

CHAPTER 2

OFFICERS AND EMPLOYEES

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

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

(Code of Iowa, 1995, Sec. 63.1)

- A. City Administrator.
- B. City Clerk.
- C. Mayor Pro Tem.
- D. Police Chief.
- E. Fire Chief.
- F. Treasurer.
- G. City Attorney.
- H. City Engineer.
- I. Superintendent of Public Works.

2. 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) in Windsor Heights as now or hereinafter required by law."

(Code of Iowa, 1995, Sec. 63.10)

3. 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:

- A. The Mayor.

B. The Clerk.

C. Members of all boards, commissions or bodies created by law.

(Code of Iowa, 1995, Sec. 63A.2)

2.02 BONDS. Surety bonds shall be provided in accordance with the following:

1. Required. The Council shall provide by resolution for a surety bond running to the City and covering the Mayor, Mayor Pro Tem, City Administrator, Clerk, Treasurer and such other officers and employees as may be necessary and advisable.

(Code of Iowa, 1995, Sec. 64.13)

2. Bonds Approved. Bonds shall be approved by the Council.

(Code of Iowa, 1995, Sec. 64.19)

3. Bonds Filed. All bonds, after approval and proper record, shall be filed with the Clerk.

(Code of Iowa, 1995, Sec. 64.23[6])

4. Record. The Clerk shall keep a book, to be known as the "Record of Official Bonds" in which shall be recorded the official bonds of all City officers, elective or appointive.

(Code of Iowa, 1981, Sec. 64.24 [3])

2.03 DUTIES: OFFICERS. Each municipal officer shall exercise the powers and perform the duties prescribed by law and this Code, and which are normally incident to the office, or as otherwise directed by the Council unless contrary to law or this Code.

(Code of Iowa, 1995, Sec. 372.13 [4])

2.04 DUTIES: EMPLOYEES. All employees of the City shall perform such duties as required by the officer responsible for such employee.

2.05 GENERAL RESPONSIBILITY OF APPOINTED OFFICERS. The responsibility of appointed officers shall be as follows:

1. Council. The Mayor Pro Tem, City Administrator, City Attorney and City

Engineer shall be directly responsible to the Council.

2. City Administrator. All other appointed officers shall be directly responsible to the City Administrator.
3. Appointed Officers. All appointed officers shall be directly responsible for employees of the City under their direct control and supervision.

2.06 BOOKS AND RECORDS. All books and records required to be kept by law or this Code shall be open to inspection by the public upon request.

(Code of Iowa, 1995, Sec. 22.2)

2.07 TRANSFER TO SUCCESSOR. Each officer shall transfer to his successor in office all books, papers, records, documents and property in his custody and appertaining to his office.

(Code of Iowa, 1995, Sec. 372.13 [4])

2.08 OPEN MEETINGS. All meetings of the Council, any board or commission, or any multi-membered body formally and directly created by any of the foregoing bodies shall be held in open session unless closed sessions are expressly permitted by law.

(Code of Iowa, 1995, Sec. 21.3)

2.09 CONFLICT OF INTEREST. When used in this section, "contract" means any claim, account, or demand against or agreement with the City, express or implied. A City officer or employee shall not have an interest, direct or indirect, in any contract or job of work or material or the profits thereof or services to be furnished or performed for the officer's or employee's City. A contract entered into in violation of this section is void. The provisions of this section do not apply to:

(Code of Iowa, 1995, Sec. 362.5)

1. The payment of lawful compensation of a City officer or employee holding more than one City office or position, the holding of which is not prohibited by law.

(Code of Iowa, 1995, Sec. 362.5 [1])

2. The designation of a bank or trust company as a depository, paying agent, or for investment of funds.

(Code of Iowa, 1995, Sec. 362.5 [2])

3. An employee of a bank or trust company, who serves as Treasurer of the City.

(Code of Iowa, 1995, Sec. 362.5 [3])

4. Contracts made by the City, upon competitive bid in writing, publicly invited and opened.

5. Contracts in which a City officer or employee has an interest solely by reason of employment, or a stock interest of the kind described in subsection 9, or both, if the contracts are made by competitive bid, publicly invited and opened, and if the remuneration of employment will not be directly affected as a result of the contract and the duties of employment do not directly involve the procurement or preparation of any part of the contract. The competitive bid requirement of this subsection shall not be required for any contract for professional services not customarily awarded by competitive bid.

