Officer deems reasonable and appropriate, generally four (4) minutes. Following the citizen comments, the Council may place the matter on a future agenda by motion, refer the matter to the City Administrator for further investigation and report or may make no further comment or disposition of the matter.
3. Anyone making "out of order" comments may be subject to removal. There shall be no demonstrations, applause, "boos," or cheers during or at the conclusion of a speaker's presentation. These rules are intended to promote an orderly and dignified system of conducting a public meeting, to give every interested citizen an opportunity to be heard and to ensure that no individual is embarrassed by exercising their right of free speech or their right to petition their government.

RULE XIX. VOTING: Voting during Council Meetings shall be transacted as follows: Unless otherwise provided for by statute, ordinance or resolution, all votes shall be taken by voice or roll call vote. The order of a roll call vote shall be (1) the Council member making the motion, (2) the Council member that seconded the motion and (3) the remaining Council members in a clockwise direction.

1. Every member who is in the Council Chambers when roll is called shall give their vote unless the member has stated they are so prohibited due to a legal " Conflict of Interest.
2. In case any Council member refuses to vote, their vote shall be having the same effect as; a "no vote." Since voting on Council matters is generally regarded as an essential and primary duty of a Council Member and the willful or habitual neglect or refusal to perform the duties of the office constitute potential grounds for removal from office, it is imperative that every Council member in attendance participate in voting unless excused by a legally prohibited "Conflict of Interest."

RULE XX: ADVISORY COMMITTEES: Special ad hoc citizen advisory committees may be created by the Council for a particular purpose. Committee members shall be appointed by the Council. Citizen study committees shall sunset at the end of their mission, but no later than the end of each calendar year unless specifically continued by the Council thereafter for a specified time period. One Council member shall serve as a member and liaison of each advisory committee. Committees may make recommendations on proposed programs, services, ordinances, and resolutions within their area of responsibility before action is taken by the Council.

RULE XXI. MEASURES--ORDINANCES, RESOLUTIONS AND MOTIONS; MAYOR'S VETO POWERS; EFFECTIVE DATE OF MEASURES: An enacted ordinance is a legislative act prescribing a general, uniform, and permanent rule of conduct relating to the corporate affairs of the municipality. Council action shall be taken by ordinance when required by law or to prescribe permanent rules of conduct which continue in force until repealed, or where such conduct is enforced by penalty. Once an ordinance is duly enacted and published, it becomes law and the Council shall not grant any "special exceptions" or "onetime exemptions" from the law. However, the Council is always free to amend any ordinance it may deem appropriate, at any time.

1. An enacted resolution is an internal legislative act which is a formal statement of policy concerning matters of special character. Council action shall be taken by resolution when required by law and in those instances where an expression of policy more formal than a motion is desired, or where a more complete written record is appropriate.
2. A motion is a measure passed by the Council directing that a specific action be taken on behalf of the municipality. A motion, once approved and entered into the record, is the equivalent of a resolution in those instances where a resolution is not required by law.
3. The Mayor may sign, veto, or take no action on an ordinance, amendment or resolution passed by the Council.
4. An ordinance or amendment signed by the Mayor becomes effective when the ordinance or a summary of the ordinance is published, unless a subsequent effective date is provided within the ordinance or amendment. A resolution signed by the Mayor becomes effective immediately upon signing. A motion becomes effective immediately upon passage of the motion by the Council.

5. The Mayor may veto an ordinance, amendment or resolution within fourteen days after passage. The Mayor shall explain the reasons for the veto in a written message to the Council at the time of the veto. Within thirty days after the Mayor's veto, the Council may pass the measure again by a vote of not less than two-thirds of all the members of the Council. If the Mayor vetoes an ordinance, amendment, or resolution and the Council re-passes the measure after the Mayor's veto, a resolution becomes effective immediately upon re-passage, and an ordinance or amendment becomes a law when the ordinance or a summary of the ordinance is published, unless a subsequent effective date is provided within the ordinance or amendment.
6. If the Mayor takes no action on an ordinance, amendment or resolution, a resolution becomes effective fourteen days after the date of passage and an ordinance or amendment becomes a law when the ordinance or a summary of the ordinance is published, but not sooner than fourteen days after the date of passage, unless a subsequent effective date is provided within the ordinance or amendment.

RULE XXII. RESOLUTIONS: Except for franchise resolutions, a resolution may be put to its final passage on the same day on which it was introduced. The title of each resolution shall in all cases be read prior to its passage; provided, should a majority of the Council members present request that the entire resolution or certain of its sections be read, such requests shall be granted. Printed copies shall be made available upon request to any person attending a Council meeting.

RULE XXIII. ORDINANCES: The procedure for enacting an ordinance is as follows:

1. The title of each ordinance shall in all cases be read prior to its passage; however, should a majority of the Council members present request that the entire ordinance or certain of its sections be read, such request shall be granted. Printed copies shall be made available upon request to any person attending a Council meeting,
2. Required Readings. All ordinances require two readings prior to adoption, unless additional readings are waived by the affirmative vote of four (4) members of the Council.
3. Any ordinance amending or repealing any portion of the Code of Ordinances shall also amend or repeal the respective portions of any underlying ordinance(s).

RULE XXIV: CITIZEN COMPLAINTS, GRIEVANCES AND RECOMMENDATIONS TO COUNCIL:

Citizen input regarding the affairs of the City should always be welcomed. Moreover, all citizens have a First Amendment Right to Petition Government for a Redress of Grievances. However, the City must also conduct its business in an orderly fashion. In an effort to accommodate Citizens who wish to bring important matters to the attention of the City, the following three alternatives are established for purposes of accommodating citizens while maintaining order and efficiency:

1. A citizen may speak directly to a Councilperson and state their concerns. The Councilperson may then present the issue directly to the full Council during the "Mayor and Council Member Comments" portion of the next meeting. The Council may then direct the City Administrator to investigate the issue further and report back to the Council at the next meeting. If it appears that the issue should be formally addressed and action taken, the Council may direct that the issue in the form of a measure be placed on the formal agenda during the next Council session.

2. A citizen may always appear at the Public Forum portion of the Agenda and orally present their issue before the entire Council. If the citizen desires to present written materials in addition to their oral presentation, they should deliver ten copies of those materials to the City Clerk by noon on the Wednesday prior to the next Tuesday evening Council Session. After the citizen's oral presentation, the Council may then direct the City Administrator to investigate the issue further and report back to the Council at the next meeting. If it appears that the issue should be formally addressed and action taken, the Council may direct that the issue in the form of a measure be placed on the formal agenda during the next Council session.
3. A citizen may present a formal written petition which may be signed by any number of citizens, clearly identifying a perceived problem or issue, recommending a specific solution and asking for specific action by the Council. This written Petition shall be delivered to the City Clerk who will place the same in the Council packets for the next meeting, if received by noon on the Wednesday prior to the following Tuesday Council session. It is recommended that the Petitioner also appear at the Public Forum and speak in support of their Petition. After reviewing the written Petition and hearing the Petitioner's oral presentation, the Council may then direct the City Administrator to investigate the issue further and report back to the Council at the next meeting. If it appears that the issue should be formally addressed and action taken, the Council may direct that the issue in the form of a measure be placed on the formal agenda during the next Council session.
4. In all three of the above alternatives, if a majority of the Council fails to direct the City Administrator to make an investigation and report, nor gives direction to place the issue on the formal Agenda at a future meeting, the issue shall be deemed "inactive" and shall not be presented to the Council for 12 months following its initial presentation unless the Council passes a motion to reconsider the same prior to the expiration of 12 months.