(Code of Iowa, 1995, Sec. 362.5 [5])

6. The designation of an official newspaper.

(Code of Iowa, 1995, Sec. 362.5 [6])

7. A contract in which a City officer or employee has an interest if the contract was made before the time the officer or employee was elected or appointed, but the contract may not be renewed.

(Code of Iowa, 1995, Sec. 362.5 [7])

8. Contracts with volunteer firefighters or civil defense volunteers.

(Code of Iowa, 1995, Sec. 362.5 [8])

9. A contract with a corporation in which a City officer or employee has an interest by reason of stockholdings when less than five (5) percent of the outstanding stock of the corporation is owned or controlled directly or indirectly

by the officer or employee or the spouse or immediate family of such officer or employee.

(Code of Iowa, 1995, Sec. 362.5 [9])

10. Contracts not otherwise permitted by this section, for the purchase of goods or services by the City, which benefit a City officer or employee, if the purchases benefitting that officer or employee do not exceed a cumulative total purchase price of one thousand five hundred dollars in a fiscal year.

(Code of Iowa, 1995, Sec. 362.5 [10])

11. Franchise agreements between the City and a utility and contracts entered into by the City for the provision of essential City utility services.

(Code of Iowa, 1996, Sec. 362.5 [12])

2.10 TERMS OF APPOINTED OFFICERS. Appointed officers shall serve at the pleasure of the appointing authority unless terms are otherwise fixed by law or this Code.

(Code of Iowa, 1995, Sec. 372.13 [4])

2.11 RESIGNATIONS. An elected officer, who wishes to resign may do so by submitting the resignation in writing to the Clerk so that it shall be properly recorded and considered. A person who resigns from an elective office during the term for which that person is elected, is not eligible for appointment to any city office if the office has been created or the compensation of the office has been increased during the term for which that member is elected. A person who resigns from an elective office is not eligible for appointment to the same office during the time for which that person was elected if during that time, the compensation of the office has been increased.

(Code of Iowa, 1995, Sec. 372.13 [9])

2.12 REMOVAL OF ELECTED OFFICERS. Elected officers may be removed from office in the manner provided in Code of Iowa §§ 66.29 and 66.30, and the provisions of Code of Iowa Chapter 17A relating to contested cases shall apply to such proceedings insofar as the same are applicable.

2.13 REMOVAL OF APPOINTED OFFICERS. Appointed officers may be removed from office in the manner provided in Code of Iowa § 372.15 and the provisions of Code of Iowa Chapter 17A relating to contested cases shall apply to such proceeding insofar as the same are applicable.

(Code of Iowa, 1995, Sec. 372.15)

2.14 VACANCIES. A vacancy in an elective City office during a term of office shall be filled by the remaining members of the Council so long as the remaining members constitute a quorum. The

appointment shall be for the period until the next pending election as defined by law and shall be made within forty (40) days after the vacancy occurs. The Council shall provide public notice indicating that it intends to fill the vacancy by appointment but that the electors of the city have a right to file a petition requiring that the vacancy be filled by a special election. The Council may make an appointment to fill the vacancy after notice is published or after the vacancy occurs, whichever is later. If a petition is filled within fourteen (14) days of publication of the public notice or within fourteen (14) days of the appointment, whichever is later, a special election must be held as provided for by state law. A vacancy in an appointed office shall be filled in the same manner as the original appointment.

(Code of Iowa, 1995, Sec. 372.13[2])

2.15 COMPENSATION OF APPOINTED OFFICERS. Compensation of appointed officers shall be in such amount as is fixed by the Council by motion or resolution.

2.16 UNLAWFUL USE OF CITY PROPERTY. No person shall use or permit any other person to use the property owned by the City for any private purpose and for personal gain, to the detriment of the City.

(Code of Iowa, 1995, 721.2 [5])

2.17 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.

(Code of Iowa, 1995, Sec. 670.8)

2.18 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, under the provisions of Code of Iowa, §§ 670.2, 670.4 and 670.8.

(Code of Iowa, 1995, Sec. 670.7)

2.19 WORKERS' COMPENSATION AND HOSPITALIZATION INSURANCE. The City shall purchase a policy of insurance insuring against all liability for workers' compensation and against statutory liability for costs of hospitalization, nursing and medical attention for all City officers, employees and agents injured in the performance of their duties on behalf of the City.