RULE XXV: FILLING COUNCIL VACANCIES: If a vacancy occurs in the office of Mayor or Council member, the Council will follow the procedures outlined in the Code of Iowa. If the Council pursues the appointment process to fill the vacancy, and in order to appoint the most qualified person available until an election is held, the Council shall widely distribute and publish a notice of the vacancy, the procedure and any application form required. The Council shall draft an application form that contains relevant questions to answer as posed by the Council. The application forms will be used in conjunction with an interview of each candidate to aid the Council's selection of the new Council member or Mayor.

RULE XXVI: SUSPENSION OF RULES OF PROCEDURE: All provisions of these rules not governed by the Iowa Code or the City Code may be temporarily suspended by three affirmative votes of the Council.

RULE XXVII: AMENDMENT TO RULES OF PROCEDURE: These Rules of Procedure may be amended, or new rules adopted, by a majority vote of all members of the Council, provided that the proposed amendments or new rules shall have been introduced into the record at a prior meeting.

RULE XXVIII: Financial IMPACT STATEMENT AND PUBLIC HEARING FOR:

1. **CERTAIN ACTIONS AND DECISIONS:** Certain actions and decisions of the Council create ongoing obligations or can substantially impact the City's ability to meet future service needs of the public. Such decisions require

enhanced public information and opportunity for comment from the general public. For the purposes of these rules, decisions to construct public improvements at costs exceeding \$25,000,000 or changing staff levels of departmental positions that create the following additional Council obligations:

2. Prior to the construction of any public improvements solely under the approval authority of the Council or prior to any decision to increase or decrease staffing levels of departmental positions, the City Administrator shall present a financial impact statement that is reasonably calculated to apprise Governing Body members of the long-term financial impact on the organization if the action was affirmatively approved.
3. Prior to the construction of any public improvements solely under the approval authority of the Council or prior to any decision to increase or decrease staffing levels of departmental positions, the Council shall hold a public hearing on the issue, published not less than four (4) days, but not more than twenty (20) days in advance of the hearing in the official newspaper of record.

1.16 CODE OF ETHICS AND CONDUCT FOR GOVERNING BODY MEMBERS

SECTION I. PURPOSE: This Code of Ethics and Conduct is a policy statement designed to describe the manner in which members of the Governing Body relate to one another, to City staff, to constituents and others while conducting business on behalf of the City of Avoca, Iowa; and to create standards of conduct to provide definition for the following concepts: 1) willful or habitual neglect for the duties of the incumbent's office; 2) refusal to perform the incumbent's duties of the office; and 3) willful misconduct or maladministration in the incumbent's office.

SECTION II. GOVERNING BODY CONDUCT WITH ONE ANOTHER:

1. **Public Meetings:** All discussions on difficult questions and tough challenges are legitimate elements within a public meeting; however, Council members must maintain a degree of civility and decorum and refrain from making belligerent, personal, slanderous, threatening abusive or disparaging comments. **a.** If a Council member is personally offended by the remarks of another Council member, the offended Council member shall make notes of the actual words used and call for a "point of personal privilege" that challenges the other Council member to justify or apologize for the language used. **b.** It shall be the responsibility of the Mayor to keep the comments of Council members on track during public meetings. Council members shall honor the efforts of the Mayor to focus discussion on current agenda items. In the event a disagreement concerning the agenda or the Mayor's actions should arise, objections should be voiced politely and with reason, in compliance with parliamentary rules of procedure.
2. **Private Encounters:** The same level of respect and consideration of differing points of view among members of the City Council that is deemed appropriate in public meetings shall be maintained in private conversations. It is acceptable to publicly disagree about an issue, but it is unacceptable for a Council member to make deformational comments about the opinions or actions of other Council members.

SECTION III. GOVERNING BODY CONDUCT WITH CITY STAFF

1. Governance of the City relies on the cooperative efforts of the City Council, who set policy, and City staff that implements and administers the Council's policies. Every effort must be made to be cooperative and mutually respectful

for the contribution made by Council members and City staff towards the assurance of public confidence in the integrity of City government and its effective and fair operation.

2. Council members must not attempt to influence City staff on the making of appointments, awarding of contracts, selecting of consultants, processing of development applications, or granting of City licenses and permits.
3. Council members may attend City staff meetings.
4. All requests by Council members for City staff support shall be made through the City Administrator who is responsible for allocating City resources in order to maintain a professional, well-run City government. The City Administrator shall comply with the request with reasonable notice from the requesting member

SECTION IV. COUNCIL CONDUCT WITH PUBLIC:

1. No signs of partiality, prejudice or disrespect shall be evident on the part of elected officials towards any individual participating in a public forum.
2. Elected officials will be frequently asked to explain a Council action or to give their opinion about an issue as they meet and talk with constituents in the community. It is appropriate for an elected official to give an overview of City policy and that member's opinion about an issue and/or to refer the constituent to City staff for further information.
3. Governing Body officials are constantly being observed by the community every day that they serve in office. Their behaviors and comments serve as models for the proper deportment in the City of Avoca. Honesty and respect for the dignity of each individual should be reflected in every word and action taken by Council members

SECTION V. COUNCIL CONDUCT WITH PUBLIC AGENCIES:

1. In the event a Council member appears before another governmental agency or organization to give a statement on an issue, the Council member must clearly state whether his or her statement reflects a personal opinion or represents the official position of the City Council. If the Council member is representing the City's official position the member must support and advocate that position.
2. City letterhead may be used when the Council member is representing the City and the City's official position. A copy of official correspondence shall be given to the City Clerk to be filed as part of the permanent record.

SECTION VI. COUNCIL CONDUCT WITH BOARDS AND COMMISSIONS:

1. The City has established several boards and commissions as a means of gathering more community input. Citizens who serve on boards and commissions become more involved in government and serve as advisors to the City Council. They are a valuable resource to the City's leadership and should be treated with appreciation and respect.
2. Council members may attend any board or commission meeting which are always open to any member of the public; however, members must be sensitive to the way their participation - especially if it is on behalf of an individual, business or developer - could be viewed as unfairly affecting the process. Any public comments by a Council member at a board or commission meeting should be clearly made as individual opinion and not a representation

of the feelings of the entire City Council.

3. It is inappropriate for a Council member to contact a board or commission member on behalf of an individual, business or developer. It is acceptable for Council members to contact board or commission members in order to clarify a position taken by the board or commission.
4. The City Administrator will attend meetings of all commissions, boards, or committees appointed by the Mayor or City Council, as requested by specific commissions, boards, or committees, as directed by the City Council,
5. The City Administrator shall cooperate to the fullest extent possible with members of all commissions, boards, or committees appointed by the Mayor or City Council and carry out the directives given by such board or commission to the extent this resolution or city code allows.
6. The City Administrator shall make necessary presentations or otherwise inform members of all commissions, boards, or committees appointed by the Mayor or City Council, as to the status of matters being considered by the City Council.
7. The City Administrator may make recommendations for provide professional services to all commissions, boards, or committees appointed by the Mayor or City Council.
8. The City Administrator will coordinate the implementation of the policy decisions affecting all city departments and will provide guidance in the implementation of the mandates of the City Council and the various Boards, Commissions, and Committees.

SECTION VII. INCOMPATIBILITY OF OFFICES:

The City's elected Mayor and Council members hold important positions of responsibility that require the utmost attention to impartiality and evenhandedness in the provision of public services. In order to help prevent a clash between the public's interest and a public official's interest in a particular department or service, many positions are incompatible with office of Mayor and City Council member. The Governing Body's policy is that all other paid and volunteer offices and staff positions within the City operation and organizational structure are incompatible with the offices of Mayor and City Council because the nature and duties of the elected Mayor and City Council positions render it improper, from considerations of public policy and concern for good government and efficient distribution of resources for all important City services. Any Governing Body member wishing to serve in any other paid or volunteer office or staff position within the City organization must first resign their elected office.

SECTION VIII. USE OF PUBLIC FUNDS, PROPERTY, CREDIT, AND RECORDS:

1. No Governing Body member may use of the facilities, material or equipment of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office, for opposition to any ballot proposition the City officially favors or for any private purpose.
2. Elected officials shall not use public resources not available to the public in general, including City staff time, the offices of City clerk and City attorney, equipment, supplies or facilities, for private gain or personal purposes. Elected officials' access to public facilities will not be greater than that available to the public in general and will be controlled by the City staff whose duty it is to manage the resources of the City of Avoca.
3. Elected officials access to City records will not be greater than that of the public in general. Certain records generally will be withheld from inspection by elected officials, including but not limited to:

Employee personnel files;
Police investigation files not made available to the general public
Employment examinations;
Certain real estate appraisals;
Designs that would result in private gain and public loss;
Preliminary drafts, notes, recommendations and intra-departmental memorandums, unless the communication is publicly cited in connection with a local government action; Certain li
Financial information required in pre-qualifying bidders on public projects.

SECTION IX. RESPONSIBILITY OF GOVERNING BODY MEMBERS: In addition to those responsibilities set forth herein above, Council members shall have the following standards for ethics and conduct in office:

1. Prepare for Meetings. Prepare in advance for all Council meetings and be familiar with the issues on the agenda. All handouts from individual Council members should be distributed through the Council packet.
2. Act in the Public Interest. Recognizing that stewardship of the public interest must be their primary concern, members will work for the common good of the people of Avoca and not for any private or personal interest, and they will assure fair and equal treatment of all persons, claims and transactions coming before the Avoca City Council, boards and commissions.
3. Comply with the Law. Members shall comply with the laws of the nation, the State of Iowa and the City of Avoca in the performance of their public duties. These laws include but are not limited to: the United States and Iowa constitutions; the Avoca City Code; laws pertaining to conflicts of interest, election campaigns, financial disclosures, employer responsibilities, and open processes of government; and City ordinances and policies.
4. Conduct of Members. The professional and personal conduct of members must be above reproach and avoid even the appearance of impropriety. Members shall refrain from challenging personal character or motives of other members of the Council, boards and commissions, the staff, or the public.
5. Respect for Process. Members shall perform their duties in accordance with the processes and rules of order established by the City Council and board and commissions governing the deliberation of public policy issues, meaningful involvement of the public, and implementation of policy decision of the City Council by City staff.
6. Conduct at Public Meetings. Members shall prepare themselves for public issues; listen courteously and attentively to all public discussion before the body; and focus on the business at hand. They shall refrain from interrupting other speakers; making personal comments not germane to the business of the body; or otherwise interfering with the orderly conduct of meetings.
7. Decisions Based on Merit. Members shall base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations.
8. Communication. Members shall publicly share substantive information that is relevant to a matter under consideration by the Council or boards and commissions, which they may have received from sources outside of the public decision-making process.
9. Conflict of Interest. In order to assure their independence and impartiality on behalf of the common good, members shall not use their official positions to influence government decisions in which they have a material financial interest, or where they have an organizational responsibility or personal relationship which may give the appearance of a conflict of interest. The

following shall also apply:

- a. No member shall participate in the appointment, vote for appointment, or discuss any appointment of an immediate family member or business associate, or use his/her position, directly or indirectly, to affect the employment status of an immediate family member or business associate to any City office or position, paid or unpaid.
 - b. In accordance with the law, members shall disclose investments, interests in real property, sources of income and gifts; and they shall abstain from participating in deliberations and decision-making where conflicts may exist.
10. Gifts and Favors. Members shall not take any special advantage of services or opportunities for personal gain, by virtue of their public office, that are not available to the public in general. They shall refrain from accepting any gifts, favors or promises of future benefits which might compromise their independence of judgment or action or give the appearance of being compromised.
11. Confidential Information. Members shall respect the confidentiality of information concerning the property, personnel or affairs of the City. They shall neither disclose confidential information without proper legal authorization, nor use such information to advance their personal, financial or other private interests. Any disclosure of confidential information made without proper legal authorization, shall be considered as willful misconduct or malfeasance in office as defined by Section 66.1A of the Iowa Code.
12. Use of Public Resources. Members shall not use public resources not available to the public in general, such as City staff time, vehicles, equipment, materials, supplies, property or facilities of the City, for private gain or personal purposes.
13. Representation of Private Interests. In keeping with their role as stewards of the public interest, members of the Council shall not appear on behalf of the private interests of third parties before the Council or any board, commission or proceeding of the City, nor shall members of boards and commissions appear before their own bodies or before the Council on behalf of the private interests of third parties on matters related to the areas of service of their bodies.
14. Policy Role of Members. Members shall respect and adhere to the Council-Mayor structure of Avoca City government as outlined by the Avoca City Charter. In this structure, the City Council determines the policies of the City with the advice, information and analysis provided by the public, boards and commissions, and City staff (City Administrator and City Clerk). Except as provided by the City Charter, members therefore shall not interfere with the administrative functions of the City or the professional duties of City staff; nor shall they impair the ability of staff to implement Council policy decisions.
15. Positive Workplace Environment. Members shall support the maintenance of a positive and constructive workplace environment for City employees and for citizens and businesses dealing with the City. Members shall recognize their special role in dealings with City employees to in no way create the perception of inappropriate direction to staff.
16. Chain of Command. The City Code establishes a "Chain of Command" that shall be adhered to. The City Council is the ultimate authority for all city policy. The Mayor is responsible as set out herein and City Code. City Administrator shall be responsible for the administration of all municipal affairs as directed by City Council. All departmental activity requiring the attention of City Council

shall be brought to City Council by the City Administrator or the chair of any board or commission. The position of City Administrator is to be the eyes and ears of the Council and to carry out daily administration of the city. The City Administrator shall carry out the directives and policies of City Council. The Council alone makes long term policy and can override any action or decision taken by any board, commission or City Administrator by a majority vote.

1.17 SANCTION FOR VIOLATIONS OF STANDARDS:

SECTION I. SANCTIONS PERMITTED; Governing body members who intentionally or repeatedly do not follow the provisions within the Code of Ethics and Conduct may be formally reprimanded, fined, or removed by the Council through the procedures set forth in Section II below. Further rules concerning sanctions shall be the following:

1. Formal reprimands for intentionally or repeatedly violating the Code of Ethics and Conduct shall be approved by "the affirmative vote of a majority of the Council. Formal reprimands shall include a description of the charges validated by the Council against the Governing Body member and shall be published in the newspaper of public record.
2. Fines for intentionally or repeatedly violating the Code of Ethics and Conduct shall be approved by the affirmative vote of a majority of the Council. Fines shall not exceed \$50 per incident,
3. The Council may pursue its options under Chapter 66.29 of the Iowa Code to remove elected members of the Governing Body for intentionally or repeatedly violating any standard contained in Chapter 1 or Chapter 2 of this document.

SECTION II. PROCEDURE FOR SANCTIONS: The following process shall be used in the bringing and discharge of sanctions against a member of the Governing Body:

1. A Governing Body member, or five (5) citizens of Avoca, Iowa may file a complaint against a Governing Body member who intentionally or repeatedly violates any standard contained in Chapter 1 or Chapter 2 of this document.
2. Said complaint shall be filed with the office of the City Clerk of Avoca, Iowa.
3. The City Council shall hear and act on the complaint in the timeliest manner possible. The City Council may request that an investigation be made of those violations alleged in the complaint by directing the City Administrator or City Attorney, or those designated by the City Administrator or City Attorney, to make a finding and to file a report with the Council within a period of time as established by the Council.
4. The member who allegedly has violated the provisions of the Code of Ethical Conduct may respond and have those comments made a part of the report to Council.
5. The Council may dismiss the complaint, set a hearing before the Council, or impose sanctions under Section I of this Chapter above.